



# CAYMAN ISLANDS LEGISLATIVE ASSEMBLY

## OFFICIAL HANSARD REPORT

### 2001 SESSION

(12 February 2001 through 14 January 2002)

**Hon. Mabry S. Kirkconnell, OBE, JP**  
**Speaker**

(9 March – 14 November 2001)

**Hon. Julianna O'Connor-Connolly, JP**  
**Speaker**

(14 November 2001 – 14 January 2002)

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# OFFICIAL MEMBERS AND MINISTERS OF THE LEGISLATIVE ASSEMBLY

**\*\*Hon. Mabry S. Kirkconnell, OBE, JP,  
Speaker**

**\*\*Hon. Julianna Y. O'Connor-Connolly, JP,  
Speaker**

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## \* 9 MARCH - 8 NOVEMBER 2001:

**Hon. James M. Ryan, MBE, JP**

First Official Member responsible for Internal and External Affairs

**Hon. David F. Ballantyne**

Second Official Member responsible for Legal Administration

**Hon. George A. McCarthy, OBE, JP**

Third Official Member responsible for Finance and Economic Development

**Hon. D. Kurt Tibbetts, JP**

*Leader of Government Business*  
Elected Minister responsible for Planning, Communications and Works

**Hon. W. McKeeva Bush, OBE, JP**

*Deputy Leader of Government Business*  
Elected Minister responsible for Tourism, Environment and Transport

**Hon. Linford A. Pierson, JP**

Elected Minister responsible for Health and Information Technology

**Hon. Edna M. Moyle, JP**

Elected Minister responsible for Community Development, Women's Affairs, Youth and Sports

**Hon. Roy Bodden**

Elected Minister responsible for Education, Human Resources and Culture

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**Hon. Roy Bodden**

Elected Minister responsible for Education, Human Resources and Culture

**Hon. Dr. Frank S. McField**

Elected Minister responsible for Community Services, Youth and Women's Affairs

**Hon. Gilbert A. McLean**

Elected Minister responsible for Health Services, District Administration and Agriculture

# ELECTED MEMBERS OF THE LEGISLATIVE ASSEMBLY

\* 9 MARCH - 8 NOVEMBER 2001

**Mr. Rolston M. Anglin**

Second Elected Member for the Electoral District of West Bay

**Capt. A. Eugene Ebanks**

Third Elected Member for the Electoral District of West Bay

**\*\*Mr. Cline A. Glidden, Jr.**

Fourth Elected Member for the Electoral District of West Bay

**Mr. Alden M. McLaughlin, Jr.**

Second Elected Member for the Electoral District of George Town

**\*\*Dr. Frank S. McField**

*Deputy Speaker*

Third Elected Member for the Electoral District of George Town

**\*\*Mrs. Julianna Y. O'Connor-Connolly, JP**

First Elected Member for the Electoral District of Cayman Brac and Little Cayman

**Mr. Lyndon L. Martin**

Second Elected Member for the Electoral District of Cayman Brac and Little Cayman

**Mr. Gilbert A. McLean**

Second Elected Member for the Electoral District of Bodden Town

**Mr. Anthony S. Eden, OBE, JP**

Third Elected Member for the Electoral District of Bodden Town

**Mr. V. Arden McLean**

Elected Member for the Electoral District of East End

\* 9 NOVEMBER 2001 - 14 JANUARY 2002

**Mr. Rolston M. Anglin**

Second Elected Member for the Electoral District of West Bay

**Capt. A. Eugene Ebanks**

Third Elected Member for the Electoral District of West Bay

**\*\*Mr. Cline A. Glidden, Jr.**

*Deputy Speaker*

Fourth Elected Member for the Electoral District of West Bay

**Mr. D. Kurt Tibbetts, JP**

First Elected Member for the Electoral District of George Town

**Mr. Alden M. McLaughlin, Jr.**

Second Elected Member for the Electoral District of George Town

**Mr. Lyndon L. Martin**

Second Elected Member for the Electoral District of Cayman Brac and Little Cayman

**Mr. Anthony S. Eden, OBE, JP**

Third Elected Member for the Electoral District of Bodden Town

**Mr. V. Arden McLean**

Elected Member for the Electoral District of East End

**Mrs. Edna M. Moyle, JP**

Elected Member for the Electoral District of North Side

**\* REVOCATION AND RE-ELECTION OF  
HONOURABLE MINISTERS TO EXECUTIVE COUNCIL**

On 5 November 2001, a letter signed by nine Members of the Legislative Assembly was hand-delivered to the Speaker's Office. Attached was a Private Member's Motion that sought to remove from Executive Council the Hon. D. Kurt Tibbetts, JP, and the Hon. Edna M. Moyle, JP. A meeting of the Legislative Assembly was called for Thursday 8 November 2001; the business to be dealt with being Private Member's Motion No. 24/01 entitled "Revocation of Ministers of Executive Council."

The motion read:

*"BE IT RESOLVED THAT as provided for under section 6(2)(f) of the Cayman Islands (Constitution) Order 1972, the election to the Executive Council of the Hon. D. Kurt Tibbetts, JP, and the Hon. Edna M. Moyle, JP, be revoked and that the two vacated positions be filled."*

The Motion was passed by a majority of the House and the Hon. D. Kurt Tibbetts, JP, and the Hon. Edna M. Moyle, JP, took their seats on the backbench. Mr. Gilbert A. McLean, the Second Elected Member for Bodden Town, and Dr. Frank S. McField, the Third Elected Member for George Town, were elected to fill the vacated ministerial positions on Executive Council.

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**\*\* RETIREMENT OF SPEAKER AND ELECTION OF  
NEW SPEAKER AND DEPUTY SPEAKER**

The Hon. Mabry S. Kirkconnell, OBE, JP, declared his retirement effective Wednesday 14 November 2001.

At the first Sitting of the Fifth (Budget) Meeting of the Legislature on 14 November 2001, Mrs. Julianna Y. O'Connor-Connolly, JP, the First Elected Member for Cayman Brac and Little Cayman, was elected new Speaker of the House. Mr. Cline Glidden, Jr., the Fourth Elected Member for West Bay, replaced Dr. Frank S. McField (who had taken a seat on Executive Council) as Deputy Speaker.



# OFFICIAL HANSARD REPORT

## 2001 SESSION

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**Abbreviations:** (1r), (2r), (3r), first, second, third reading; (A) Amendment; **BT**, Bodden Town; (C), Committee; **CAL**, Cayman Airways, Ltd.; **CDB**, Caribbean Development Bank; **CIHCA**, Cayman Islands Hotel and Condominium Association; **CPA**, Central Planning Authority; **CITA**, Cayman Islands Tourism Association; **C&W**, Cable & Wireless (CI) Ltd.; **CUC**, Caribbean Utilities Co. Ltd.; **DVES**, Department of Vehicle Equipment Services; **DOE**, Department of Environment; **DOT**, Department of Tourism; **EE**, East End; **FATF**, Financial Action Task Force; **GHHS**, George Hicks High School; **GM**, Government Motion; **GT**, George Town; **ICCI**, International College of the Cayman Islands; **JGHS**, John Gray High School; **PMM**, Private Member's Motion; **OECD**, Organisation for Economic Co-operation and Development; **PWD**, Public Works Department; (R), Report; **SO**, Standing Order.

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**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**12 FEBRUARY, 2001**  
**10.07 AM**  
*Special Meeting*

**The Speaker:** I will ask the Honourable Minister for Planning, Communications and Works to say prayers.

**PRAYERS**

**Hon. D. Kurt Tibbetts:** Let us pray.

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

Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.

All this we ask for Thy great name's sake.

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

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

**The Speaker:** Please be seated. The Legislative Assembly is in session.

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

**HOUSE VISITORS**

**The Speaker:** We have no apologies this morning.

I would like to welcome prospective participants in the Youth Parliament from Cayman Prep School, Faulkner Christian Academy, George Hicks High

School and Wesleyan Christian Academy. We sincerely hope that you will gain something from the parliamentary proceedings today. We wish you good luck in your event and may God's blessings go to each of you.

Honourable Members, I welcome each of you this morning to this Special Meeting of the Legislative Assembly. Certainly, we are making history. I feel it is my responsibility to call upon each and every Member to be at his/her very best parliamentary procedure. I would like in particular to call to your attention Erskine May, 22<sup>nd</sup> Edition, pages 378, 379, 393 and 756 which clearly outline relevance and also tedious repetition. So, as we proceed in the debate I would ask each one to have this in mind.

Item number one on today's Order Paper, Government Business, Government Motion No.4/2001. This meeting has been called to deal specifically with this Motion—Government Motion No. 4/2001; there will be no additions.

Government Motion No. 4/2001, Advance Expenditure prior to the Appropriation Bill 2001. The Honourable Third Official Member.

**GOVERNMENT BUSINESS**

**MOTIONS**

**GOVERNMENT MOTION NO. 4/2001**

**ADVANCE EXPENDITURE PRIOR TO THE  
APPROPRIATION BILL 2001**

**Hon. George A. McCarthy:** Mr. Speaker, thank you very much.

Before I move Government Motion No. 4/2001 and read the preamble, I would just crave your indulgence and the indulgence of Honourable Members to comment as to why this route is being taken as against going through Finance Committee by way of supplementary expenditure.

Mr. Speaker, as you have correctly pointed out in the letter that you sent around to Honourable Members informing each and every one concerning this special meeting under the provisions of sections 8(1) and 9 of the Public Finance and Audit Law, I think it is important to note that what we have in front of us today is a *resolution*. Before looking at the specifics of section 8(1), if we were to look at section 67(1)(a) and (b), which provide for supplementary estimates to be submitted to Finance Committee, these [supplemen-

tary estimates] are put forward on the assumption that the Appropriation Bill would have been passed.

If you will permit me, Mr. Speaker, I will read the following from the Public Finance and Audit Law, section 67(1):

**“If a member of government presents a paper setting out the financial requirements of any proposal –**

**“(a)for expenditure incurred or likely to be incurred in the course of the current financial year, either in respect of a service or of several services for which no provision has been made in the estimates for that year, or in respect of further financial provision beyond the total sum already sanctioned for a particular head or subhead, or for expenditure incurred in the course of a previous financial year in excess of the total sum sanctioned for a particular head or subhead by the estimates, or supplementary estimates for that year that paper shall stand referred to Finance Committee.”**

So, it is quite evident, Mr. Speaker, when a meeting of Finance Committee is held, the assumption is made that it is either to deal with the Appropriation Bill or the Appropriation Bill would have already been dealt with so additional sums are being sought.

When we go to section 8(1) of the Public Finance and Audit Law, it reads, **“The Legislative Assembly may in advance of an Appropriation Law by resolution or to raise expenditure for services of the government in respect of a financial year to be charged on revenue in accordance with this law and subject to such limitation and conditions as may be specified in the resolution.”**

So, absent a Finance Committee agenda, Mr. Speaker, what is allowed for in law prior to the Appropriation Bill is for the necessary authorisation for expenditure to be sought through the passing of a resolution in this Honourable House.

There is a further provision when we look at section 22 of the Public Finance and Audit Law. If you will permit me again, I will just read section 22(1)(b).

**The Speaker:** Please continue.

**Hon. George A. McCarthy:** Which reads, **“Subject to subsections (2) and (4) where the Financial Secretary is satisfied that due to exceptional circumstances an urgent need has arisen for payment to meet expenditure which cannot be deferred without detriment to the public interest, he may by contingency warrant under his hand authorise the Accountant General to pay from public monies an advance of monies to meet that need.”**

Quite obviously, Mr. Speaker, this allows for the Government to use contingency warrants in order to provide the necessary authorisation prior to the Ap-

propriation Bill being brought. But, Mr. Speaker, the Government took the view that given the materiality of the amount it would be best if this was dealt with by way of debate in this Honourable House. This debate would come through the bringing of this resolution whereby Honourable Members would be apprised in terms of the need of the Government to go over and above Government Motion No. 3 which was passed in November, as approval is being sought for approximately \$19 million.

So, this is the reason why Government took the view that it would be within the interest of the country as a whole and for the benefit of Honourable Members of this Legislative Assembly to go the route as provided for under section 8(1) of the Public Finance and Audit Law to introduce this resolution.

Thank you very much, Mr. Speaker. I will now read the—

**The Speaker:** Honourable Third Official Member would you move the Motion first please?

**Hon. George A. McCarthy:** I will now move the Motion.

**The Speaker:** Government Motion No. 4/2001 has been duly moved. Does the Honourable Member wish to speak to it? The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, the narrative of the Motion reads:

**“WHEREAS Government Motion No. 03/00 advanced to the Government the sum of \$69,521,439 to meet needs incurred by the Government prior to the passing of the Appropriation Law;**

**“AND WHEREAS a further sum of \$18,780,993 is required to continue the operation of Government:**

**“BE IT RESOLVED that this House, acting in accordance with the provisions of section 8(1) of the Public Finance and Audit Law, (1997 Revision), in advance of an Appropriation Law, authorises further expenditure of Ci\$18,780,993 for the services of the Government in respect of the 2001 financial year, the sum to be charged on revenues in accordance with the Public Finance and Audit Law (1997 Revision) and to be used for the purposes detailed in the following schedule.”** (*For Schedule, see Appendix*)

**The Speaker:** Honourable Third Official Member your Motion has been duly moved, do you wish to speak to the Motion?

**Hon. George A. McCarthy:** Mr. Speaker, thank you very much.

Mr. Speaker, several Honourable Members of the Legislative Assembly wrote to the Financial Secretary last week asking for further details in support of

the Motion. These Honourable Members are: The Second Elected Member for Bodden Town, the First Elected Member for Cayman Brac and Little Cayman, the Third Elected Member for George Town, the Second Elected Member for Cayman Brac and Little Cayman and the Third Elected Member for Bodden Town.

In response, the Honourable Kurt Tibbetts, Leader of Government Business, responded to this memorandum that was sent to the Financial Secretary and provided further details being sought by these Honourable Members.

In his memorandum, he pointed out that the amount of approximately \$19 million covers essentially five items:

- Retroactive cost of living adjustment for the period of January through October [2000] and for the period, January through March 2001 for approximately \$7.83 million.
- Bills brought forward as at the beginning of the year (what remains out of those bills), an additional sum of \$300,000 is being sought to cover these outstanding bills.
- An additional amount of approximately \$3.46 million subsidy for Cayman Airways; and
- \$1.18 million for seamen's grants and \$6.01 million for capital development expenditure to cover contractually committed; and
- Continuing projects from Year 2000 and also certain projects that are to be put out to tender during the course of the current year.

It can be shown that the details of recurrent expenditure (as I have read in the Motion itself) was submitted to Honourable Members of this House. There is an analysis sheet and the caption of it reads, "Explanatory notes to Government Motion No. 4." It sets out the details of the outstanding bills amounting to \$292,136. It sets out, again, the cost of living [adjustment] - it gives the full breakdown of the \$7,838,769.

It also shows the breakdown under Others of two sums—one, for \$1,180,000 for the Ministry of Community Development, Women's Affairs, Youth and Culture. This sum is to cover the Seamen's grants. Also, the sum for Cayman Airways under the Ministry of Planning is shown. So, when we take these two amounts other than provisions to cover outstanding bills, cost of living—these two amounts total \$4,637,875. So, if Honourable Members have details of this information, as was circulated, it can be clear that these three amounts achieve a total of \$12,768,780.

Mr. Speaker, there is another document that has been presented and this provides the breakdown by heads and subheads. This is in accordance with section 8(2) of the Public Finance and Audit Law, which reads, "**Expenditure charged on revenue pursuant to our resolution under this section shall be ar-**

**anged in accordance with the heads and subheads shown in the estimates of expenditure laid under section 6. And this law shall for the purposes of this subsection and subject to such conditions and limitations as may be specified in the resolutions apply to such estimates as though they were the approved estimates of expenditure."**

So, in light of the fact that the resolution itself sets out the amounts in just broad sums or just gives the overall total against each head, it was felt that it would be necessary and consistent with the provisions of section 8(2) of the Public Finance and Audit Law in order to provide this breakdown by heads and subheads. It is very clear that from the narrative as set out in the document itself that essentially most of the details can be seen as applying to the cost of living adjustment.

There is a discrepancy in the document and I will ask Honourable Members to take note of this. The reference to the cost of living adjustment only makes reference to the period, January through October 2000. What has been omitted is the period, January through 31 March 2001. So, I will apologise to Honourable Members for the absence of those details.

Honourable Members will recall that when Government Motion No. 3/2000 was passed, the amount sought for under the capital provision was \$2.5 million. But as pointed out, there are contractual obligations for approximately \$8.3 million and details of this information have been provided on a project by project basis. For example, of the \$2.5 million approved in November, the sum of \$1,858,850 was allocated to public buildings under Head 6201. But it can be seen from the details provided to Honourable Members that of the additional sum of \$6 million being sought, \$4,563,325 relate to the Public Building projects. [Pause]

Mr. Speaker, I made an error in giving the details. I apologise to you and Members, and I will just go over it once more. Of the \$2.5 million approved under Government Motion No. 3/2000, as shown in the Schedule, \$1,858,850 was allocated to public buildings. It can be seen from the additional sum of \$6 million being sought, a further sum of \$2,704,475 will be allocated against public buildings, bringing the overall total for the interim period to a sum of \$4,563,335.

Mr. Speaker, the details have been set out against each project item in the Schedule itself, and as Honourable Members can see, it is quite lengthy.

Under Subhead for Roads, \$250,000 was allocated out of the sum of \$2.5 million approved in November. A further sum of \$2,517,958 will be allocated out of this new sum of \$6 million being approved, bringing the overall total to be approved in the interim under these two Motions to a value of \$2,767,958.

Under Cultural Facilities, of the \$2.5 million, \$98,400 was allocated against that Head. A further

sum of \$108,760 is to be allocated bringing the total to \$207,160.

Under Cemeteries, the sum of \$4,000 was allocated under the original Motion, [Government Motion] No. 3/2000. From this Motion a further sum of \$1,000 is to be allocated bringing the value of allocations from these two Motions to \$5,000.

Under Harbours and Docks, the sum of \$3,500 was allocated out of \$2.5 million. No further allocation is being sought against this Head in the interim.

Under Purchase of Lands, \$166,000 was allocated. A further sum of \$427,020 is to be allocated bringing the total allocation from these two Motions to \$593,020.

Landfill Development, no allocation was made from the original Motion of \$2.5 million, therefore \$15,000 out of this sum of \$6 million plus will be allocated.

Under Healthcare Facilities, a sum of \$100,000 was allocated from the \$2.5 million originally approved. A total of \$110,000 is to be allocated. This can be seen by taking the figure of \$100,000 to the furthest right column.

Under Agricultural Development, a sum of \$4,000 was allocated out of the \$2.5 million originally approved. No further allocation will be made from Motion No. 4.

Under Projects Development, Design and Costing, of the \$2.5 million approved in November, \$15,250 was allocated. A further \$1,000 will be allocated from the approval against this Motion bringing the overall total to \$16,250.

So, when we take the \$2.5 million that was approved under [Government] Motion 3/2000 and expenditure, requiring supplementary approval of \$5,785,213 for new projects to be financed (prior to the Appropriation Bill being presented), and also two contracts to be awarded to the value of \$227,000—when we take this \$227,000 plus the \$5,785,213 this takes us back to the overall value of \$6,012,213 as set out in summary in the Motion itself.

So when we take that and add this provision of \$6,012,213 to the sum of \$2.5 million that was approved under [Government] Motion No. 3 in November of last year (2000) this brings us to an overall total of \$8,285,213 to be available for capital expenditure.

As I pointed out, Mr. Speaker, I trust that Members would have had the opportunity to peruse the details of the additional information that would have been provided. I do trust that the additional information as provided would have allowed for Members to see in detail the breakdown of the sums for recurrent and capital expenditure.

I thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The floor is open to debate?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

I would first like to add that it is a great pleasure to find myself here in the Parliament with you as Speaker. Given our lifetime relationship, this is especially significant and I do hope that this will continue for the duration of the four years.

Now the matter of the proposed Motion that is before this House to approve an additional \$19 million, an advance appropriation on to the \$69 million approved in December: First, I want to thank the Government for choosing this route of bringing it to the Legislative Assembly rather than the use of contingency warrants. I think that this is a step in the right direction and I hope it is a trend that will continue through the four years.

In December, I stated that the use of contingency warrants was a weakness in the system and I wholeheartedly believe that. I think that this is the only democratic way to allocate the funds of the people, not using contingency warrants and bringing it back to the Parliament for ratification, as has been the trend in the past. I hope that this action will be formalised during the revision of the Public Finance and Audit Law and an amendment made to disallow the use of contingency warrants.

Mr. Speaker, this is quite an unusual occasion. Normally, advanced appropriation is set at the amount of the first quarter expenditure for the year before. Governments in the past have had to make do, although it has been difficult, and the first quarter is normally characterised as being one that is very tight on the fiscal management of the country.

As I stated in December, I was very concerned over the state of our economy and, be that, I am not prepared to support any tightening of fiscal responsibility at the moment. So, in that regard I am willing to support this \$19 million that would allow the Government to continue its operation, continue its capital projects such as road works and other expenditures. At this time we cannot afford for any component or for the gross domestic product to be slowed down.

Mr. Speaker, I note with interest that 42% of approximately \$19 million has been brought to this House today and relates to the retroactive pay that is owed to the civil servants. I want to draw the Members' attention to the fact that in December a Motion was brought to this House and seconded by the Third Elected Member for George Town, emanating from an earlier Motion brought by the First Elected Member from Cayman Brac. The Motion was quite straightforward and simple. It read:

**“BE IT RESOLVED THAT the Government consider moving a motion to appropriate such amount of money as is required to meet the retroactive pay for the agreed cost of living to the civil service giving the date of which such payment will be made.”**

The key word is for the Government to appropriate the money that they have committed to. I am of the view that this retroactive pay, as the Third Official

Member pointed out, represents the most significant part of this meeting here today. If this Motion had been accepted in December we would not be here today deliberating over \$19 million.

This Motion was put to a vote and a decision called. Seven Members of this Honourable House voted no, I read from the *Hansards*: Honourable Linford A. Pierson, Honourable D. Kurt Tibbetts, Honourable Edna Moyle, Honourable Roy Bodden, Mr. Rolston Anglin, Captain Eugene Ebanks and Mr. Alden McLaughlin. Absent from the vote was the Honourable McKeeva Bush and an abstention was Mr. Cline Glidden.

I do believe the reason that this very fair and sensible Motion was defeated, was simply because it was brought by what is now the default Opposition of the House. I do believe that if the Government had then reviewed the Motion and appropriated the amount as requested, we would have saved our taxpayers money. I read from the *Hansard* here, part of the debate on this very fair and sensible Motion. A quotation from the Second Elected Member for George Town, **“Mr. Chairman forgive me for viewing what has transpired this morning as a monumental waste of time and taxpayers’ money.”**

I am of the strong view that calling a special sitting of the Legislative Assembly and having us here today to appropriate this amount is a greater waste of time and taxpayer’s money. We could have dealt with it in December when the Motion was brought. I beg of this Honourable House that we put political barriers aside and vote according to what is good for the country: not simply opposition for the sake of opposition

This Member of the default Opposition makes a commitment to you here today, Mr. Speaker and to the Members of Executive Council, that when the Government of the day brings a Motion that has merit to benefit the people of these Islands, I will strongly support it. But I, as a Member of the people’s opposition, will strongly oppose and scrutinise any Motion that comes here that I view as unhealthy. I ask of the Government and every Member of this Honourable House to take a similar view.

A Motion such as the one brought in December could have only saved the country money, could have given our civil servants a formal commitment, but it was opposed simply for the sake of opposition.

Mr. Speaker, if that Motion had been passed, it would have demonstrated that we had a government that was operating in a proactive mode—approving and appropriating the amounts of money at the time of making the commitment—rather than in this crisis mode where today we have to approve money that we are hoping to pay next week, Thursday. I do not think it is a good trend to start.

It would have also demonstrated that the Government was in a mode of co-operating with all individuals putting aside political barriers and doing what was right for the country. I bring this point out just to

highlight the need for us to all work together and I will demonstrate my commitment to supporting the Government when they are bringing something good by voting on the Motion that is at hand here today.

I also note with interest that the sum for retroactive pay is \$7.83 million. I notice that it covers not only January to October 2000—because we know that the civil servants’ pay increased from November and the 4.8% was included—but it also includes a period of January to March 2001. I understand that to be that the January payroll on January 22<sup>nd</sup> would have included the 4.8% without money being appropriated for it. So, if my understanding of that is correct we are simply here to ratify that particular component. I bring this out just for clarity, and hope that it will be responded to, to allow for clarity in my mind before the vote is cast.

I also think an important lesson can be learned here, Mr. Speaker. The Public Finance and Audit Law, Part III, Control and Management, section 11, **“The Financial Secretary shall subject to this and any other law have the management of the finances of the Government and the supervision control and direction of all matters relating to the financial affairs of the Government.”** It is important that all governments, all political branches make the separation between the political arm of government and the official arm of government.

As one who has had the pleasure and the privilege to work for and along side the Third Official Member, and have great respect for his ability to conduct the full ambit of his responsibility as covered under the Public Finance and Audit Law, I urge the Government not to make the mistake of the past of getting involved too deeply with the finances of the country. The reporting and the dealing with the financial affairs of the country is a responsibility that our Constitution and our Public Finance and Audit Law places in an official Member responsible—the Third Official Member.

Our forefathers, who were the authors of the Constitution and wrote these laws, saw the need to have the finances of the Government transcend beyond politics. They could go beyond one elected government onto the next elected government. If that individual is allowed to carry out his responsibility, we would not be in a situation when a new government is elected that certain things are just being revealed—these unpaid bills are being put forward. The Financial Secretary would be the same individual from the past government who is transcending into the new government and would be responsible and accountable for such finances.

I see grave indications that worry me that the Government of the day is conducting a similar path. I am one who strongly believes in education, and I strongly believe in the Minister of Education who at the last sitting stated that we should study the path and learn from it.



I see that there have been numerous debates published in the local press as to the financial affairs of the Government. But rather than these issues being dealt with by the person who is responsible and who knows the true picture, they are being dealt with by a political branch. Even the response to the letter that we wrote to the Government, we addressed to the Financial Secretary. Those of us who wrote were: the Third Elected Member for George Town, the Second Elected Member for Cayman Brac and Little Cayman, the Third Elected Member for Bodden Town and the Second Elected Member for Bodden Town. He—the Financial Secretary—is the individual who is responsible for the finances of this country.

The letter simply asked for further details to a Motion that he was sponsoring in his capacity as the Third Official Member responsible for the finances of this country. I am amazed that the response did not come from the individual responsible, it came, not even from the Leader of Government Business in his capacity but it came from the Minister for Planning, Communications and Works. That is indicating to me that we are heading down the same path where politics is getting involved into the financial control of the country's coffers. That causes me concern and I bring it to the attention of each and every Member of this Honourable House.

The system that we have where the official Member is responsible for the finances is a system that has worked. It is a system that has proven itself over time but it must be given its ability to work on its own without political interference.

Mr. Speaker, the Motion as I see it here today is straightforward and one that I encourage all Members of this Honourable House to approve because it will ensure that the civil servants get their money this Thursday and next pay-day in March as has been committed. I think, however, that the method used to get to this point had to be brought to the attention of the public and to each Member's attention here, so that we can work as a Parliament together to ensure that the Parliament is perceived not only locally but internationally as a Parliament that is proactive in its action and not reactive as this special sitting here illustrates today.

Mr. Speaker, again I give the Government my commitment to support this Motion when it goes to the vote. Thank you very much.

**The Speaker:** The floor is open to debate. Does any other Member wish to speak?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, please allow me to congratulate you and your Maker that you are in such good health and here with us today. As I said when we parted in the last House, it was a pleasure for me to work with you, and I am happy to have you here today.

Mr. Speaker, if there comes a point where you feel that relevancy is not being observed by me, please, it is your authority, and I shall not resist.

**The Speaker:** I shall do.

**Dr. Frank S. McField:** Mr. Speaker, the reason why I must be aware of all of these things, of course, is because I would not like to cast any kind of doubt on my ability to be the Deputy Speaker in this Legislative Assembly.

I would like to just briefly create a framework for my debate because I think it is important. As you know I always like to show how things are interconnected and if you lose a part of the puzzle, you will miss the bigger picture which should, of course, be what is important.

The democratic process, which is the reason why I am able to stand on this side and make my comments, is a process that must not just be observed by what might be termed the Opposition. It should also be observed by what is the Government. I find it strange when I sign my name to a letter with regards this Motion seeking this advance appropriation, and send this letter off to the Financial Secretary, that when I read before even doing so the Public Finance and Audit Law (1997 Revision), section 11, **“The Financial Secretary shall subject to this and any other law have the management of the finances of the government and the supervision control and direction of all matters relating to the financial affairs of the government.”**

Why then do I find that my queries and the queries of other Members with regards to the need to have more of an in-depth explanation to the request is being answered by the Minister for Planning, Communication and Works? I believe that there is a difference between the Financial Secretary and a Minister of Planning, Communications and Works. I should hope that finances are not just divided from Planning, Communications and Works because it is dealing with different areas but also we have different people dealing with these issues.

I am saying this because of the information which deals with the proposed Motion which has given us further details which is a part of what it is I am trying to mention here today.

**The Speaker:** Could I just interrupt you for a short moment?

I would the attention to all honourable Members that under Standing Order 9(1), it says, **“If, during an adjournment of the House, it is represented by the government to the Presiding Officer that the public interest requires that the House should meet . . .”** I direct that this Honourable House should meet on instructions from the Government which is the Leader of Government Business. That is where my position of saying government - what is done within the financial sector is but my prerogative was to have the

Leader of Government Business sign, which I then in turn directed that this special session be called.

Please continue.

**Dr. Frank S. McField:** Thank you very much for that useful information and I think the general public will certainly benefit from it immensely.

I understand that the Government has the right to call a special meeting or, at least, ask the Speaker to call a special meeting and that the Speaker calls the special meeting under the relevant standing orders. We have basically here the question of whether or not in the process of bringing this Motion to the Legislative Assembly which is the Government's part, preparing the Motion, having a particular approach to presenting the Motion to the House, and a way of defending the response of the persons involved in the debate . . . The total process is that we in voting money want to make sure that the government that is asking for this money is a responsible government. It can only be a responsible government if the government is acting according to the Constitution, which means that each Member is acting within his ambit.

The Financial Secretary is charged with issues of finance. This is my second term here and I don't believe that I have ever before had an issue of finance in any correspondence or verbally that I have addressed that I have had answered than any one other than the Financial Secretary. So, what I am saying is that this is a very strange occurrence—not only because a special meeting is being called at this time before the March state opening. We understand the relevant standing orders under which the Government can ask the presiding officer to call this meeting but the fact is, as my good friend, the Second Elected Member from Cayman Brac stated, we brought a Motion on 8<sup>th</sup> December 2000, which would have allowed the Government to appropriate the money which was necessary to have settled the cost of living adjustments with the civil servants.

My understanding therefore is that in government not doing this and in government asking that a special meeting be called and then we asking the Government for additional information it is almost as if someone says, *'Well, I am in control here. Let me answer them—the opposition, the troublemakers, the ones that are coming here to oppose for opposition sake'*. How quickly people forget, Mr. Speaker! How quickly they forget!

One thing that I am happy of is that we have a special meeting because some people I would not even see anymore if we did not have these special meetings. It is funny how people can crawl away and disappear as if the running of the country has only to do with the management of their portfolios. A significant [number] of the people elected by the people of these Cayman Islands are on this particular side. Now, I don't know about those with the little political connections but I can tell you, I am the outsider here in George Town. So the only way that I have to com-

municate with certain people is when they come down here. So I best say what I have to say today because otherwise I might not have a chance again until we open.

Mr. Speaker, I have no qualms with regard to voting this amount of money. As a matter of fact if the procedures had been followed correctly I would not even have a reason to speak—not just to be here. Mr. Speaker, why would I have a reason to speak? They are asking for the advance, for the adjustment. They are asking for the seamen, they are asking for Cayman Airways. Wow!

I cannot make a big thing because we are still waiting until we get the report and so in the meantime the airline must continue to function. There is nothing that I can actually make a big thing about here today except the way the Leader of Government Business has addressed us in this memorandum.

I see here where he talks about . . . and if you talk about wasting time, we would not have to be here if they had not brought us here in the first place. So, if I just waste a little bit more time by saying how he writes this to the "Second Elected Member from Bodden Town," the "First Elected Member from Cayman Brac and Little Cayman," the "Third Elected Member from Bodden Town" and the "Third Elected Member from George Town." To him, in correspondence, I am Dr. Frank McField, MLA. In this House I am referred to as the "Third Elected Member [for George Town]" but in no case has any Member of Government written to me as the Third or Second Elected Member for any district. It is unusual.

So, if we are going to be changing the procedure now because we have a new government, then we want to know . . . well, we have the same thing about the Leader of Government Business and Deputy Leader of Government Business. I do not see anything in the Constitution that allows us to be talking and using these labels and titles. So, it looks like not only do we have a new government: we have a new government that is creating a new constitutional arrangement. They are arranging the Financial Secretary's portfolio in the Ministry of Planning, Communication and Works. They are moving everything around.

So, let us—

*[Inaudible comment]*

**Dr. Frank S. McField:** Mr. Minister for Tourism, I am quite sure that Mr. Speaker realises that I am off the point. I have made my point. I hope, Mr. Minister of Tourism, that our day has been a little bit more humorous as a result of my speaking.

**Hon. W. McKeeva Bush:** Oh, yes sir!

**Dr. Frank S. McField:** I believe that you should get the amount of money you came here for and, Mr.

Speaker, when the time comes I have no problem with voting for it. Thank you.

**The Speaker:** Does any other Member wish to speak? The floor is open for debate does any other Member wish to speak? *(Pause)* This is my last call. Does any other Member wish to speak? *(Pause)*

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Good morning, Mr. Speaker.

I have listened with some degree of incredulity (and perhaps it is because of my newness to this place) at the grandstanding and gamesmanship employed in the affairs of this country.

I thought that Members of this House would have commended the Government for finally—for the first time that I am aware of—taking responsibility for the fiscal affairs of this country and not pretending that it really is a responsibility of the Financial Secretary. It is his duty to properly manage and supervise the fiscal affairs of this country, but it is certainly not his duty, nor do I believe that he pretends that it is, to set fiscal policy. That is the responsibility of the political directorate—one that I am pleased to see the Government of the day prepared to assume.

I have listened carefully to what the Second Elected Member for Cayman Brac and Little Cayman had to say, but his proposition, and Dr. Frank's as well—

**The Speaker:** Please refer to him by his district.

**Mr. Alden M. McLaughlin, Jr.:** Sorry, Mr. Speaker, but the Third Elected Member for George Town had complained so bitterly just now about being called “the Third Elected Member” that I made a slip. I am sorry, Mr. Speaker.

*[Members' laughter]*

**Mr. Alden M. McLaughlin, Jr.:** To say that what is being done is to confuse the role of the Financial Secretary with that of the elected Members of Executive Council is to ignore the concept of collective responsibility. I am pleased that we finally have a Leader of Government Business who is prepared to assume the leadership role and not afraid to append his signature to a document which sets out the policy of the Government.

I believe that had any Member of this government come to any of us on 9<sup>th</sup> March and told us that they had continued the process of signing contingency warrants to spend the country's money, even for the most necessary matters, we would have all complained bitterly about that abuse. I know that I certainly would have done so.

While this meeting may be somewhat unusual, I am pleased to see that I am not going to be asked in Finance Committee in April to approve sums which

have already been spent, and for which Members of Finance Committee would be asked to simply rubber stamp. I am pleased that we have the opportunity to debate the rightness, or otherwise, of expenditures being proposed, and I am also delighted that even the most vocal Members of the default Opposition (as the Second Elected Member for Cayman Brac and Little Cayman has named them) are able to support the sums Government is asking us to appropriate.

I know that the waters of reform are somewhat difficult for Members to navigate. Any change is always resisted. But I believe all of us, including Members of the default Opposition, campaigned and convinced the electorate that what this country really needed was change. And one of the main areas of change to which we all committed was fiscal reform. I am pleased that the Government has sought to effect that reform right from the beginning, not to continue the abuse of contingency warrants but, if necessary, as was the case here today, to bring to this House a Motion open to debate in respect of each and every item for which expenditure is required.

I welcome that and I commend that Motion and that approach to all Honourable Members of this House. Thank you.

**The Speaker:** Does any other Member wish to speak? The floor is open for debate does any other Member wish to speak? I would ask any other Member, if you wish to speak, please, I cannot hold off too long. *(Pause)* Does any other Member wish to speak?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, I would like to tell you how good it is to see you in the Chair and to see you in good health. I know we all wished you that last time we were here.

In regard to Government Motion No. 4/2001, it seems to me, being a first-time Member here in this House, that sometimes the debate can be off the topic and can often be carried out in manners that are not in the true spirit of responsible representation. I wish to remind Members (and those who may come behind me to speak) that we do have—

**The Speaker:** Please direct your debate to the Chair.

**Mr. Rolston M. Anglin:** —that we do have young aspiring parliamentarians in the gallery and as such our debate on this Motion should be relevant, to the point and concise.

In going through the details of the Motion at hand, as an elected representative for the district of West Bay, there would be certain items that we should speak to. After all, that is what the debate on the Motion is all about. I think, as an elected representative, it is my duty to do so.

There are two items that particularly concern me as a legislator. The first is the amount being requested for the Cayman Airways subsidy. I know

there is an ongoing review of the airline. However, it would be useful if all Members actually knew the status of the review, and if Members were to think about the items they are being asked to vote on.

I will support this Motion because the business of the country must go on. However, it is my duty to ensure that in my contribution that I speak to the specifics of the Motion itself. Let me state clearly that I do not have any particular axe to grind either for or against Cayman Airways. It would be useful, however, for all of us here to enjoy the privilege of knowing what the course of the airline will be in the future. We need to know what the current state of the airline is and why it is that we are in the height of the busy season and all we have to do is open the *Caymanian Compass* and see coloured ads with Cayman Airways having seat sales at this time. The financial affairs of this country are what will make or break us. If we do not have money to spend on the important matters, how can we truly build an effective and productive Caymanian society?

The other item I noted was the Seamen's Ex gratia Pension. I am sure that every Member of this House, and the public, will recognise that the seamen played an integral role in our being here today. I think we all would say that it is fair that amounts due under a prior commitment be paid. I would also like to add that most of us in the community thought that we were talking about ex gratia pensions to Caymanians who left this island many years ago to make a living at sea, and sent monies home to build this country.

However, as one learns more and more about certain goings-on in an election year, one will quickly realise that the rush to obtain votes sees no end. And the finances of this country will be used directly to this end. I am concerned as a legislator to have learned that there is no means test for the ex gratia payment, and that "Caymanian" was not defined.

Mr. Speaker, the former point is outrageous in a time when everyone in Cayman is financially stretched, especially the poor citizens of this country. How could it be that money is spent and no consideration is made to the financial status of ex-seamen? I had the privilege of meeting one the other day who said to me, *'Rolston, I will not apply for the ex gratia pension because my conscience would not allow me. Yes, I went to sea. However, I am now in a position that I do not need the money. Therefore, I will not apply for it.'*

In regard to the latter point, that is not defining what "Caymanian" is, I would term this downright rascality in the rush for votes. Let us use an example: How can we say that a man could go to sea in any country—name a country, Panama, Japan—move to these islands, marry a Caymanian, acquire Caymanian status and apply for the ex gratia pension? I think that the community of Cayman is greatly disappointed with this turn of events. After all, how can we say that a person who went to sea in another country to help build that other country, can now be a qualify-

ing Caymanian (that is, by way of status) and receive the ex gratia pension? This pension was intended for the men who left this island, and left their families to help build this country.

As I said earlier, I will vote in support of this Motion. However, I was elected here to represent the people of the Cayman Islands, in particular the district of West Bay. So, when seamen from our country and from my district take the time out of their day to come to my office to sit down and speak to me in regard to their great concern that men who did not go to sea to build this country are receiving the ex gratia payment, that is very disappointing to me, as a young, first-time parliamentarian. It is very disappointing that this sort of ploy is employed in this country to garner votes.

After all, it is fair to say that those particular men who would have served another country, and helped build another country by going to sea while there, having obtained Caymanian status can vote in these islands. I would just like to also add that Finance Committee votes and approves the monies of this country. The Honourable Third Official Member carries out fiscal responsibility and directs it, but the people of West Bay sent me here to vote on matters of financial affairs, to vote on the financial priorities of this country. The last time I checked I was a politician, and I am from the political arm. I certainly would not support any move, as was insinuated earlier, to have the complete financial control of this country be reserved to the Third Official Member. It is our right and our duty to debate the financial affairs of this country.

To say that 42 per cent of the current amount being requested would have prevented us from being here, again seems a bit absurd. What about the other 58 per cent? To get up in this Honourable House and not speak to the details of the Motion is disappointing. I am sure that the young aspiring politicians in the wings and those on the radio would have been equally disappointed, as I was. I got up to speak to the Motion. I spoke to the two matters that were of particular concern to me.

Mr. Speaker, we must afford this country the highest standard of governance, afford every person who voted for us, and even those who did not; in other words, every citizen of this country we must afford the highest level of debate. We must have relevance, we must speak to the Motions, not get up to cry like babies simply for the sake of crying.

Mr. Speaker, I cannot speak to who was here prior to November, but I am here to speak to Motions. I spoke to the Motion. Two of the three speakers prior to me did not seem to speak to this Motion. I am sure that the people of these islands are listening as they have never listened before.

I would just like to close by saying that it should be philosophical differences that cause us to be Opposition Members, not a mad rush for power!

*[Inaudible interjections]*

**Mr. Rolston M. Anglin:** Not a mad rush for power, and once not getting it we declare ourselves Opposition. Thank you.

**The Speaker:** The floor is open for debate, does any Member wish to speak? The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I too wish to say that it is unusual . . . I think it is the first time that the Legislature has ever been called into this special session to do what it has been asked to do—that is approve an additional sum of approximately \$19 million in an advance appropriation against the 2001 budget.

I tend to agree with the Second Elected Member for Cayman Brac and Little Cayman and previous speakers who say that it is true that the main rush is to find the money to pay the civil servants their cost of living increase. Had this matter been dealt with, as it could have been dealt with in December, we would not be here now.

I also think that it is very necessary when this government (and it will be there for the next four years unless something strange happens) puts forth monies for any given quarter, or any budgeting, that they ensure what the correct amounts are and put them forward so that we can deal with them in a proper fashion all at one time.

Various speakers have spoken about the role of the Financial Secretary. Indeed, it is a very important one. The Financial Secretary, or the person charged with the finances of the country, happens to be a civil servant playing a dual role—that of civil servant and also an elected representative—which he is not. He has to play a political role and an administrative role. But I too signed the letter to the Honourable Third Official Member, the Financial Secretary, on Thursday asking him for information we did not have when we were summoned by the Clerk to be here today for this meeting.

We wrote to him because he is the person responsible for the finances, and we would naturally assume that he had the details. Just for the record, what we received was a memorandum signed by the First Elected Member for George Town, Minister of Planning, Communications and Works. But the caption on the letter is “Portfolio of Finance and Economic Development.” That tends to make the situation confusing.

Whether we like it or not, colonialism as it exists in the Cayman Islands says that the Third Official Member is the person responsible for finances. It is true that we as elected Members vote the sums that come before us. But the actual day-to-day management of the finances of the Cayman Islands is the charge of the Financial Secretary. Unless we elected Members have the courage to do something about the Constitution legally it will continue that way.

I, for one, certainly look forward to the talked about constitutional review where we can deal with

matters such as this. I think the role of the Financial Secretary can continue to be the role of the Financial Secretary, but we can have a Minister of Finance who will deal with the policy matters to come and sit in the Legislative Assembly like it is in all of the other dependent territories. I would not swear to that, but I know it is possible to do that without raising what some persons call the “independence” bogeyman from his grave.

Mr. Speaker, one thing that concerns me since the present Government has taken office, is that I am hearing too often that the country is broke, the Government is bankrupt. I have been approached by various persons employed at Public Works, for example, who have said ‘*Look, we have been told there is no money. We cannot carry on the projects we were working with. We are going to be cut back to three or four days. They are not going to pay us because there is no money to do it. We are not going to be paid like the other civil servants who are permanent and pensionable.*’

Of course, I told them that is nonsense: once the decision is taken, there will be a cost of living increase and it has to be for all Government employees. We the “default Opposition”, tried to do something about that way back in December.

I think that the terminology used by the Second Elected Member for Cayman Brac and Little Cayman states how we all came about. But I am very proud of being in the position that I am because when the dice was being cast, I believe that those of us who have now been effectively placed in the Opposition, dealt a fair hand and there were a few cards up other sleeves. But I have no problem whatsoever being in the role of opposition, neither do the other Members I think.

I think that we need to stop talking about the country being broke. If the country were broke, the Ministers who are saying it through their political allies would be like the hoteliers—when the hotel is empty, they tell you it is full. Because the country is not broke, they figure they can sing that song. My argument is that it is not good for the country for us to keep saying that. It will cause a loss of confidence—a certain amount of fear in the people of this country—and it is not good for investors.

Mr. Speaker, I would like to address some areas of the Motion which are asking for payments of certain sums of money. One, is the cost of living adjustment for civil servants: I think it is good management for Government administration to keep a yearly analysis of the changing of the cost of living and be prepared in any budget to put forward what the adjustment should be so that it is not a case where the cost of living adjustment is three or four years behind and attempts being made to catch up. It always seems that the catch up moment comes when the finances are at their lowest ebb. I think that needs to be done.

Also, I believe the time has come for an independent review of the civil service in its entirety, job description, job classification, job evaluation and then arrive at what are the true costs, whether the number of jobs we have are truly necessary, or whether through redistribution of work some duties can be combined with others and one post eliminated. I think the time has come, and is perhaps long past for this to be done.

The civil service has grown to extremely large numbers. There is evidence that it is going to continue to grow. We hear of persons needed for the Monetary Authority. There are persons needed in other support areas. But we have to be absolutely sure that the numbers we have can be justified from a true scientific analysis, proper review of the civil service. I believe that to be most important.

I hope that the bills that were brought forward by the Government from the year 2000 are the last we will hear about between now and March when it is anticipated that the House will be called into normal session. If not, then I seriously question who is handling the finances. Or, is it because there is a duplication of responsibility where finances are concerned that it is causing a problem? I hope when we vote on this money that it will pay those bills that are being advanced into the first quarter of 2001.

I see in two instances in the details that have been given to us, amounts for Cayman Airways. I see \$3 million, and I see \$457,875 for advertisements. Many of us believe that Cayman Airways is essential to the Cayman Islands. Until someone can prove to me that it is absolutely not necessary, I continue to believe it is. I have always felt that it needs to be managed properly, and I am not convinced that over the years it has had its share of good management.

Mr. Speaker, you will know (as you were a sitting Member at that time) that I moved the Motion that a major study done on Cayman Airways made certain recommendations. But those recommendations were only implemented in a partial manner. I think Cayman Airways continues to be driven more by politics than by the revenue it gets from the various routes. I think that even now, we hear of a study being done by someone capable of doing it, but until now we have not seen that study, nor do we know what is happening to Cayman Airways. I trust that this information will be forthcoming no later than March.

We must note that the Parliament allows Cayman Airways a subsidy of \$4 million each year, and they are asking for the \$4 million in the first quarter of the year. So, what is to be the case about the other three-quarters yet to come? We must remember that the first quarter is not yet spent. This is a very important area of Government expenditure. We all need the opportunity to reach some conclusion in regard to the continued operation of Cayman Airways and what it will cost the country; whether the country can bear it, and whether the country wants to attempt to bear it. I trust there will be detailed information on it soon.

The area of roads is of concern to me in that when the last government was re-paving the roads throughout the Cayman Islands, it seems as if someone decided to punish Bodden Town with every other road being the glassy-type—and we are still bumping across the old roads. So when I support the Motion for these funds, I hope that one of the areas to receive money for re-paving the roads is Bodden Town. It is one of the longest stretches of road in any district on this Island. It runs from the crossroads at North Side down to Spotts. We must have our share of the hot mix asphalt. So, Mr. Speaker, I hope that the contracts and ongoing works will include that particular project.

The Lighthouse School is necessary for our country. It provides specialised education for special needs children. It seems that it is costing a very large amount. It does not say if the \$1.4 million will complete it, or if there will be more money in the budget to complete this project. I imagine that we would all like to know if this money represents the last of the funds necessary.

I hope that the capital works, which include the road building, will be done speedily. I have observed the cost of work on various government buildings, and for the future I trust that contracts will be negotiated in a manner that will give us the best value for money and that projects finish on time and that we do not pay \$1 million for four classrooms as has been done in the past.

Education is ultra important to the Cayman Islands and I trust that the budget coming forward in another month or so will show in the greatest detail how the money is to be spent in education, both for physical plant and for human resources.

In closing, I look forward to the Financial Secretary giving the answers on matters of finance. According to law it is only he that can be held responsible for it and I trust that in the future and always, when Motions or money bills are sent to legislators for their consideration, that all the details are sent. It is rather humiliating for legislators to have to listen to the radio station to hear the details of a Motion they are asked to debate and approve.

I do not know, for example, if there is still time for us ordinary legislators to put forward monies for the budget. I will be doing so, and I have consulted with one of the Ministers who is a representative from Bodden Town on a few of these issues. I trust that that will not get cut from the Budget which is to come.

Mr. Speaker, I am glad to see you here today, and I look forward to working with you in the future. I thank you.

**The Speaker:** Honourable Members, it is past the usual time for the morning break, but if it is the wish of the House, I would like to suggest that we continue until 1.00 pm in order that our guests—the students in the gallery—will not be delayed by the break. Is that

the wish of the House? [*Members' inaudible response*]

Thank you, we will continue. The floor is open for debate. Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

Through you, Mr. Speaker, I would like to welcome all the students in the public gallery this morning. I believe that that is where politics should begin, and that parliamentary procedure should be learned. I trust that they will leave here with much.

In understanding where one must go in life, it is understood that we cannot always look behind. If you do that for too long, you will not see where you are going. Certainly, one must always look behind to see where he came from. In so saying, I would like to congratulate the Government for taking a different approach in spending government and public funds.

In December when we were in Finance Committee, each and everyone in this Honourable House was extremely disappointed (and the *Hansards* of this House will bear me out) about the manner in which the previous government had used contingency warrants. Today, while it marks an historical moment in the meeting of the Legislative Assembly, it also marks a historical moment in the manner in which I trust Government will operate in the future. I applaud them for doing it in this manner.

I too had concerns about the amount of information I received on Thursday. I was also disappointed to hear it on the radio Thursday evening. I made my disappointment known to the Leader of Government Business in no uncertain terms. I hope this is a lesson in learning for the Government—send all the information up front.

We have heard much this morning. I am going to add to some of that. Particularly, Cayman Airways. For many years this country has seen Cayman Airways given monies to the tune of \$3 million or \$4 million per year. I notice where this \$3 million is up until 31 December 2001. Maybe the Government can indicate whether that is a mistake or not because I know that in previous years we have seen Cayman Airways needing much more than the \$3 million being asked for here.

I notice that the narrative from the details of expenditure reads, "**Legislative Assembly approval is hereby sought for an advance appropriation in the amount of \$3 million to provide funds for Cayman Airways subsidy for the period April to December 2001.**" Then I see in the famous memorandum of 9 February under bullet (3) that "**an additional \$3.46 million first quarter 2001 subsidy to Cayman Airways.**" There may be a mix-up in that.

If it is only for the first quarter, I think Government really needs to work with utmost haste to ensure that the independent audit of Cayman Airways that which is currently ongoing, be completed as soon as possible..

This country has supported Cayman Airways and rightly so, but it certainly has to be managed properly. The country is demanding of Cayman Airways—not only Cayman Airways but particularly Cayman Airways because it has been the focal point for many years—value for money. We need to start operating Cayman Airways as a business and not as a political dumping ground for supporters.

Mr. Speaker, I have every confidence in the individual doing the audit on Cayman Airways, and I look forward to his early report. But I would invite the Government to explain to this Honourable House if this subsidy is really for the first quarter or if it is for April to December.

Another area that concerns me is roads. I notice there is a continuing capital development on roads, in particular the Crewe Road Bypass. But there are many other 'half-finished' roads—in the words of the Second Elected Member for West Bay—that need to be done. Roads that were half-finished just prior to the Election, for those needed votes. In particular, I am talking about the roads around the eastern end of the Island. They need to be completed as soon as possible. While they are nice and black, they are as rough as they were prior to putting that surface on them. I throw that challenge out once again to the Government.

Another area is the Seamen's Ex gratia Pension. I too have some concerns about where this is leading this country. I have had much representation concerning this ex gratia payment. And while I support the ex gratia payment to seamen, it must be done on a means test. We hear rumours of people living overseas who are applying for this ex gratia payment. It was hastily done, in my opinion, and I think it is grossly unfair to this country and the residents (and by residents I mean those who reside here, those who live here year round) to have to pay for someone who has left our shores and resides in another country. While it's nice to recognise our seamen, seniors, indigent, we cannot open our coffers to everybody who lives in America, England, or whatever country they live in.

Not because they went to sea from this country at a very young age should they now be applying for ex gratia payments while residing elsewhere. Those same people, if they wanted to come back to this country to register as electors, have to meet one specific criterion, and that is, under the application for registration as an elector in this country, section 6 says, and I quote, "**I have been ordinarily resident in the Cayman Islands since (blank) day of (blank) 19\_\_ or 20\_\_, and during the three years immediately preceding this application I have been absent from the islands for a total of 300 days or less.**" I would like to see something similar for the ex gratia payment. Everyone cannot hold out his or her hand to the Government of this country.

I would like to come back briefly to Roads and Public Works. I have had much representation from

the employees at Public Works in the last month concerning the move to come within General Orders, and that is to move them from a 44 hour week to 40. I wonder how—and the Government may be able to answer this when they reply—the 4.8% is going to factor in to moving Public Works employees from 44 hours down to 40? It is my understanding that as it stands they will be going home at the end of the year with less than they are currently making. While I do not understand everything about it, I would ask that Government responds concerning the 4.8% increase and how it will affect Public Works employees' wages.

As I said in the beginning, I welcome Government's approach to getting approval from this Honourable House on these expenditures. Like previous speakers, I will support this Motion.

In my maiden speech in this Honourable House I made a commitment. I said, and I quote, "**And, in anticipation of a challenging term, I expect to work tirelessly with all Members of the Legislative Assembly in the best interest of these beloved islands.**

**"In the same vein, I will be equally vigilant and unrelenting in my scrutiny of good governance at all levels. It is not my intention to oppose for the sake of opposition, nor will I support frivolous and untenable positions. My mission here is specifically to represent the people of East End and generally to safeguard the well being and success of the Cayman Islands."** That goes for the Government Bench and this side of this Honourable House as well.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Mr. Speaker, the Third Elected Member for George Town would like to be called the "Opposition." That's fine. I believe in any democratic society we need opposition. Opposition is healthy. I will oppose anything the Government brings that in my opinion is not in the best interest of this country. I just wanted to ensure that the Government and every Honourable Member understands that. But I am not going to do it just to say that I oppose.

There were 57 candidates in the recent elections. If memory serves me well, everyone campaigned on the basis of transparency. We cannot campaign on transparency and not practice it. I hope that this is the first move on the part of Government to fulfilling that campaign promise to the populace.

Mr. Speaker, as I conclude, I welcome the approach that Government has taken. I look forward to supporting these monies so that the country can continue to run until the Appropriation Bill is brought to this Honourable House. It would be foolhardy of me to vote against giving civil servants their cost of living increase when in December we had much to say in Finance Committee concerning why it was not given to them. I trust that civil servants will enjoy it after the long wait of over one year. Thank you.

**The Speaker:** Does any other Member wish to speak? *(Pause)* The floor is open to debate does any other Member wish to speak? *(Pause)* I cannot wait much longer. Does any other Member wish to speak?

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. As other speakers have said, I welcome you back into the Chamber and I am glad to see how well you are looking.

From the beginning I would like to say that I appreciate the detailed response we received Friday afternoon. As a matter of fact I was in the Public Accounts Committee with some of my colleagues. I say, being part of the past government, that this was quite prompt action. I hope this will continue.

There has been talk and debate about who is responsible for certain actions. I have worked with the Honourable Third Official Member, and I know his dedication. I know that whatever needs to be done for this country he will do. But as alluded to by some speakers, the main emphasis will be placed by the political directorate of Executive Council, that is the elected politicians. The majority of the people in this House feel that is the way it is until otherwise changed.

Mr. Speaker, being at risk of not staying with the Motion—and before I get to a number of points and questions that I would ask the mover to comment on in his winding up—I must say that I think it is high time that people at a very early stage realise that the past government has gone. The time will come when we can no longer blame what has happened, or is happening now, on them.

*[Inaudible interjections]*

**Mr. Anthony S. Eden:** Well, that is politics, Mr. Speaker.

One of the areas coming up is the cost of living allowance for civil servants, which I support 100 per cent. I am proud to say that in the eight years of the past government of which I was a part (six years on Executive Council) we put efforts to upgrade the Civil Service to where today it is very competitive with the private sector. We did not do that by ourselves as a government. I see Members across there who worked with us on that. I am glad that we did it. It was the right thing to do.

Yes, in December, I felt . . . and we all know as politicians that eventually it had to come, that we must give the civil servants their increase. I would have been willing, as a past Member of government, to be saddled with the supplementary to say they could have gotten it for Christmas. I had no problem with that, and I have no problem now. But the Government in power spoke, and we must respect their wishes. They evidently had what they wanted to do and that is their democratic right under the system of government we now have.



The other area I would like to touch on is item 2 in the response from the Leader of Government Business regarding the \$0.3 million expenditure incurred in 2000. I am just wondering if this would not be handled by supplementary. You can clarify that Mr. Speaker. I know it takes some time for these bills to come in. I am not really questioning why these are still drifting in. But if this is the appropriation for 2001, how can this be included if it was incurred in 2000?

I move to number 5 of that same memo, which requests \$6.01 million for capital development. I wonder if anything was left out of the \$45 million or \$47 million that some of this money could not be used until we have passed the Appropriation Bill for 2001. I would ask that some of these be dealt with by the Honourable Third Official Member in his winding up.

There was one area in the detailed information relating to the expenditure as set out in Government Motion No. 4. On page 9, under "Legislative" there is an amount of \$18,000. It is not much, but I am sure the Honourable Third Official Member would be glad to know that we actually approved this amount of money on the 8<sup>th</sup> December, on page 88 of the Report of Finance Committee. You may want to check that.

The only other question I have (and a number of people have touched on it) is in regard to Cayman Airways. In the past the subsidy was normally about \$4 million. I note that has been requested in the first quarter, up until April. Would someone please expand on this?

As I said, I will await this information. I am pleased to see the approach of sharing so much detailed information. It was unfortunate . . . and I do know what happens in the preparation of this information. It can take an eternity. I am not faulting anyone as to why it did not come out at the same time. But I will give my support to this because the country must run. I give this Motion my full support.

**The Speaker:** Does any other Member wish to speak? The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna O'Connor-Connolly:** I too would like to thank you, Mr. Speaker, for being here. I am also happy to see that your health is much improved. I wish you much success as you continue with your most distinguished career.

In my very brief presentation, I would first like to congratulate the Government for making a financial request for the cost of living [supplement] for civil servants. Much can be said and much has been said as to the timing. It is better late than never. I shall not be spending time discussing the semantics as to the timing except to say that it is good that the civil servants can expect it as the Government has set out in its memorandum to the various departments that are so affiliated.

In item 1 of the memorandum, headed "Portfolio of Finance and Economic Development" coming from the Minister of Planning, Communications and Works, there is an item that whoever is responding could perhaps clarify in his or her final summation, and that is the additional sum for January 2001 to indicate whether that is the carryover cost of living, or if that is in fact the cost of living for the first quarter for this particular financial year being 2001. If so, what is the percentage of that cost of living?

Secondly, Mr. Speaker, I would move into item 3 from the same memorandum relating to Cayman Airways, the request for \$3.46 million for the first quarter 2001, which is their subsidy. Yes, it is a request for a subsidy within the first quarter. I commend the Minister responsible for that because we have known for a long time that Cayman Airways has been operating on a meagre subsidy of \$4 million for a number of years. And I say meagre taking that in the correct perspective and comparing it to other statutory boards or heads of government expenditure, for example, roads, hospital, social services, where there is no finite return.

We often see Cayman Airways being used as a football in different political platforms, sometimes fairly, sometimes unfairly. Like the Second Elected Member for Bodden Town emphasised in his deliberation, Cayman Airways is a most vital entity to the Cayman Islands, in particular for Cayman Brac and Little Cayman. I have always supported Cayman Airways, even before being in this Honourable House. It is my intention, with the help of Almighty God, to continue to give my full support to Cayman Airways.

The airline business is not easy, and often times not very profitable. But the staff there are diligent from my experience in working closely with them over the past five years. They have the interest of Cayman Airways at heart. I would say that we should give Cayman Airways a fair start. Members from both sides of this House have said that it needs to be fully capitalised. I think that once the report comes out from Mr. Naul Bodden, a capable Bracker, we can then sit down as a government in its entirety and look at Cayman Airways and see it as something we have to work with in the interest of the country as opposed to something that we can use as a boxing tool because it is politically correct.

I challenge all Honourable Members to not politicise Cayman Airways. It is much too important for us to take that approach. We must move forward. As my good friend and colleague, the Third Elected Member for Bodden Town said, there will always be a "past government" and if we use the peeling away exercise most if not all of us will come into that category at some stage in our lives.

We are here to look after the best interest of the country. I am certainly here not as an "opposition" Member; I am here as a representative of Cayman Brac and Little Cayman. If that means opposing, then it shall be. If it means supporting, then it shall be. But

it will not be purely for the sake of opposition. There are too many important matters in particular in my constituency of Cayman Brac and Little Cayman that need dire attention for me to waste four years just playing the role of petty politics. I rise above that, albeit sometimes it is hard taking into consideration the circumstances.

I also wish to comment briefly on item 4 in the memorandum which deals with the item for \$1.18 million for the Seamen's grant. That was approved in 2000, but was never a part of the original 2000 budget. Again, much has been said about this particular item. But I would like to say that as far as I understood, such a grant was not meant to be a poor man's grant. The Veterans [grant], which was put in by the present Minister of Tourism some years ago, was done on the same footing. It has served well for the veterans and has been greatly appreciated. The Ministry I was in charge of at the time, together with a Motion on the floor by Honourable Members and my colleagues in Executive Council saw fit that the seamen as well be added to the extension of the veterans. I am happy to take the blame or the honour—whichever one would wish, it matters not—for the seamen getting the grant.

At this juncture I would also like to congratulate in particular the present Minister for bringing this large sum of money at this particular forum to pay this outstanding contractual obligation to the veterans.

I did not then, nor do I now, feel that any seaman or veteran should be penalised for making a financial success of his life. We paid them for a contribution that they made to this country during the tenure of their seamanship. It was to Caymanians. I will not yield to the temptation of attempting to define "Caymanian" seeing that our very own Immigration Law, which one would think made the best attempt to define it, has not to date been successful in defining that. As far as I am concerned, once a person has been granted Caymanian status, they are Caymanian. I will say no more on that.

I believe that if any Member has any knowledge of any seaman granted a grant during my tenure, or the present Minister's tenure for that matter, that they have a responsibility to bring those details to the Minister responsible so that it can be investigated. We took all measures to ensure that no one fell through the loopholes. But if any Member has knowledge of that, Mr. Speaker, I submit that they are in fact acquiescing to this continuous wrong by not bringing it to the attention of a person who can rectify that situation.

I also note in item 5 of the said memorandum from the Leader of Government business that there is \$6.01 million for capital development expenditure to cover contractual committed continuing projects from last year (2000) and items out for tender. I noticed that one of those items referred to the postal line items. There are about three or four post offices, one of which has the letters "WE." I take it that refers to

the West End Post Office. I hope that one of these matters out to tender is in fact the West End Post Office because the residents of that area have long awaited this project which money was put in for last year. It would to a vast extent be a re-voting exercise. I look forward to seeing this completely budgeted for in the upcoming Budget as a very highly prioritised project in my constituency.

Mr. Speaker, I also note that the full amount as requested from District Administration for the cost of living increase has been included. I believe it was \$152,301. They have asked many questions, like many of the civil servants, as to when they will receive it. I thank my friend and colleague, the First Official Member, for ensuring that this allocation was put forward at this time so that they too can be brought into the loop and receive their cost of living in a timely and expeditious fashion.

Mr. Speaker, if one were to take an average after a close analytical look at the first quarter of requested expenditure, one would see as I have (and with an element of concern), that Cayman Brac and Little Cayman seem to be receiving quite a minute share. I trust that the Budget in a few weeks time will prove me wrong and that the request that the First Official Member will submit (if he has not already done so) will be given favourable acceptance and move on to the implementation stage.

I thank the Government Bench, as well as the First Official Member for the allocation of some \$100,000 in this particular request for roads on Cayman Brac. As Members have heard me say, this is a very vital element in our functioning on the Brac, as our men rely on this quite heavily. Any Minister visiting and meeting with District Administration and or Public Works, or the Honourable First Official Member, will see that as in all first quarters we are back at that point in time where if a release were not forthcoming we would have to go to that unfortunate position of laying off our men within the community. So I thank Government for having the foresight and the sensitivity to ensure that a reasonable allocation was put in to bridge that gap at this particular time.

I also note that there was no further request for capital acquisitions. That was reassuring to me at this time because it tells me that the Government and its advisors were indeed bringing this resolution for matters that were necessary at this time and the Standing Orders as well as the Public Finance and Audit Law did not allow for any other avenue to be taken. Although it is historical and unprecedented, as far as I am aware if it is in the interest to bring it at this time, I have no problem supporting this Motion. Thank you.

**The Speaker:** The Honourable Minister of Tourism.

**Hon. W. McKeever Bush:** I intend to be brief, but I have listened to several things said that I think I need to say something about. It is true that this is perhaps the first time a government has had to take this route.

But this way of doing business gives Members an opportunity to speak to the matters before the funds are actually spent.

It is true that it is not good to have to say that the country is broke. That does no country any good. But the sad fact is that there was such mismanagement in various levels in the past four years, and in particular the months running up to the General Election—

**The Speaker:** May I just stop you briefly for one minute?

You are stating your opinion. I would like you to rephrase that statement of mismanagement.

**Hon. W. McKeeva Bush:** Well, Mr. Speaker, I do not know what you want to call it, but I can tell you it is pretty bad.

**The Speaker:** I would just like it to come from your lips that it is your view.

**Hon. W. McKeeva Bush:** Yes, Sir. That is whose view I am speaking about—mine! In my view!

**The Speaker:** Thank you very much. Please continue.

**Hon. W. McKeeva Bush:** In my view, Mr. Speaker, from what we have found and from what we have been told, from what the facts bear out, there was mismanagement at various levels, and in particular the months running up to the General Election when Ministers were in a mad rush to ensure their return here.

I believe that the cost of living adjustment is timely to be paid in this year's budget. I was not here when the last Finance Committee met. I take note that one Member ensured that went into the record. I was out on Government business, but from the record the Government was well represented. If the Government had agreed to the Opposition's Motion, the deficit would have been that much more. In the way it is being done today, the huge deficit left by the last government cannot be increased because of the Civil Service salary increase.

In the last four years, particularly last year, Members of the Backbench implored the Government to recommend that on a yearly basis we should include the cost of living in the annual budget—the particular cost of living adjustment on salaries. It would have been good if that had been done.

I note that Members of the last government, former Ministers, are saying that we should not blame the last government for everything. But we can blame them for not listening to sound advice. We can blame them for making bad decisions. And we can blame them for a complete disregard for financial prudence. One of those Members said that he would have preferred if the Civil Service had gotten its raise or salary adjustment for Christmas, when, as I understand it,

what we are doing here today was agreed by them when they were there. So how could they have gotten the raise for Christmas if they agreed for it to be paid at this time except for the roundabout way they went in the Finance Committee to push the Government into doing something it was not ready or able to do at the time. They knew that because they set the pace.

We have promised to be prudent and will endeavour to spend what is considered needed and in the best interest of the country. I do not think the Leader of Government Business has done anything out of place. I note that much has been said about that aspect, that memorandum. He is charged with that responsibility of management of the affairs of Government, and that is what he is attempting to do. So the calling of the Legislative Assembly is part and parcel of his responsibility and that is what he has done.

I believe that if this Government had not gone this route, the Opposition would be up blaming him saying he is not taking a position and there would be too many contingency warrants. The Opposition is opposition: they oppose. No matter how they say they oppose, they oppose. But there is nothing in parliamentary procedure or in democracy that says a government does not have the right to reply to the Opposition. So, in the four years ahead of us, bear that in mind.

**The Speaker:** At this time I think it is appropriate that we take the luncheon break. Before doing so, I would like to belatedly welcome the delegation from the John Gray High School who were not in the gallery when I welcomed the other schools. We are very happy to have you all, and are happy to know that you will be participating in the Youth Parliament. I wish you all the very best.

Proceedings are suspended until 2.15 PM.

#### PROCEEDINGS SUSPENDED AT 12. 49 PM

#### PROCEEDINGS RESUMED AT 2.28 PM

**The Speaker:** Please be seated.

Proceedings are resumed. Does any other Member wish to speak? The floor is open to debate. Continuing debate on Government Motion No. 4/2001. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you.

Perhaps most of what is left to be said can be dealt with by the Honourable Third Official Member, but I think there are a few items which it might be deemed appropriate for me to address. I do not think I have to go into the specifics of Government Motion No. 4/2001 as other Members have spoken to the

Motion and discussed several areas at length. Perhaps some Members will think that I should not address some of the areas that I will choose to address. Nevertheless, I will do so.

I just want to talk about contingency warrants for a moment. I think Members will fully realise the reason we are here today is simply because the Government has taken the position that any use of contingency warrants must be as prescribed. The Public Finance and Audit Law of 1985 provides the basis for the Financial Secretary to issue a contingency warrant which is written authorisation to meet an urgent expenditure need where there is no or insufficient provision in the approved budget. This warrant authorises the Treasury to make payments to meet the urgent need as and when presented by the controlling officer possessing the contingency warrant.

Members will also know that a contingency warrant is only an interim measure, and the necessary appropriation has to be sought via Finance Committee in order to validate this warrant.

I have served in this Legislative Assembly since 1992 and being where I am today is fairly new. I have always taken the position, as have most Members that were there then and here now, that a contingency warrant should not be abused. I held the opinion in the past that on many occasions government had abused this privilege via the Financial Secretary's office. And this Government takes the position that it should not follow suit.

For example, in 1996 when general elections were over, and the Motion for advance expenditure for the first quarter of 1997 was brought to the Legislative Assembly, that amount totalled \$48.2 million. Needless to say, there was no other meeting of the Legislative Assembly before the Budget was brought, and the fact is that the \$48.2 million that was approved was followed by a series of contingency warrants which obviously (and I was there at that time) the Legislative Assembly had no knowledge of.

During the period January to April 1997 alone, an additional \$48.8 million worth of contingency warrants were issued. We are here today because we do not believe that we should follow what has been the practice in the past. So, from the point of view of the contingency warrants . . . and I heard Members speak to this and agree with this method. I just wish to make it very clear that the Government's intention in asking you to hold this special meeting of the Legislative Assembly was simply so that all Members and the public would be fully informed of exactly what was proposed to be spent, how it was proposed to be spent, and in what areas it was proposed to be spent.

I heard some mention of a press release. Some Members of the Backbench noted that the press release that came out last Thursday had a bit more information than what they got when they received notice of the meeting. That certainly was not intentional because in train, before we even got the letter from the five Backbench Members, was a sequence of

events to request the meeting to advise Members of the agenda, to inform the public of what was happening, and finally, to hold the meeting.

So, if during the interim there was some difference in knowledge between Backbenchers and the public, if I have to publicly apologise for that, I do not have a problem with that. But it certainly was not meant with any other intention than for everyone to know exactly what was happening.

And so that it can be absolutely clear, the line items that were produced on Friday, while that has never been the practice, it was no intention of Members not seeing those line items because everyone is going to know in any case. Unfortunately, sometimes if we wait for everything to be prepared, then other things seem to be delayed and then you have another query as to why it took so long for certain information to be disseminated. That was the case based on what transpired.

The memorandum with my signature, of 9 February, which was in reply to the letter addressed to the Honourable Third Official Member from the five Members, and carbon copied to me, was done in the following fashion: When the Third Official Member received the letter, he came to my office; I sought my copy; we read it; we discussed it. We saw the points he should address, and we also saw the points he did not have the authority to address. That is the reason you will find that the memo is headed from the Honourable Third Official Member's office, but signed by me. We simply put all of the information together, and, after conferring, agreed that had it been his signature it would have been done without authority. We even contemplated having both signatures, but thought that was a bit of overkill.

Perhaps even if Members feel that was not how it should have been done, at the end of the day I believe the position is fairly clear. But I guess had I been on the Backbench I might have picked it up also and found reason to deal with the matter. So, that is not something I think we need to argue very long about. I only wish for everyone to understand what transpired, seeing that some Members felt my signature on the memo was overstepping some authority in dealing with financial matters.

I think it is worthy to note also that there was even a point in time when I contemplated taking what I needed to answer, after conferring with the other Members of Council, and giving an answer to that portion, asking the Third Official Member to give an answer for his portion of the letter. So, there were various ways it could have been handled, but we thought it was being a bit picky going that far with it. I think that is enough said about the memorandum itself.

That letter addressed to the Honourable Financial Secretary spoke to situations that were unprecedented. I think the letter is absolutely correct, because what has happened today has never happened before. I believe, as Members have said, that it is the

right thing to do. Some Members have also stated that they hope this continues. Speaking on behalf of the Government . . . and I like to do it like this to keep myself in check. Let me say here and now that while we are only a few months into the tenure, certainly whether times are good or bad, this Government is going to hold true to the philosophy of transparency.

The accountability issue is one that has to be dealt with over a longer period of time, but this Government is also going to be practising accountability even though in certain instances, constitutionally, accountability may not rest where it is thought it should rest.

There has to be collaboration between the official arm and the elected arm of Government. While some Members have spoken to the issue of the Honourable Third Official Member having responsibility for the finances of the country, there is no one, singly or collectively, in this elected Government who has any intention of crossing the path and interfering with the Honourable Third Official Member's responsibility. Obviously, by way of being responsible for policy, there has to be talk between the two arms of Government to ensure that everybody is headed in the same direction.

I think it is also worthy to note that the Government has every intention of moving forward in a direction which even when other Members here may find philosophical differences in which to argue methodologies, they will see very clearly that you do not have people going off in all different directions. It will be apparent that the Government is operating in unison heading in one direction.

There were some specific areas mentioned. I will try not to cross over to what the Honourable Third Official Member will respond to, but there are a few specific instances I noted that I should respond to. First of all, the Second Elected Member for Cayman Brac and Little Cayman spoke to a motion he and the Third Elected Member for George Town brought regarding the Civil Service cost of living adjustment. The Motion called for monies to be appropriated and for the Government to indicate when this amount was to be paid out. It is important for us to fully appreciate that at that time the Government was not in a position to fully appreciate what the year-end position was going to be. It may have been deemed by some at that time that Government took the position not to agree with the Motion because of from whence it came. But I wish to tell them straight and plain that that was not the case.

This Government was sworn in on the 15<sup>th</sup> day of November—and perhaps what I say will not convince them—I cannot help that. I can only tell them like it is because it is no sense making it up. First of all we were not sure; absolutely not sure if it was prudent to appropriate that amount, which was at that time (up until the end of December 2000, I think) about \$5.6 million. Had we appropriated it during that period of time, it certainly was going to negatively affect the

surplus/deficit position at year-end, and money was not appropriated for it in the budget.

There seems to be some doubt. I am quite willing to give way if a Member wishes to correct what I am saying. Monies were appropriated in the budget for the year 2000. There was no appropriation in the 2000 budget for the cost of living adjustment for the civil servants during the year 2000. Any amount paid out would affect the surplus/deficit position; it would mean that we could not put that into any other account. It would affect the cash position also.

The first statement is . . . Let me say it the other way around then: The cash position at that time was going to cause the overdraft to go beyond its limit, although in the same meeting we were seeking to have the overdraft extended at that time. But suffice it to say, Mr. Speaker, without going into a long debate, going through all of the figures, that it was going to affect the surplus/deficit position because the money had not been appropriated. Secondly, we were advised at that time that because of the cash position, it simply could not be paid unless we were going to be beyond the overdraft limit. Other factors involved included monies not spent and bills not taken into account.

There was some comment in a letter in the *Caymanian Compass* regarding all of this that when I made certain statements I was not taking into account monies owed to Government. Government operates on a cash basis, and while we can look at the track record of Government's monthly receipts, the Government cannot work on anticipation of how much by projection it is going to collect for any specific period of time. The facts are that from the month of May 2000, going straight through until the month of January 2001, every projection for the amount of money Government hoped to receive during each of those months, the actuals fell short of the projections. Those are simply the facts.

So we could not work on the premise that all of a sudden there was going to be a windfall and everything was going to catch right up again, because history has proven that on some occasions that is what happens—but certainly it has been proven that the hesitation was warranted because as of now while we are into the year 2001 the projections up until December have fallen a bit short in actuality.

So, Mr. Speaker, in speaking to the cost of living adjustment, in summary, not paying it out prior to year-end we thought at that time was simply putting the Government too much at risk. At the same time, when the amendment was sought to extend it into June 2001, we did not want to take that position either. We preferred to do it and get it out of the way during the first quarter of the year when most of Government's revenue is collected on a proportionate quarterly basis. Thereafter, we could deal with the rest of the issues facing us. We still believe we were correct in doing what we were doing.

Of course, it was also said that had we agreed to that we would not have had to come here today. But that is but \$7.8 million (I believe) out of approximately \$19 million. There still would have been another \$11 million we would have had to go through the same procedure with. Better for us, we believe, at this time we have a clearer picture because we have the unaudited year-end figures and we know where we are headed—even if it calls for a bit of what I call *a tightening of the belt*.

The Second Elected Member for Bodden Town referred to some people and their . . . I cannot remember his exact words, but I think he was speaking to the Government and its agents, or whatever—talking about the country being broke. I do not believe that anyone on the Government bench wishes to send any wrong message about the country being broke. But I do believe that if anyone has taken it to sound like that, it is simply because the year-end deficit is showing that there needs to be close attention paid to how government involves itself in its expenditure. It also is important that the expectations of the public at large do not continue to the point where they believe that the Government has this unending well, and whatever those demands are can be met. That, I believe, is certainly the intention of the Government.

If it makes any difference to anyone, let me say clearly that the Government does not take the position about the country being broke. The position of Government is that when we look at year-end figures, when we look at expenditure that is already committed, it simply means that we have to take a long and hard look at two things: first, we have to examine any inefficiency which might exist in central Government. We cannot continue to just identify another position and fill it with another body whenever a task needs to be done because we have to ensure that efficiency is the order of the day when it comes to central Government.

I think the Second Elected Member for Bodden Town alluded to an independent job evaluation being done. That is not my ambit to respond to, but I doubt the Honourable First Official Member is going to be speaking to this Motion today. Let me just say that while I had a short discussion with him on the matter, he would be quite satisfied (seeing that the Member asked for a response) if the Member would put the question in writing to him. He will gladly give an answer. Once the Member gets the answer, he can take it from there as he so desires. That is the easiest way for me to deal with that.

Mr. Speaker, mention has also been made of Cayman Airways. The subject falls under my Ministry—fortunately or unfortunately depending on how people look at it. Members have already mentioned that there is a very capable individual who is doing an independent study. It is an operational and financial assessment of the airline as it presently is. Members will also note that what is being sought here will be

the total amount that was last year's subsidy for Cayman Airways as has been standard for several years now. But this amount is being sought for the first quarter.

In his winding up, I think the Honourable Third Official Member will explain exactly what is being addressed in the Motion here. But let me say for the record, Mr. Speaker, that while we wait for this assessment that is being done, as has been mentioned before, Cayman Airways must remain in operation. I think that now is as good a time as any to publicly state that the unaudited figures for the year 2000 show Cayman Airways with an operational loss in excess of \$7 million—after subsidy. What that means, in a nutshell, is that whatever figure it owes to the Civil Aviation Authority for landing fees and rent and I think there is also an amount (which is small compared to all else) owed to Customs, and the \$4.6 million subsidy that it received in the year 2000 . . . if we were to simply look at Cayman Airways paying all of its bills, and not getting a subsidy, that the amount would be as an operational loss of close to \$15 million. That is not meant to frighten anyone; those are the facts.

As soon as we are able to get the assessment, and I am confident it will be done before we come to budget, we are going to have to immediately set about making decisions. I am not going to shirk from making any decisions, Mr. Speaker, and Members can rest assured that everyone will be allowed to make his or her contribution as to whatever decision is made. I agree that Cayman Airways should not be made a political football, but I also agree that a decision as to the way forward for Cayman Airways must be done with everyone being totally informed, and that includes the public of this country. Whatever method we use to make final decisions, the public and their representatives will have a say. At this point in time I do not think I need to go into the subject in any more detail.

The Second Elected Member for Bodden Town also mentioned the road in Bodden Town and that he would expect something to be done during the upcoming year with regards to the budget. I can assure him that whatever amount is allocated we will do everything we can to spread it into its most effective use.

While mentioning that, I think it is important for all Members to understand that I, for one, used to be at this Legislative Assembly very often keeping informed, deciding on ways forward regarding legislative activities. But life is a bit different nowadays. Whereas some people say they do not see people any more, I am certainly not in hiding. It is just that the job description is a bit different right now. But I want all Members to clearly understand that I do not need to have any specialised personal relationships to do my job. My doors are always open. My lines of communication are always open. There are times when one might try to get me and it might be a bit difficult because I am either in a meeting or on the way to

one—that is just the nature of the beast at present. I do not wish for any Member to feel that I am not accessible, I mean that. If representatives wish to deal with matters affecting my Ministry, they may feel free to deal with me: I will do so to the best of my ability.

The Elected Member for East End spoke to Public Works and the cost of living adjustment, and that there is some query regarding moving from 44 hours per week to 40 hours per week. Being the Minister responsible for Public Works, I would like the Member to know that we held meetings very recently regarding the matter. Again, it is a crossover situation because some of the matter is a personnel issue regarding General Orders and how many hours per week everyone in the service should be working.

It is not a question that it is really complicated; it is a matter of compliance in certain areas. I can only say at this point in time that every effort is being made to get those negatively affected at this time by their hourly wage to a situation of normalcy. And while there may be specific issues that Member, or other Members, may know about causing them to think that this is not the case, there are several steps that have to be taken. The personnel issue is addressed separately from the political directorate.

So, it is not quite as simple as saying *'Let the political directorate make a policy decision and pass it on'* because the system does not allow for that. But we are in dialogue and we will do everything possible to ensure that at the end of the day the situation is as balanced as possible, given the circumstances.

I do not think I should go into a lot of detail because it will take up a lot of time. But I trust that the Members who have a specific interest in that will understand what I am alluding to at this point in time. If there is anything specific that Members wish to bring to my attention, I certainly will hear what they have to say and again have dialogue with the powers that be to see how best the matter can be corrected.

Mr. Speaker, that is most of what I had to deal with. I think the Honourable Third Official Member will deal capably with all other matters. I wish to thank Members for understanding the Government's position. For all those who may wonder if it will continue, I trust that you will watch carefully to ensure that the Government keeps on its toes doing everything it should be doing as a government with the new philosophy we are portraying both to you Members of the Backbench and to the people of this country.

Thank you.

**The Speaker:** Does any other Member wish to speak? *(Pause)* The Honourable Minister of Health.

**Hon. Linford A. Pierson:** Thank you.

Mr. Speaker, I believe it is true to say that my Honourable colleague, the Leader of Government Business, the Minister for Planning, has done a comprehensive job in replying to the various comments made, so my contribution will be fairly brief.

Mr. Speaker, may I also take the opportunity to join my colleagues in wishing for you all the very best, and to say how pleased we are to see you here in such good spirits and obviously in good health. Long may that continue!

I believe it is true to say that all Honourable Members of this House have but one thing in mind, and that is providing the best services to ensure the best quality of life for the people we represent. I really do not think that there are any Members here who do not have that objective in mind.

That said, I feel it is important for all Members of this House to have an active say in the affairs of the House. I wish to comment on the point raised regarding the role of the Financial Secretary in what would appear to be a move to usurp that role. Before speaking on that, I would just like to refer to the Public Finance and Audit Law (1997 Revision) section 11, which states specifically the general powers and duties of the Financial Secretary. **"The Financial Secretary shall subject to this and any other law have the management of the finances of the government and the supervision control and direction of all matters relating to the financial affairs of the government."**

The Second Elected Member for George Town was correct in stating that the policy direction of the country is one for the elected members of government. If this were not so, you would not have a situation where successive governments coming into power would blame past governments for any misdeeds or poor financial performance. I remember a case in point in 1992 when the 1984 to 1992 government was ridiculed for many months in this House for what was considered poor financial performance. But that is politics, Mr. Speaker. In the same way that this government—the 2000 government—will be criticising the financial and other areas of performance of the previous government. So it does not mean that what is being done is wrong. I believe this is a part of the political process in these islands. I believe that regardless of the constitutional advancement in these islands, that that situation will continue. It is not peculiar to the Cayman Islands: the situation obtains in many Parliaments, even our Mother Parliament.

I believe that all five items stated in Government Motion 4/2001 are all needed. This was reinforced by the previous speakers and they all stated that they would support this Motion. It seems like the major difference of opinion was on procedure rather than on the content of the Motion. I really do not see any area for differences in this matter except for those obvious areas where there will be political differences.

Regarding Cayman Airways, we, the Members of this House will have to decide on the future of Cayman Airways. I personally believe that Cayman Airways is good for these Islands. We will all have to put our heads together and try to assist through these difficult times. I do not believe we can hold any government, or any politician, past, present or future, for

the performance of the Airline. I think one Member mentioned that until such time as we can run Cayman Airways as a business, it will continue to have problems.

We cannot expect Cayman Airways to be a profitable business if a lot of the social and welfare issues are going to be brought into play. There are three islands in the Cayman Islands. We must give the same service to Cayman Brac and Little Cayman, as obtains in Grand Cayman. And because of that, we will have to provide the airline service to the Brac even though there will be times when the plane will come back with five or six people. If it is even one individual, he should be given the same kind of treatment we expect here in Grand Cayman.

We will have to decide as a legislature where we go from here with Cayman Airways. There is no use in just paying lip service. We have to do what is important to keep the airline going. That said, I believe that if we are going to make Cayman Airways a viable proposition, we need to be looking at the equipment of the airline. I think it is high time we look at those 737s. They are old planes. They are eating up a lot of money in maintenance. We need to be looking at them and deciding if we are going to remain with Cayman Airways, what is the way forward.

I totally support this Motion. But apart from my constitutional responsibility, I believe these items are needed. Regardless of what may have occurred in regard to the cost of living allowance, I believe all Members here support that. I would not want the impression to be given that any Member of this House is not supportive of this allowance. I also give my total support for the capital side of this request, the \$6.01 million. Thank you.

**The Speaker:** Does any other Member wish to speak? *(Pause)* The Honourable Minister of Community Development.

**Hon. Edna M. Moyle:** Mr. Speaker, my contribution to this debate will be very short, unless I want to stand here and repeat what other Members and Ministers have said.

I stand in support of this Motion, but there is one point I would like to clear up, and that is the matter of the Seamen's Ex gratia Payment

The Second Elected Member for West Bay raised this point about persons who came to these Islands and received Caymanian status after they had completed their stint at sea. This is totally correct. The Second Elected Member for West Bay brought this to my attention, and the research was done. There are one or two instances where persons served their time at sea for another country and are now receiving these benefits.

I would like to make it very clear for the record that the Ministry for which the Governor gave me responsibility is now in the process of researching all applications to see that people who should be receiving

this benefit are definitely getting it. The Ministry is in the process of re-writing the criteria. To me, there has to be some stipulation of the time served at sea. We cannot pay people for going to sea for three weeks and consider them seamen, which is happening at present.

It is an ex gratia payment that I support for seamen who contributed greatly to these Islands. But, Mr. Speaker, I am concerned that if we are going to continue to grow as we have since August last year—741 seamen—that we are going to have to step back and do an assessment.

The motion that was brought to this parliament said "as needed." The policy decision taken in Executive Council said "as needed." But we seem to have decided to ignore those words and every soul that has applied has received. It would be good for any country to give each seaman who went to sea an ex gratia payment. But in my opinion, the financial burden . . . well, I should not say "burden" in case the seamen think that I think that giving them an ex gratia payment is a burden, but the cost to these islands is going to be astronomical. We are looking for some \$4 million in the 2001 budget to pay this ex gratia payment.

So, I assure this Honourable House that when this research is done (and we are seeking advice from the Auditor General), whether the decision be to assess, or to put in place a proper pension fund for the seamen, it will be brought to this Parliament and every Member will vote as he wishes, whether it be for a pension or for an assessment of our seamen. Thank you.

**The Speaker:** I think all Honourable Members have spoken. If I am correct, I will now call upon the mover to exercise his right of reply.

The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Thank you, Mr. Speaker.

I have made note of the observations made by Honourable Members. I will respond to some, others are bordering on the political line and I think the Elected Members of Executive Council have responded to some of those comments. I will focus on the memorandum of 9 February, signed by the Leader of Government Business because I think those items that I have been called to comment on, fall within the ambit of the five areas that have been listed.

First, the First Elected Member for Cayman Brac and Little Cayman raised the question as to whether the component for the year 2000 was contained within this \$7.83 million listed under item 1. This \$7.83 million can be broken down as follows: \$6.02 million relates to the period January to October 2000 and \$1.81 million for the period January to March 2001.



As that Honourable Member and all other Members will recall, as of 1<sup>st</sup> November 2000 the 4.8% salary adjustment was implemented. The Third Elected Member for Bodden Town raised a question on item 2 as to whether it would have been more appropriate to be dealing with the \$300,000 shown in this item by way of supplementary appropriation. But as the Member will recall, under our present system the authority to expend falls away at the end of the year.

I should mention that although approval would have been granted during the December meeting of Finance Committee for bills in relation to the year 2000 to be settled, every attempt was made to stay within the overdraft limit approved by Finance Committee. As a consequence, a sum to the value of \$5.6 million of bills relating to the year 2000 was carried over to 2001. I should point out that of this \$5.6 million, some of the items submitted to the Treasury Department were not covered by any approval by way of supplementary appropriation or by way of the original budget.

In order to settle these bills brought forward into the New Year, a part of the \$69 million approved under [Government] Motion No. 3/2001 was used to defray these expenditures. So what remains at this time to be settled out of that amount (the value of sums brought forward) is \$300,000. The question to be raised is, *How are we going to ameliorate this situation where we are carrying forward expenditure from the proceeding year into the current year, and what impact will it have?*

We do know that when it comes to monies due to Government it seems to be—and it is not a question of wanting to be mean—a general view that Government should operate as a benevolent organisation in that there should be no rush to pay monies owed by certain persons to Government.

Mr. Speaker, the comment I am going to make will not necessarily relate to the item that I am going to be raising at this time because I know this poses some difficulty for the insurance companies because of the fact that a number of them did not have the appropriate arrangements in place to deal with the refund of medical costs, or payment of monies due the Hospital.

As at 27 December 2000 (and the same obtained as at 31 December 2000) a sum of \$6.4 million was owed by various insurance companies to the Government. A substantial part of this was owed by the insurance company with which Government has contracted to provide medical coverage to civil servants and other entitled cases. Success is being obtained in that area, in that as a result of several meetings and looking at what procedures can be put in place, we have seen evidence of these arrears now being addressed. We do trust that we will realise a significant portion of this \$6 million of what can be termed receivables. So this should ameliorate the situation and have a positive impact on it.

Mr. Speaker, please permit me to digress a bit. The Government will be turning attention to revenues that are due. We have seen in terms of the overall deficit for the year, amounts to \$10.4 million. I received a note from the Second Elected Member for Bodden Town. He mentioned that he did not have the opportunity to raise the financial position in his contribution to the Motion, but that if I had the figures he would welcome some comments. So I am just taking this opportunity to do so.

When we provide this information to Honourable Members of this House and look at the various categories, we can see where we have had undercollections, or shortfalls. In particular, we have seen in “other customs import duties” that there has been a significant shortfall: these are unaudited figures.

Mr. Speaker, I should mention—and I am sure this will come as no surprise to Honourable Members—I have spoken to the Collector of Customs concerning the following matter:

We have persons travelling to the United States, where it has become the norm to offer customers in stores a customs invoice that understates the amount of goods bought. I am not saying all of the stores, but I myself have experienced this kind of offer without my asking. We know that for Caymanians and residents in the Cayman Islands there is a normal exemption of \$350 per person, not per household. This is an area where it is the general view that persons going overseas to shop, on their way into the Cayman Islands they should be able to provide the Customs department with copies of invoices. Even if it means for the Government to expend a good sum of money to get the message across, some of these invoices will be taken as test cases, and where purchases have been made in the US, every attempt will be made to verify the accuracy of the amount reported.

It is necessary to do this to send the message. And a further recommendation will be made that for these persons purposely engaging in under-declaration, rather than going to the Customs department and quietly paying the penalty, which amounts to three times the amount, that there should be some publicity. But ample notice will be given to ensure that the necessary reform takes place and that the message gets across. This will have to stop!

When we look at our revenue system here in these Islands, there is always a complaint about the high cost of providing governance. But when we take the average household in the Cayman Islands, every fee paid is discretionary. That is from garbage collection right up to motor vehicles. I can opt not to own a car. And I can get my income in the Cayman Islands and it can be virtually free in terms of levies to government.

We know that whatever we buy has a certain component in it in respect to customs import duty. Given the small amounts that persons in the Cayman Islands . . . and I must say that the majority of our citizens are honest people. But to the extent we have

an element of dishonesty creeping into the system, this will have to be curbed as quickly as possible.

Another area that has come to Government's attention deals with the area of tourism accommodation tax. This is particularly in the area of condominium tax. We have persons on the island providing accommodation for tourists. Some, not all, are collecting the tourism accommodation tax and that money may not be remitted in part or in full to the Government. We have a number of persons coming to the Cayman Islands as friends of the owners of these condominiums. It is known that these individuals are paying these owners in the US (or elsewhere) the cost of the accommodation. And that 10% portion is just on accommodation: not food, not beverage—just accommodation.

We are saying that if a person comes to the Islands and spends \$2000 on accommodation, they should pay \$200 to the Government. That is reasonable. It is something we will have to look at.

There is one country that has addressed this by way of legislation, and we will have to look in terms of how this can be addressed. This is what we have to look at.

The notion that the Government is a benevolent organisation . . . When we look in terms of the infrastructure we have in the Cayman Islands, when we look in terms of the standard of living and in terms of the facilities and amenities that have to be provided to enjoy a wholesome lifestyle in the community, I think it is reasonable, given the fact we do not have any form of direct taxation, that there should not be an unwillingness on the part of the citizenry to pay what is due to the Cayman Islands Government. Every attempt will be made to tighten up on the collection of what is due Government in these areas. These are just some of the areas we will be looking at right across the board.

During the course of this week the Government will be going over to Cayman Brac for a retreat, to look at the details of the Medium Term Financial Plan that is being developed. I have been told that the figures for the draft budget have been produced as of today. I am hoping to see them when I get back to the office to see exactly what they look like. We will take a very close look at the budget on what has been submitted so far.

We have the case where the tourism accommodation tax is being collected by the Treasury. The department that has the details of the tourism tax is the Tourism Department. That falls under the Honourable Minister of Tourism. I have not discussed this with him as yet, but I am going to be recommending that rather than the Treasury—because the Treasury only collects what has been remitted to it—I think the department that would have full knowledge of the accommodation units operating within the Cayman Islands should have responsibility for the collection of the tourism accommodation tax. They will know what departments might be short-changing the Govern-

ment or what entities are offering tourism accommodation and not paying taxes due Government. So these are areas that will have to be looked at very carefully.

In regards to item 3, the Honourable Elected Member for East End pointed out what seems to be a disparity in the narrative. It would be best if it stated that an additional \$3.46 million subsidy to Cayman Airways be paid in the first quarter of the year 2001. If this is done there will not be a disparity between the details as set out in terms of the explanatory notes.

What is provided in the explanatory notes is that \$3 million—and it reads “the Legislative Assembly's approval is being sought for an advance appropriation in the amount of \$3 million to provide for Cayman Airways subsidy for the period April through December 2001.” It is still the Government's policy that the subsidy to Cayman Airways should be \$4 million per annum. Cayman Airways has already received \$1 million. What is being proposed now is to pay the remaining \$3 million covering the remaining three-quarters of the year. If it is that this amount is to be modified, this is a question that will have to be decided upon by the Government in consultation with the Legislative Assembly. So this is why the narrative has been developed to read as presented in the supporting details.

When we take this and modify the narrative in the memorandum, this will remove the inconsistency that has been correctly pointed out. The way it has been written, it would suggest that the amount being paid would exceed the quarterly grant that should be paid to the airline.

The Honourable Third Elected Member for Bodden Town raised the question as to what seems to be a repeat of \$18,000 approved during the meeting of Finance Committee held in December. He is correct. But as this Member is aware, if the money is not spent, or if disbursement is not made prior to the end of the year, the authorisation to expend those funds will lapse. As a consequence, this is what has occurred: what we have here is a re-vote.

Mr. Speaker, I have briefly commented on the end-of-year financial position. I have taken on board the points and questions raised by new Members.

There is one final question I may have overlooked. The First Elected Member for Cayman Brac and Little Cayman raised the question as to whether a provision has been made for the West End Post Office in Government Motion No. 4/2001. There is a sum of \$100,000 provided. This is set out in the details.

I think I have covered all the points that have been raised. The remaining point of the 4.8% to PWD weekly paid workers has been commented on by the Leader of Government Business. He mentioned that this is a matter being reviewed at this time in consultation with the Personnel Department.

I would like to thank Honourable Members for their support of this Motion as indicated by those who have spoken. Thank you.

**The Speaker:** I shall now put the question on Government Motion No. 4/2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 4/2001 PASSED.**

**The Speaker:** This concludes proceedings of the Special Meeting. I shall now call upon the Leader of Government Business to move the adjournment.

### **ADJOURNMENT**

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until Friday, 9 March 2001 at 10.00 am.

**The Speaker:** Before putting the question, I would like to thank Members for their courtesy and tolerance to the Chair and for the kind remarks they made of my presence here today. I thank the Clerk, the Deputy Clerk, the office staff, the Hansard Officers, the Serjeant-at-Arms and Miss Anita who serves us so well. I wish for the short period you have between now and the Budget that you will enjoy yourselves.

I shall now put the question that this House stand adjourned until Friday, 9 March 2001, at 10.00 am Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 3.44 PM THE HOUSE STOOD ADJOURNED UNTIL 10.00 AM FRIDAY, 9 MARCH 2001.**

## GOVERNMENT MOTION NO. 4

### ADVANCE EXPENDITURE PRIOR TO THE APPROPRIATION BILL, 2001

WHEREAS Government Motion 003/00 advanced to the Government the sum of \$69,521,439 to meet needs incurred by the Government prior to the passing of the Appropriation Law;

AND WHEREAS a further sum of \$18,780,993 is required to continue the operation of Government:

BE IT RESOLVED that this House, acting in accordance with the provisions of section 8(1) of the Public Finance and Audit Law, (1997 Revision), in advance of an Appropriation Law, authorises further expenditure of C\$18,780,993 for the services of the Government in respect of the 2001 financial year, the sum to be charged on revenues in accordance with the Public Finance and Audit Law ( 1997 Revision ) and to be used for the purposes detailed in the following schedule..

#### SCHEDULE

| <b>EXPENDITURE HEADS</b>                                                    | <b>2001 RECURRENT ADVANCE<br/>(further advance to 1<sup>st</sup> quarter release</b> |
|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
| <b>H.E. The Governor</b>                                                    |                                                                                      |
| H.E. The Governor                                                           | 19,187                                                                               |
| C.I. Audit Office                                                           | 40,904                                                                               |
| Judicial                                                                    | 285,150                                                                              |
| <b>Portfolio of Internal &amp; External Affairs</b>                         |                                                                                      |
| Portfolio of Internal & External Affairs                                    | 130,966                                                                              |
| Immigration Department                                                      | 298,145                                                                              |
| Police HQ – Administration                                                  | 766,323                                                                              |
| Prison                                                                      | 309,517                                                                              |
| Personnel                                                                   | 77,054                                                                               |
| Legislative                                                                 | 121,060                                                                              |
| Broadcasting                                                                | 43,562                                                                               |
| Cayman Brac & Little Cayman                                                 | 152,301                                                                              |
| <b>Portfolio of Legal Affairs</b>                                           |                                                                                      |
| Portfolio of Legal Affairs                                                  | 131,420                                                                              |
| <b>Portfolio of Finance &amp; Economic Development</b>                      |                                                                                      |
| Customs                                                                     | 176,300                                                                              |
| General Registry                                                            | 227,010                                                                              |
| Statistics Office                                                           | 91,571                                                                               |
| Treasury                                                                    | 17,838                                                                               |
|                                                                             | 63,828                                                                               |
| <b>Ministry of Community Development, Women Affairs, Youth &amp; Sports</b> |                                                                                      |
| Community Development, Women Affairs, Youth & Sports                        | 1,242,519                                                                            |
| Youth and Sports                                                            | 52,512                                                                               |
| Social Services Department                                                  | 279,702                                                                              |
| <b>Ministry of Tourism, Environment &amp; Transport</b>                     |                                                                                      |
| Tourism, Environment & Transport                                            | 66,465                                                                               |

|                    |         |
|--------------------|---------|
| Fire               | 267,268 |
| Tourism Department | 185,008 |
| Environment        | 47,649  |

**Ministry of Health and Information Technology**

|                                   |           |
|-----------------------------------|-----------|
| Health and Information Technology | 35,948    |
| Health Services                   | 1,425,031 |
| Substance Abuse Services          | 48,885    |
| Computer Services                 | 128,610   |

**Ministry of Planning Communications and Works**

|                                     |           |
|-------------------------------------|-----------|
| Planning Communications and Works   | 3,504,075 |
| Public Works Department             | 318,057   |
| Vehicle & Equipment Services (5010) | 56,455    |
| Agriculture                         | 286,682   |
| Environmental Health                | 205,333   |
| Mosquito Research and Control Unit  | 74,906    |
| Lands & Survey                      | 124,540   |
| Postal                              | 118,342   |
| Planning                            | 91,559    |

**Ministry of Education, Human Resources and Culture**

|                                        |                  |
|----------------------------------------|------------------|
| Education, Human Resources and Culture | 96,030           |
| Labour                                 | 24,291           |
| Education                              | <u>1,136,777</u> |

***Total Recurrent Expenditure Advance:-*** 12,768,780

***Total Capital Development Expenditure Advance:-*** 6,012,213

***TOTAL RECURRENT AND CAPITAL EXPENDITURE ADVANCE*** 18,780,993

Moved by: Hon George A McCarthy, OBE, JP  
Third Official Member responsible for the Portfolio  
Of Finance and Economic Development

Received in the Office of the Clerk this 7<sup>th</sup> day of February 2001.

Passed/Rejected by the Legislative Assembly this                      day of February 2001.

Clerk of the Legislative Assembly

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**STATE OPENING**  
**9 MARCH 2001**  
**9.43 AM**  
*First Sitting*

**The Speaker:** I will ask the Reverend Father Sean Major-Campbell to say prayers.

**PRAYERS**

**The Rev. Father Sean Major-Campbell:** As we pray we will remember the youth of the Cayman Islands, bearing in mind the theme for this year's Commonwealth celebration: A New Generation.

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

Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that they may be enabled faithfully to perform their responsible duties of their high office.

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

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

The Lord bless you and keep you. The Lord make His face to shine upon you and be gracious unto you. The Lord lift up the light of His countenance upon you and give you peace this day and always. Amen.

**The Speaker:** Please be seated. The Legislative Assembly is in session.  
 Proclamation.

**PROCLAMATION NO. 3 OF 2001**

**The Clerk:** Proclamation No. 3 of 2001 by His Excellency Peter John Smith, Commander of the Most Ex-

cellent Order of the British Empire, Governor of the Cayman Islands.

**"WHEREAS section 46(1) of the Constitution of the Cayman Islands provides that the sessions of the Legislative Assembly of the Cayman Islands shall be held at such places and begin at such times as the Governor may from time to time by Proclamation appoint.**

**"NOW, THEREFORE, I, Peter John Smith, Governor of the Cayman Islands by virtue of the powers conferred upon me by the said section 46(1) of the Constitution of the Cayman Islands HEREBY PROCLAIM that a session of the Legislative Assembly of the Cayman Islands shall be held at the Legislative Assembly building in George Town on the Island of Grand Cayman beginning at 10:00 am on Friday, the 9<sup>th</sup> day of March, 2001.**

**"GIVEN UNDER MY HAND AND THE PUBLIC SEAL OF THE CAYMAN ISLANDS AT GEORGE TOWN IN THE ISLAND OF GRAND CAYMAN ON THIS 8<sup>th</sup> DAY OF MARCH IN THE YEAR OF OUR LORD TWO THOUSAND AND ONE IN THE FIFTIETH YEAR OF THE REIGN OF HER MAJESTY QUEEN ELIZABETH II."**

**MOTION TO RISE AND AWAIT  
 HIS EXCELLENCY THE GOVERNOR**

**The Speaker:** Motion for the suspension of the House to be moved by the Honourable Minister for Tourism, Environment and Transport, the Father of the House.

**Hon. W. McKeever Bush:** Mr. Speaker, I move that this honourable House do rise to await His Excellency the Governor and re-assemble on his arrival to receive a gracious message from the Throne.

**The Speaker:** I shall put the question that the House do rise to await His Excellency the Governor and to re-assemble on his arrival to receive a gracious message from the throne.

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

**AYES.**

**The Speaker:** The Ayes have it. The House is suspended.

**AGREED: THAT THIS HOUSE DO RISE TO AWAIT HIS EXCELLENCY THE GOVERNOR AND RE-ASSEMBLE, ON HIS ARRIVAL, TO RECEIVE A GRACIOUS MESSAGE FROM THE THRONE.**

**PROCEEDINGS SUSPENDED AT 9.46 AM**

**PROCEEDINGS RESUMED AT 10.00 AM**

## **ARRIVAL OF HIS EXCELLENCY THE GOVERNOR**

*The Governor's Aide-de-Camp  
gave three knocks on the door.*

**The Serjeant-at-Arms:** His Excellency the Governor.

**Procession:**  
*Serjeant-at-Arms  
The Speaker  
His Excellency the Governor  
Mrs. Smith  
The Aide-de-Camp  
The Clerk of the Legislative Assembly  
The Deputy Clerk*

**The Speaker:** Please be seated.

Your Excellency, I have much pleasure in inviting you to address this Honourable House.

## **THE THRONE SPEECH Delivered by His Excellency the Governor Mr. Peter John Smith, CBE**

**H.E. The Governor:** Honourable Speaker, Honourable Members of the Legislative Assembly, it is again with great honour, respect and humility that I deliver the Speech from the Throne.

I am reminded constantly these days of that old saying "so much to do and so little time". We live in a busy and impatient world with decisions and demands being made at a relentless rate. Fortunately, one of the keys to survival and indeed to success comes in the shape of IT – information technology - and you will find a number of references in this Speech to "web sites" and "on-line access". Cayman is taking IT very seriously and is well placed to take full advantage of its exciting possibilities. In this regard, may I wish the Minister responsible for IT, the Hon. Linford Pierson, a speedy and complete recovery from his recent surgery and an early resumption of his critical responsibilities? It is also good to note that the next generation is in even better shape to compete on the wider IT stage – I know from my own visits to the schools just how many students are fully computer-literate at a surprisingly young age.

But whilst our investment in our youth will pay great dividends in IT as in other areas of learning, there is a dark shadow clouding my optimism. I fear

that we need urgently to engage more parents in the academic progress and development of their offspring. I am saddened indeed by the lack of involvement shown by far too many parents in their children's development – witness their failure to attend school meetings, to get involved in the PTA, or even to support their own children's needs and desire to learn. At best this disregard or apathy will cause students to underachieve and at worst can result in 12-14 year olds hanging around nightclubs at midnight with the inevitable exposure to real mischief. I find it difficult to excuse parents whose lack of interest in, and responsibility for, their children goes that far. It may be trite to say that the youth are our future but it is no less true for all that and we ignore it at our peril.

You will also hear references today to Vision 2008. The review of Vision that I promised last year has been completed by the Deputy Chief Secretary and the recommendations for the way ahead and the further implementation of the Vision agenda will be submitted shortly to Executive Council.

The exemplary degree of public consultation that was a feature of the Vision process will, I hope, be mirrored in the forthcoming Constitutional Modernization Review. There are no preconceived outcomes and no hidden agendas. This is a splendid chance for us all to debate whether we feel that our present 30-year old Constitution reflects our current wishes and thinking in this the 21<sup>st</sup> century.

Nor have I forgotten my Ombudsman proposal of last year. I have invited a most distinguished former Jamaican Ombudsman, The Honourable Mr Justice James Kerr QC, to visit Cayman shortly. He will be discussing the role of an Ombudsman with legislators, the public service as well as the private sector and the legal fraternity.

Let me now proceed to report on the activities and intentions of the various Ministries, Portfolios and Departments.

## **THE JUDICIARY**

In the year 2001 the judiciary intends to consider new procedures to improve the management of civil cases.

The Chief Justice along with representatives of other agencies will consider the establishment of a Drugs Court as another means of rehabilitation of offenders with drug problems. Plans for the much-needed expansion of the Courts facilities are underway.

## **THE PORTFOLIO OF INTERNAL & EXTERNAL AFFAIRS**

In May of this year, [the Portfolio] will for the first time host the annual conference of Deputy Governors and Chief Secretaries of Bermuda and the five Caribbean Overseas Territories.

### **ROYAL CAYMAN ISLANDS POLICE SERVICE**

The Royal Cayman Islands Police Service has a range of targets and initiatives for this year to reduce crime, with reduction of burglaries as a priority. A new post to plan and implement a system of intelligence gathering and crime management is being proposed.

Since our young offenders are potentially the criminals of tomorrow, a new Family Support Unit will deal speedily and effectively with these young offenders whilst working with other agencies to reduce the risk of re-offending. This Unit will also address the problems of domestic violence.

The police will continue to target international drug smuggling and local drug dealing and consumption, while continuing to provide drug education both in and out of schools to help increase awareness amongst our youth. The Drug Abuse Resistance Awareness (*DARE*) Programme will be extended from 3 to 6 schools this coming year.

As a result of recommendations from the various international reviews of Cayman's finance industry, the RCIPS will also provide additional officers to strengthen the Financial Reporting Unit.

The RCIPS will seek to develop partnerships, for example, with Crime Stoppers, which contribute to making the Cayman Islands a peaceful place to live: a safe place to visit and a secure place to do business.

### **GOVERNMENT INFORMATION SERVICES**

The Government Information Services, this year, will intensify its involvement in the technological initiative through a new staff member responsible for assisting departments, from content and creative perspectives, towards their e-Government efforts.

Publishing government information and providing government services online will bring numerous benefits, not just in terms of improved customer service and convenience for the public, but also greater efficiency and cost savings.

### **PRISON DEPARTMENT**

This year will see a continuation of the successful period of reconstruction and stabilization in the Prison Service. It is very much to the credit of the staff that so much has been achieved so far at both Northward and Fairbanks (the female prison) since the major disturbances of 1999. It is also encouraging to see the involvement of the community and prisoners in this process both in construction work at both prisons and also in a number of external projects benefiting the community.

Following completion of the new perimeter fence, security will be further improved through the provision of more electronic aids.

Addressing the rising prison population presents a significant challenge for 2001, but there are cost effective plans in place to alleviate this. The emphasis

this year will be on improving the management systems to ensure the prison budget is spent economically and effectively.

### **CAYMAN ISLANDS GOVERNMENT OFFICE IN THE UNITED KINGDOM**

The Cayman Islands Government office in the United Kingdom plans to continue its focus on developing and maintaining contacts within the UK government and political arena, in order to be able to have a voice in Parliament there when necessary. This is to be accomplished through regular meetings with Peers, UK Government Ministers, MPs, and various governmental agencies as well as making more use in PR terms of UK visits by the Governor, Cayman Ministers and senior civil servants.

### **IMMIGRATION**

The Immigration Department will continue to strive to ensure that its procedures and processes enhance the access to and delivery of service for the benefit of its customers. The continued use of technology will be a critical factor for success in the delivery of an efficient, accurate and customer-friendly service. Accordingly, the capabilities of the Immigration website will be expanded with the view to offering some on-line services to our customers.

Government is cognizant of the challenge of accommodating long-term residents and persons with close Caymanian connections. In this regard it is the intention of government to examine the positions of these two groups with a view to offering some form of residence which will satisfy expectations while at the same time allaying any fears or apprehensions among Caymanians who may feel threatened by the permanent absorption of these groups on present day Cayman.

### **THE LEGISLATIVE ASSEMBLY**

Under the auspices of the local branch of the *Commonwealth Parliamentary Association* it is proposed to host the first Youth Parliament here in the Legislative Assembly Building on the 12<sup>th</sup> March 2001, next Monday, to commemorate Commonwealth Day. Of the 12 schools invited to participate, eight have agreed to do so. Students aged between 14 – 17 will speak on motions entitled, "Teenage Pregnancy" and "An Analysis of the Constitution: Is there a need for a Constitutional Review".

### **PERSONNEL DEPARTMENT**

The Department's Training Unit will concentrate on the provisions of Management Development programmes through in-service workshops and courses provided locally by overseas universities and professional organisations. Programmes will be updated



and expanded to meet the training needs identified through the new Assessment and Development Centres (ADCs), and will enable all those in managerial and supervisory posts to become fully proficient in staff appraisal utilizing the new individual Performance Management Process introduced this past January.

Emphasis will be placed on succession planning with manpower and human resources identified for attention and training.

A review will be undertaken to explore options for replacing the over-lapping salary scale introduced in 1999 with a non-overlapping scale.

### **CAYMAN BRAC AND LITTLE CAYMAN ADMINISTRATION**

*Nature Tourism* facilities continue to grow with a further 28 signs to be installed this year. More than 1,500 enquiries have been received requesting information. A second phase will commence in the second half of this year and plans are to mark heritage sites in Little Cayman as well as historic buildings on both Sister Islands.

A study of Cayman Brac's endangered Brown Booby birds will begin this year (2001), funded by a grant from the UK Government, to pursue reason(s) for their decline in numbers.

Another concentrated effort will be made to provide an atmosphere for attracting "white collar" type jobs in Cayman Brac.

### **PORTFOLIO OF LEGAL AFFAIRS**

This year began with the first money laundering prosecution under the Proceeds of Criminal Conduct Law (PCCL). The evidence was assembled using scanning equipment and was presented on computer screens within the court at the preliminary enquiry stage. This process also enabled disclosure to the defence by compact disc.

This and another major case are being supported by the Financial Reporting Unit (FRU) which has now adopted a more proactive role in pursuit of money laundering prosecutions in the Cayman Islands. To strengthen this new 'results-based' policy on money laundering prosecutions Crown Counsel from the Legal Department have been appointed as case controllers and to also assist the FRU in statement taking. Forensic accounting and paralegal services are also planned.

A steering group will co-ordinate the planning for the integration of the Legal Portfolio and centralization of its resources, including the database of the laws and an associated website.

The working group on legislation announced earlier this year will focus on law reform as well as establishing a forum for legislative development. Later this year a programme of continuous professional devel-

opment for lawyers will begin with the participation of the Law School.

### **PORTFOLIO OF FINANCE AND ECONOMIC DEVELOPMENT**

During the year 2001, the Portfolio will spearhead the implementation of the third and final step of Phase 1 of the *Financial Management Initiative* – that is, the preparation of the 2002 Budget on a full output basis. It is also intended to introduce the Public Finance Bill, 2001, to the Legislative Assembly later this year.

Top priority will continue to be placed on ensuring that the Cayman Islands gains full international recognition from the FATF, and associated bodies like the OECD, G7 and EU, for its robust anti-money laundering and international cooperation regime.

Other notable projects include the introduction to the Legislative Assembly of amendments to the Monetary Authority Law to allow for its full independence, various amendments to the Shipping and Companies laws; securities legislation; and new legislation to create a "Cayman Maritime Safety Authority".

### **BUDGET AND MANAGEMENT UNIT**

The Unit will refine the Public Sector Budgeting Module of IRIS to facilitate the move to full output budgeting in 2002. The Unit will also review its structure and staffing to prepare for its new role under the Financial Management Initiative. In addition, the Unit will develop new strategies to improve revenue collection and recurrent expenditure reduction.

### **MARKETING AND PROMOTIONS**

The Marketing and Promotions Unit will continue its efforts to raise the profile of Cayman's financial services industry including increased utilization of the finance web-site, [www.caymanfinance.gov.ky](http://www.caymanfinance.gov.ky) and the production of new and updated collateral materials.

### **INTERNAL AUDIT UNIT**

In executing its 2001 risk-based audit plan, the Internal Audit Unit will conduct operational, cash financial, expenditure, and prepayment audits and for the first time, information technology audits. All these audits will be conducted in accordance with the Standards for the Professional Practice of Internal Auditing.

### **PUBLIC SERVICE PENSIONS BOARD**

The Board's objectives for 2001 include a comprehensive review of its investment policies and the preparation of Benefit Statements for all participants by the end of the second quarter. Other goals include

creating an information based web-site and continuing to educate participants by holding information sessions and distributing handbooks on the Public Service Pensions Plan.

#### **CAYMAN ISLANDS STOCK EXCHANGE**

The Cayman Islands Stock Exchange, building on the positive evaluation from the KPMG review, will continue its efforts to obtain recognition from relevant international bodies. The Exchange proposes to build upon its success to date as a first class international facility by targeting increased listings of mutual funds, specialist debt securities, derivative warrants and Eurobonds.

#### **CAYMAN ISLANDS MONETARY AUTHORITY**

The Cayman Islands Monetary Authority will implement various recommendations from the *KPMG* Report and the Financial Secretary's Task Force including:

- operational independence;
- enhancement of the on-site visits and inspections programme;
- the issuance of various guidance notes for industry; and
- assisting in the review and amendment of legislation.

The Authority will also expand electronic reporting of prudential or regulatory information to encompass mutual funds. The collection compilation and the production of statistical data will also be enhanced.

#### **OFFICE FOR ECONOMIC RESEARCH & DEVELOPMENT**

The Office for Economic Research & Development will compile a Medium Term Financial Strategy (MTFS) as a document that will elucidate Government's fiscal policy, its plans and priorities for the various sectors and a Public Sector Investment Programme (PSIP) for the period 2001 to 2003.

#### **STATISTICS OFFICE**

The Statistics Office will complete an updated Household register in time for the 15<sup>th</sup> Labour Force Survey, which is planned for this October. Preliminary work will also be done in detailing a series of intercensal surveys to be conducted over the next three years, including a Household Income and Expenditure Survey.

#### **GENERAL REGISTRY**

Efforts will be made to continue development of the documents imaging project, as well as the crea-

tion of an electronic index for the Public Records Register to enhance customer service requests for searches.

A revised Birth and Death Registration Law is expected to be tabled in the House during 2001 and to support this new Law a computerised system for maintaining the births, deaths, marriages and stillbirths Register is planned.

#### **SHIPPING REGISTRY**

It is planned to introduce a new Marine Pollution Law and amendments to the Merchant Shipping Law 1997 in this current year. In addition, some 15 new regulations under these two laws are to be introduced, including new Fees Regulations, aimed at increasing the profitability of the registry.

The Cayman Islands have been voted chairman of the Caribbean Port State Control MOU for a further period of three years. The registry will therefore continue its active ongoing work to ensure safe ships and clean seas in the Caribbean region.

#### **TREASURY**

The Treasury: Two additional modules of IRIS, Purchasing and Cash Management, will be implemented this year, as its department reviews its structure and staffing to facilitate the implementation of accrual-based accounting next year.

Debt recovery continues to play a significant role in the work of the Treasury and during the year 2000, the Debt Collection Unit recovered \$2.3 million, a 60% increase over the preceding year (1999).

#### **CUSTOMS**

For Customs, the headquarters have now been relocated from the Tower Building to the expanded main offices at Owen Roberts International Airport. This will lead to greater efficiency in the Department's operations. Training of staff in all areas of Customs work will remain a priority during the year, and specific emphasis will be placed on combating revenue fraud.

#### **MINISTRY OF EDUCATION, HUMAN RESOURCES & CULTURE**

This Ministry provides for the first time, an opportunity to focus on the core issues of education and training, to develop a Department of Human Resources, which includes employment relations, and to unite the various cultural agencies under one policy.

The Minister has committed to a five-pronged approach to education issues which will be emphasized over the next three years. These five are: school improvement, citizenship education, technical and vocational training, improved information and

communication technology in schools, and training of teachers.

The Ministry will liaise with the Chamber of Commerce on a public/private partnership to include a National Mentoring Programme, the development of a National Youth Service, and the E-business partnership with schools.

The full text of the Millett Report, commissioned last year, will be tabled at this meeting of the Legislative Assembly. The Ministry is committed to ensuring that a timely action-plan is developed to address the key issues raised in that report and its recommendations which have been accepted by government.

### **EDUCATION**

Increased emphasis will be placed on programmes to assist parents and students with positive attitudes to school and behaviour changes, which will increase responsibility and accountability.

The new Spotts Primary School will be put on hold for the time being, as due to delays caused by the planning appeal process, the school cannot now be completed by the time it will be needed. Instead, three primary schools will be given additional classrooms to accommodate the need for more places for Year One students, in September 2001. The planned improvements to Bodden Town Primary will go ahead this year, with an addition of four new classrooms. Red Bay and Savannah primary schools will gain two new classrooms each.

The Alternative Education Centre needs more secure accommodation, and it is hoped that this will be accomplished by moving this programme temporarily to the old Lighthouse School when the new Lighthouse School at Red Bay is completed in May. In the long term, a purpose-built Alternative Centre is a priority, and it is hoped that land for this new facility can be identified and purchased this year.

As the first cycle of inspection of all government schools draws to a close, this year the Schools Inspectorate will give priority to ensuring that inspection-findings are reflected to a greater extent in decision and policy-making in education at a national level.

Except for technical areas, enrolment in the Community College is increasing by more than 30% per annum and in 2001 the College will address the provision of adequate resources to cater to this projected enrolment.

### **HUMAN RESOURCES**

Over the next twelve months, the Ministry will concentrate on employment relations and training, to develop a tripartite system of co-operation between employees, employers and government. The Labour Department will be reorganised with three divisions, namely regulation, audit and appeal, and human resource development including training. The appeals

function will be separated from the regulatory function through a revision of the Labour Law.

The Human Resources Centre should provide one-stop shop services and include the Careers Advisory Service, the Summer Internship Programme, and new initiatives under development like the e-business Partnership for Schools, Investors in People and Small Business Development.

Liaison with the Chamber of Commerce as the representative of employers, as well as with organised employee representatives will be developed to ensure stable and progressive labour relations. Efforts will be strengthened to enforce the law with regard to both labour and pensions violations through the Courts.

### **CULTURE**

The long-awaited new History of the Cayman Islands is now in the editing stage, and will it is hoped, be available by the end of the year.

In keeping with the recommendations of Vision 2008, a National Cultural Policy will be developed to define the roles and responsibilities of each entity within a strengthened framework of national pride and preservation of Caymanian heritage.

Events such as the recent Art at Government House demonstrate the increased public appreciation of the creative arts, but one artistic group has still not gained full recognition: Caymanian professional musicians and entertainers. Plans are being laid, with the musicians' association to redress this by assisting them to restructure their organisation and promote their work.

The National Gallery still in its embryonic stages should be developed.

## **MINISTRY OF COMMUNITY DEVELOPMENT, WOMEN AFFAIRS, YOUTH & SPORTS**

### **COMMUNITY DEVELOPMENT**

The Ministry will continue its effort on strengthening families. A new officer will be appointed with the responsibility for Community Development and will work closely with the Community Development Unit in the Social Services Department.

### **SUNRISE CENTRE**

The Sunrise Adult Centre is looking forward to this year in the hope that it will provide long awaited opportunities to grow and develop so they can better address the Vocational and Life Skills needs of all Adults with Disabilities in the Cayman Islands.

### **SOCIAL SERVICES**

In an effort to produce a plan of action to address the social ills that follow rapid development, the Ministry will begin the development of a Social Policy, which will continue in 2002.

### **WATER AUTHORITY OF THE CAYMAN ISLANDS**

The Water Authority will carry on with expansion of its public water supply system through the eastern districts of Grand Cayman during 2001 in accordance with the Ten-Year Development Plan. The piped water system is expected to be completed up to the Gun Bay area of East End by December 2001 and will continue on through the district of East End and North Side during 2002.

To meet the growing demand, the Authority expects to contract for a new 3000 cubic metres per day water production plant at the Red Gate Water Works. In Cayman Brac, the Authority plans to double the production capacity of the water plant to meet the demand during the dry season.

Also this year, the Authority will commence construction of the long awaited Grand Cayman Wastewater Treatment Plant to replace the current waste stabilization ponds. The new plant is expected to be on-line in 2003.

### **WOMEN'S AFFAIRS**

In 2001, the Ministry will complete a draft National Policy on Gender Equity and Equality. Finalization of the policy is anticipated in March 2002.

In keeping with Vision 2008, the Ministry will continue to share coordination responsibilities with the Royal Cayman Islands Police for the Domestic Violence Intervention Training Programme for Police Officers and Social Workers. To date 53 people have been trained since the programme began in 2000. Space has been secured to house a Family Protection Unit to be operated jointly with the Royal Cayman Islands Police Service.

With the addition of a counselor and a research officer, programming will be expanded and services will be enhanced at the Women's Resource Centre. The Convention on the Elimination of Discrimination against Women (CEDAW) is to be extended to the Cayman Islands. Plans will be developed for a place of safety for abused persons in 2001 with construction commencing in 2002.

### **YOUTH**

The Department of Youth and Sports, under the guidance of the Ministry, will develop an implementation plan for the *National Youth Policy (NYP)*. This will include a National Youth Commission that will act as

an independent body responsible for monitoring the implementation of the *NYP*.

### **SPORTS**

The Ministry will continue to promote sports through the development of a National Sports Policy through grants to twenty-six sporting organizations, partial and full scholarships and various other initiatives.

The Ministry in partnership with the Cayman Islands Cricket Association will continue the construction of the National Cricket Pavilion at the Jimmy Powell Oval in West Bay.

Planning approval will be sought for the Cayman Brac football field.

### **DEPARTMENT OF SOCIAL SERVICES**

The Department will be considering a facility in which juvenile offenders can be accommodated and rehabilitated.

The Children's Law is now ready to be returned to the [Legislative] Assembly. Due to the many changes which had to be made to the law, it is proposed that the 1995 law be repealed and a new and more comprehensive Children's Law be put forward.

The Adoption Law will be revised so that Adoption practices can be brought into line with those that are internationally accepted.

The Adoption and Foster Care programme will continue to provide a comprehensive range of quality child care services and will join with the Community Development Unit in strengthening the national Parent Training Programme. The Ministry expects to mount 30 workshops this year, the first of which commenced in January.

The successful Young Parents Programme will focus for 2001 on improving the academic and employability skills of its participants, returning young mothers under age 16 to mainstream education and providing support where necessary.

Objectives of the Adult Special Needs Programme for 2001 include the establishment of a Seniors Day Care programme in Cayman Brac at the Kirkconnell Centre, the construction of a senior residential home and day care centre in North Side and the completion of plans for the Bodden Town Senior Residential Centre, due for construction in 2002.

The Ministry will aim to respond to the increased demands for probation and after-care services as Magistrates and Judges seek innovative sentencing options to deal with offenders.

### **MINISTRY OF PLANNING, COMMUNICATIONS & WORKS**

The Ministry has seven main focus areas for 2001, which will be:

1. The construction of new government office accommodations;
2. Growth Management;
3. Cayman Airways;
4. The Agricultural Sector;
5. Solid Waste issues;
6. Quantitative Risk Assessment on LPG plant and petroleum operations
7. An independent audit of Caribbean Utilities Company.

To take these in order: Firstly, significant amounts of funds are expended each year by Government on leasing and renting outside office accommodation and additional space is also required every year. Government must address this critical situation and attempt to meet its own accommodation requirements. In this regard directives have been issued for preparatory work to commence towards the construction of purpose-built Government office facility on Crown property adjacent to the Government Administration Building in George Town.

Second, in Vision 2008, the people made it clear that the overarching Government policy objective should be to achieve and maintain balanced development in our society in accordance with Growth Management Principles. Government is committed to this philosophy and the Ministry has already commenced efforts to move growth management forward.

Thirdly, the Ministry has commissioned an independent audit and assessment of the operational and financial position of Cayman Airways. This exercise will be completed within the first quarter of this year. Full discussion and evaluation of the various options available will take place immediately following presentation of the detailed findings.

Fourthly, the *National Strategic Plan* calls for the diversification of the Islands economic base and the Ministry is concentrating efforts to strengthen the agricultural sector. In this regard an Agricultural Development Committee has been established with wide public/private sector representation from Government, the farming/business community, Agricultural Society, Farmers Cooperative as well as the Sister Islands.

Fifthly, increasing pressures continue to be placed on Government to find cost effective and innovative solutions for the collection and disposal of solid waste. The Ministry has already begun to evaluate the various options and technologies available and to discuss potential public/private sector partnership opportunities. The Ministry is committed to satisfactorily resolving the issue for the betterment of our community as a whole.

Sixthly, the overall review of bulk petroleum storage and handling operations was completed in late 2000. The post of Chief Petroleum Inspector was created and recruitment should be completed before the end of the first quarter 2001. The review recommended various legislative amendments which are being pursued and that Government conduct a further Quantitative Risk Assessment (QRA) specifically on

the Liquefied Petroleum Gas (Propane) operations and the petroleum bulk terminals and offloading operations at Jackson Point.

And lastly, the Ministry has already initiated dialogue with Caribbean Utilities Company (CUC) regarding possible ways of lowering rates for consumers. CUC has also been advised that an independent audit will be conducted on their operations as provided for in their franchise agreement with Government.

### **9-1-1 EMERGENCY COMMUNICATIONS**

The Radio Communication System at the 911 Centre is being upgraded under the recommendation of the Telecommunications Office and should be fully digital before the end of this year.

### **DEPARTMENT OF AGRICULTURE**

The Department will move to conduct an Agricultural Census in 2001 and the information obtained will be used to create informed strategic plans for the continued development of the sector over the next 5 to 10 years. Local agricultural commodities will continue to be promoted as safe and of superior nutritive value.

A Pesticide and Toxic Chemical Authority will be established and a Board appointed. A new Pesticide Law with regulations that govern the function of the Board will be presented to the Legislative Assembly at its June Meeting. An Integrated Pest Management approach to the control of pests and diseases, in which biological control is emphasized, will auger well for the protection of the health of persons and animals and that of the natural environment.

A Bill to repeal and replace the Plants (Regulation of Importation and Exportation) Law, 1983 will be tabled. This Bill will provide the Chief Agricultural and Veterinary Officer with greater powers to ensure that plants and plant pests which would be a threat to the flora of these Islands are not introduced. Draft amendments to the Animals Law and Regulations in order to bring them up to date, will also be submitted for passage through the Legislative Assembly.

### **DEPARTMENT OF ENVIRONMENTAL HEALTH**

The Department will begin site preparation and preliminary design for a new landfill in Cayman Brac.

Here in Grand Cayman, 57,500 tons of waste (or 1.4 tons per person) were disposed of in the George Town Landfill this past year and that landfill is now rapidly approaching capacity. The Department has completed a study of the advantages and costs of solid waste alternatives and is poised to contribute to the serious decisions, which need to be made with respect to replacing the George Town Landfill.

### **ENVIRONMENTAL HEALTH SECTION**

After a successful launching effort in December of last year, the Department of Environmental Health will expand its education and monitoring programme of the beauty industry to provide weekly basic training for cosmetologists, and barbershop and beauty salon operators.

The Department plans to open a new Environmental Health Office and Water Laboratory in Cayman Brac.

The programme to register and train swimming pool operators will begin this year.

The Department also plans to construct two new public cemeteries - one in Bodden Town and one in East End.

### **LANDS & SURVEY DEPARTMENT**

The Lands and Survey Department will expand its range of land-related services, to include the publication of a complete Street Atlas of the islands. It will also continue to embrace the technological revolution, and specifically WEB technology, with initially, electronic delivery of information, to be followed by the taking of service orders, until ultimately there is a complete electronic service delivery option available to the public.

### **MOSQUITO RESEARCH & CONTROL UNIT (MRCU)**

The Mosquito Research & Control Unit (MRCU) will continue to protect residents and visitors from mosquito-transmitted diseases, and endeavour to maintain the disease-free status of all three Islands. The Unit will greatly increase the use of Global Positioning Systems in conjunction with data from Lands & Survey, to locate specific mosquito-breeding sites.

An expansion of the aerial larviciding programme – the application of pellets to prevent mosquito emergence – particularly into the eastern districts of Grand Cayman is anticipated, as is the use of ground-based equipment in those areas not amenable to treatment by air.

A study of the specific mosquito problems on Little Cayman will enable the design of a suitable control strategy, with particular emphasis on environmentally responsible methods for that island.

### **PLANNING DEPARTMENT**

The Department welcomes the Government's commitment to adopting a Growth Management Plan at the earliest opportunity and is prepared to initiate an ambitious work programme to make this important, much needed plan a reality for Cayman.

The review of the Development Plan 1997 will be completed within the first six months of this year and should be tabled in this House in September. The

Department is also committed to having the Wetlands Committee complete its report to the Central Planning Authority by June 2001. The Committee's report will make recommendations as to how we can address the contentious issue of environmental protection throughout Grand Cayman.

The review of the Proposed Cayman Brac and Little Cayman Development Plans will also resume later this year, involving extensive public input in order to arrive at Development Plans that represent the vision of the residents of the Sister Islands.

Another important initiative is the new Planning Department website, which allows customers to download forms, and applications, conduct zoning inquiries, access information and review the Development Plans.

To improve the way it does business, the Planning Department will draft its own strategic plan. This initiative commenced in January and a series of "get to know your customer" meetings will be on-going throughout this year.

### **POSTAL DEPARTMENT**

The Post Office anticipates construction of a new post office for West End this year. Necessary repairs and refurbishment of all Sub-Post Offices in Cayman Brac and the relocation of the Little Cayman Post Office will be addressed.

Customer services will be enhanced during the year by the introduction of Internet cafes in post office(s). Additional promotions for the Philatelic Bureau will include a philatelic on-line shop to be launched as an initial approach to postal e-commerce. A highlight of the year will be a special stamp issue featuring Cayman Brac, another first for the Post Office and scheduled for release within the first half of 2001. A new five-year definitive stamp issue "Transportation to the Millennium" will be released in September this year.

### **PUBLIC WORKS DEPARTMENT**

#### **Roads Section**

Phase One of the Crewe Road Bypass will be completed this year.

With the acquisition of a Road Sweeper in 2000, a programme of sweeping roads, mainly in the Central Business District and West Bay Road, will be implemented. To extend the useful service life of existing roads, construction maintenance will be focused on minor base repair to those roads and a second application of wearing course.

The programme of residential road improvements will continue and PWD will also implement some measures for traffic calming in residential areas.

Planning, design, gazetting and land acquisition will be carried out for two major sections of road,

Phase III of the Harquail Bypass from the Hyatt area to Safehaven and the section of road running north to south that will connect the Crewe Road Bypass to the Harquail Bypass. These roads form an integral part of the proposed National Roads Plan.

### **Building Section**

The department will continue to emphasize quality and value for money with hurricane resistant, low maintenance construction. The major capital building projects, which began construction prior to 2001 and will be completed this year are the new Lighthouse School, the new Red Bay primary school multi-purpose hall and the extension and upgrading of the George Hicks High School administrative building. These projects form part of the major capital education programme which commenced in 1999.

### **CAYMAN AIRWAYS LIMITED**

Cayman Airways' financial situation continues to be of national concern, and I referred earlier to the independent financial review and operational assessment of the airline. Its findings and recommendations will be used to develop a long-term strategy for the national carrier. The goal is to find the best business model to bring about a sustainable profitability at the national airline. Regardless of which business strategy is adopted there are a number of issues that need to be addressed, some of these would include the fleet, information technology and automation of systems and the financial structure. The challenge will be to find the capital necessary to restructure the airline.

The Government expects to have a fully developed long-term plan for the national airline by the third quarter of this year.

## **MINISTRY OF TOURISM, ENVIRONMENT & TRANSPORT**

### **CAYMAN TURTLE FARM**

The Turtle Farm will continue with the implementation of the *Master Redevelopment Plan* with upgrades to the visitor areas being undertaken this year.

The Farm opened a new outlet in central George Town in January of this year. The location offers visitors and residents the opportunity to purchase the Farm's many unique products from a central location. Information about the Farm, these Islands and other tourist attractions will also be available as a service to visitors.

### **TOURISM ATTRACTIONS BOARD**

The Tourism Attractions Board has added Pirates Week and Hell to the existing Pedro St. James Historic site and the Queen Elizabeth II Botanic Park.

A site manager has been appointed at Pedro St. James and a marketing programme, for all units of the Board, is being developed in conjunction with the Department of Tourism locally and overseas. At Pedro St. James, equipment is being acquired to provide all facilities for site rentals, the front entrance is being enhanced, a comprehensive craft centre created, and a strolling musician will be on site during peak hours. The restaurant facility at Pedro will be upgraded and expanded, with the eventual aim being an upscale dining facility taking advantage of the unique scenic attributes of the site.

At the Botanic Park, additional gardens are being developed and a small portion of land is being acquired to meet the need for expanded tour bus parking. Special events will be expanded and a full colour coffee table book on the Park is being produced. Due to the Botanic Park's high demand for irrigation water (approximately one million gallons per year) there is pressing need to acquire piped water to the site.

### **FIRE SERVICES**

The Cayman Islands Fire Service will continue to give priority to the development of its human resources. During 2001, six Middle Managers and Supervisors will be attending advanced courses in fire fighting and rescue at institutions in the U.K. and three officers will be attending a Breathing Apparatus Repair Course in the United States.

To reduce the response time to the Bodden Town district, the feasibility of establishing a substation in that district will be pursued.

The present fire hydrant system will be extended to the outer districts and replaced where necessary.

A review of the existing Fire Code, which is now over 7 years old, will be carried out with a view to adapting the most current editions of the SBCCI (International) Code.

### **DEPARTMENT OF TOURISM**

A global review at the Department of Tourism will be undertaken during this year to ensure that the tourism efforts of the Government, coupled with its private sector interface, are capable of delivering sustainable tourism services.

The Department will continue to strengthen its current web activities utilising this medium to communicate more effectively with its customers.

The Government will support and advance the approved Ritz-Carlton development project and explore other opportunities to diversify our tourist accommodation offerings.

The Ministry of Tourism will be leading the development of a Co-operative to help smaller independent operators improve their reach in the tourism market.



**DEPARTMENT OF ENVIRONMENT**

In 2001 the Department of Environment will continue on-going projects and programmes aimed at enabling sustainable management of our natural environment and resources. April of this year will be 15 years since the establishment of Marine Parks in the Cayman Islands and the Department plans to carry out a review of the Parks which will involve consultation with focus groups, as well as the general public. Government will adopt an Environmental Charter for the Cayman Islands as called for in the White Paper.

In addition, the Department will finalize preparation of draft comprehensive environmental legislation which will provide a more effective legal framework with which to address the environmental issues the Cayman Islands now face. The new legislation will also allow obligations under international conservation agreements to be met, while keeping in mind Cayman's need for striking a balance between sustainable development and our very important environmental sensitivities.

**VEHICLE LICENSING AND TRANSPORT**

It is the desire of the Government to proceed with decentralization into the Bodden Town area and formal architectural plans and budgeting of the first phase is intended to come next year.

The Government's plans for 2001 include the development of certain aspects of the Traffic Law. Objectives would cover:

1. Provision of set times for movement of backhoes and other slow moving equipment, along major roads;
2. Improvement of the regulation and enforcement of Public Transport, including uniforms for persons involved in this industry; and,
3. Provision of regulations for the better enforcement of revenue collection measures.

As the George Town Licensing Office has now outgrown its current site and creates serious congestion problems, a Project Definition Document will be developed in 2001, subject to budgetary approval, to relocate this office.

**PORT AUTHORITY**

There is a need to expand and improve the port facility in George Town. In that respect the plans for its expansion are being reviewed in an attempt to provide a more efficient operation in respect of cargo facilities and the very important issue of the handling of our cruise ship passengers.

The Authority will also examine the hours of operation of the Port facilities in an attempt to provide a more efficient service to the public.

**CIVIL AVIATION AUTHORITY**

Many of the projects earmarked for last year were not completed and are therefore being brought forward to year 2001. These will include: the Terminal Hurricane Proofing, a Wastewater Treatment Plant, and an Express Cargo Terminal at Owen Roberts International Airport plus a Runway Rehabilitation Project at Gerrard-Smith International Airport on the Brac.

The Ministry has also announced bold initiatives for the future development of our aviation infrastructure over the next few years to meet future capacity demands and to enhance the safety of our airports. These include: -

Firstly, expansion of the Owen Roberts Passenger Terminal;

Secondly, extension of the runway and construction of a parallel taxiway at Owen Roberts;

Thirdly, additional navigational facilities at Owen Roberts; and,

Lastly, improved air traffic management facilities.

Approval was granted last year for the Little Cayman Airport Development Project and preliminary works such as necessary boundary surveys have been undertaken. However, the immediate continuance of this development will be subject to review in light of the proposed development focus at Owen Roberts.

Following an International Civil Aviation Organization (ICAO) regulatory oversight audit of the United Kingdom in July 2000, the UK and its Territories will be subjected to regulatory changes in order to fully comply with international standards and recommended practices. This will involve a study being undertaken by the UK, beginning in March 2001, of the regulatory functions of aviation in its Territories after which appropriate recommendations will be made.

**AIDB/HOUSING DEVELOPMENT CORPORATION**

It is expected that a legal entity to effect the merger of the functions of both the Agricultural and Industrial Development Board (AIDB) and the Housing Development Corporation (HDC) will take place during the year 2001.

The merged institution will enhance its efforts geared, inter alia, at facilitating greater economic development in agriculture, industry, tourism, housing, as well as the promotion of human resource development, and in particular the assistance to small local entrepreneurs.

One of the main objectives of the HDC during 2001, will be the compilation of a 10-Year National Housing Strategic Plan which will take into account the various levels of housing needs. A housing demand survey will form a part of this information database. The Corporation will also be assuming the responsibility for administering the Government Guaranteed Home Mortgage Scheme that is currently be-



ing administered by the Department of Finance, and will redesign and improve the Scheme to make it more attractive to low income borrowers.

## **MINISTRY OF HEALTH AND INFORMATION TECHNOLOGY**

The Ministry of Health and Information Technology anticipates the achievements of the following objectives in 2001:

### **STRATEGIC PLANNING**

The Ministry will continue to place emphasis on the implementation of the Strategic Plans for Health and Drug Abuse Prevention and Rehabilitation

Detailed discussions will take place with Cable and Wireless concerning the provision of state of the art telecommunications at competitive prices. The report of the e-Business Advisory Board Subcommittee on Infrastructure will be studied, and recommendations made on the likely benefits, or otherwise, of the partial or complete liberalization of telecommunications.

### **LEGISLATION**

The following legislation will be presented to the Legislative Assembly for approval:

- Revised Regulations to accompany the Health Services Fees Law 1999
- A revised Mental Health Law
- A revised Health Practitioners' Law and accompanying Regulations
- The Telecommunications Bill
- A revised Pharmacy Law with accompanying Regulations; and
- The Regulations for the Electronic Transactions Law, 2000

Legislation giving the Minister of Information Technology the authority to authorize, prohibit or regulate the registration and use of the ky domain name will be brought as an amendment to the Electronic Transactions Law 2000.

### **MENTAL HEALTH AND GERIATRIC FACILITY**

Subject to approval by Finance Committee, the Ministry will oversee the commencement of construction of an in-patient Mental Health and Geriatric facility.

### **HEALTH SERVICES DEPARTMENT**

The Health Services will continue its quest to provide care that is of high quality, technically proficient and safe, and will accord high priority to health promotion, patient education, disease prevention and

ambulatory care. Mental Health Services will also be given significant emphasis this year.

A Health Needs Assessment for Grand Cayman will be conducted in 2001. This will take account of the incidences of disease as well as the views of the community. The findings of the assessment will inform the strategic plan for health.

It is anticipated that an accreditation system for the service will be introduced during the year 2001 to ensure that the Department is maintaining standards to improve the quality of care provided to patients.

The Dental Service for the Sister Islands will be enhanced with the upgrade of facilities on Cayman Brac and Little Cayman plus the provision of a full-time Dental Officer, subject to funds being available.

The recent appointment of a new Medical Officer in Charge of the Sister Islands Health Services will improve the efficiency of those services. Plans will be developed to provide additional facilities for Pharmacy, Outpatients, Physiotherapy, X-ray, Emergency Room and Administration.

The Department will host a Health Services Career Week in September with various activities designed to promote among Year 10 and Year 11 students from all schools the possibility of careers in the Health Services Department.

Provision of hyperbaric services for Cayman Brac and Little Cayman will be further explored this year.

### **THE INFORMATION TECHNOLOGY STRATEGY UNIT**

This year the Information Technology Strategy Unit (ITSU) will be responsible for leading Government's e-Business Initiative.

In conjunction with the e-Business Advisory Board, the Strategy Unit will develop and implement a plan for the marketing and promotion of the Cayman Islands as the premier offshore e-Business centre. It is hoped that a joint Government and Chamber of Commerce website promoting e-Business will be launched shortly.

A code of practice covering e-Business service providers will be published this year.

Consultation with the private sector on a Bill to introduce mandatory data protection legislation will be undertaken, and a study to assess the need for a strengthening of our laws on intellectual property rights, copyright and trademarks will be completed.

A survey will be carried out to establish the current and anticipated requirement for highly skilled Information Technology professionals, together with an estimate of a number of Caymanians currently possessing these skills or due to enter the workforce over the next few years. The results will be used to develop policies covering such issues as scholarships, on-the-job training, further education and work permits.

### **COMPUTER SERVICES DEPARTMENT**

The Department will increase its focus on assisting other departments to meet their business objectives while improving the efficiency and quality of services being delivered. The provision to the general public of access to Government forms and information online will commence this year.

Recognising that 'Information Technology' solutions are integral to the delivery of several key government services, Computer Services is implementing a multiyear disaster tolerant programme. This year, a backup main database server and backup equipment to allow information to be saved and secured within hurricane timescales is to be implemented, which would reduce the high costs and negative publicity following any loss of IT services.

### **TELECOMMUNICATIONS UNIT**

At the Telecommunications Unit, the application process for receiving broadcasting licences has been streamlined and matters that have been outstanding will be "fast-tracked". The granting of new licences will result in further revenue to Government.

The Integrated Government Telephone System will be further expanded to cover most of the major departments in the George Town area.

### **DEPARTMENT OF SUBSTANCE ABUSE SERVICES**

As a complement to the intensive three-week inpatient treatment programme, a day treatment programme supported by an on-site childcare facility will be implemented at Caribbean Haven Residential Centre.

The Department expects to work closely with the new Drug Court to provide treatment for individuals whose substance abuse has resulted in their falling foul of the Law.

### **NATIONAL DRUG COUNCIL**

The establishment of the first Community Intervention Programme at the Scranton site will be supplemented by planned facilities in West Bay, Cayman Brac and North Side this year.

The publication of the second round of the Student Drug Use Survey this year will allow for the examination of trends and emerging patterns and will help to determine the effectiveness of substance abuse reduction programmes.

The NDC will promote the incorporation of the National Database System of the United Nations Drug Control Programme in the Cayman Islands to help global co-ordination and control of trade in precursor chemicals, those elements used in the production of synthetic drugs.

The NDC, finally, will host a regional conference on the subject of substance abuse this year.

### **CONCLUSION**

Honourable Speaker, Honourable Members, as I conclude this my second Speech from the Throne may I record officially my deep appreciation of the efforts made by all those people who were involved in the compilation, editing and completion of the finished product.

As you now embark on the First Meeting of the new Session of the Legislative Assembly, I pray that the wisdom and compassion of the Almighty will inform your important deliberations. May the Lord continue to direct and nurture all the people of this beloved Isle of Cayman.

Thank you.

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### **DEPARTURE OF HIS EXCELLENCY THE GOVERNOR**

*Serjeant-at-Arms (Mace-bearer)*

*The Speaker*

*His Excellency the Governor*

*Mrs. Smith*

*The Aide-de-Camp*

*The Chief Justice*

*Mrs. Smellie*

*Mrs. Kirkconnell*

*Minister*

### **PROCEEDINGS RESUMED AT 11.01 AM**

**The Serjeant-at-Arms:** Mr. Speaker.

**The Speaker:** Please be seated. Proceedings are resumed.

It is my pleasure to recognise and welcome a delegation from Triple C School headed by its Director, Mrs. Marjorie Ebanks, who has for many years been a member of the Education profession and of the Education Council. Your interest in parliamentary procedure is appreciated, and once again we welcome you.

I would also like to welcome the Speaker we had at the Parliamentary Prayer Breakfast yesterday, Mr. Jim Slattery, from Washington D.C. We are glad to have you and thank you for your presence.

At this time I will call upon the Honourable Minister for Tourism, Environment and Transport, the Father of our House, to move a resolution to the deferral of the debate on the Throne Speech.

Honourable Minister for Tourism.

## MOTION FOR DEFERRAL OF THE DEBATE OF THE THRONE SPEECH

**Hon. W. McKeeva Bush:** I am pleased to move that:  
**“BE IT RESOLVED that this Honourable Legislative Assembly record its grateful thanks to His Excellency the Governor for the Address delivered at this meeting.**

**“BE IT FURTHER RESOLVED that the debate on the Address delivered by His Excellency the Governor be deferred until Monday, 26 March 2001.”**

**The Speaker:** If there is no debate, I shall put the question:

**“BE IT RESOLVED that this Honourable Legislative Assembly record its grateful thanks to His Excellency the Governor for the Address delivered at this meeting.**

**“BE IT FURTHER RESOLVED that the debate on the Address delivered by His Excellency the Governor be deferred until Monday, 26 March 2001.”**

No debate? Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Motion is passed.

I will now call upon the Honourable Minister for Planning, Communication and Works to move the adjournment of this House.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Thank you.

I move the adjournment of this Honourable House until Wednesday, 14 March 2001 at 10.00 AM.

**The Speaker:** The question is that this House do now adjourn until 14 March 2001 at 10.00 AM.

Before putting the question I would like to recognise the Honourable Third Official Member.

**Hon. George A. McCarthy:** Thank you, Mr. Speaker.

The 2001 Budget Address and its accompanying Appropriation Bill were originally slated for presentation to the Legislative Assembly this morning. With the support of all Honourable Members it is proposed that this presentation be delayed until the 21<sup>st</sup> of March.

This postponement is required in order to facilitate the continuation of the necessary work to produce a balanced budget and the need to fully assess the 2001 Budget within the context of fiscal projections for the next three years.

Mr. Speaker, the Government holds the firm view that greater emphasis must be placed upon presenting attainable budget targets to this Honourable House and country. As such, the 2001 budget will be presented in a medium term context and in a way that more realistically reflects Government's current and projected financial position.

These are indeed challenging times for public finances. The demand for public services continues to increase steadily. Against this backdrop, Mr. Speaker, the Government is very much aware of the potential impact that the national budget has on the domestic economy. Any set of measures that the Government proposes has to take into full consideration the availability of public revenues, public expenditure growth management and other fiscal measures that are required to promote sustainable economic growth whilst providing much needed public services. This work is ongoing and it is expected to be completed in time to allow for the Budget to be presented on the 21<sup>st</sup> March, this year.

Thank you very much, Mr. Speaker.

**The Speaker:** For the benefit of the record I would like to record the apologies of the Honourable Minister for Health and Information Technology, who is overseas recuperating from an operation. In speaking with him a day ago, he asked that I convey his best wishes to all the people of the Cayman Islands.

At this time I shall now put the question that the House do adjourn until the 14<sup>th</sup> March 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 14<sup>th</sup> March 2001 at 10am.

**AT 11.12 PM THE HOUSE STOOD ADJOURNED UNTIL 10.00 AM WEDNESDAY, 14 MARCH 2001.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**14 MARCH 2001**  
**10.07 AM**  
*Second Sitting*

*[Prayers read by the First Elected Member for Cayman Brac and Little Cayman]*

**The Speaker:** Please be seated. The Legislative Assembly is in session.

Item number 2 on today's Order Paper, Administration of Oath, Oath of Allegiance to Mr. Samuel Bulgin, Solicitor General, to be the Acting Honourable Second Official Member.

Mr. Bulgin, would you come forward to the Clerk's table?

All Honourable Members please stand.

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*(Mr. Samuel Bulgin)*

**Mr. Samuel Bulgin:** I, Samuel Bulgin, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

**The Speaker:** Mr. Bulgin on behalf of all Honourable Members I welcome you to this House for the time of your service. Please take your seat as the Honourable Acting Second Official Member.

All Honourable Members please be seated.

Item number 3 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Minister for Health and Information Technology, who is sick and recuperating overseas from an operation.

**COMMONWEALTH DAY MESSAGE 2001**

**FROM HER MAJESTY THE QUEEN  
HEAD OF THE COMMONWEALTH**

**The Speaker:** Item number 4, Commonwealth Message 2001 from Her Majesty the Queen, Head of the Commonwealth.

It gives me great pleasure to read a message of Commonwealth Day 2001 from Her Majesty the Queen, Head of the Commonwealth. I quote:

**"The theme this year — A New Generation — captures the reality of a young Commonwealth. More than half of our 1.7 billion people are under the age of twenty-five. They are the future of the organisation**

**"These young people face a world of challenge and change. Many must cope with a life where even the basics of human existence—food, shelter and clean water—are far from guaranteed, or in very short supply. Others have had their lives blighted by war, disease, or environmental damage. Far too few enjoy the prospect of a decent education, or work which can give expression to their talents and energies.**

**"Yet for all its ills and difficulties the world of the new generation also offers opportunities: instant communication, the transfer of knowledge, and advances in science and technology which, if applied sensibly, can help people achieve a more fulfilling life.**

**"Despite all these opportunities, we still seem transfixed by our differences. This is where our young people are so important. They know there are many problems which can only be resolved when people in different countries work together. I hope we can persuade them that the Commonwealth, whose very strength is in its diversity, has much to offer them in charting a path across the barriers of race and religion, distance and economic circumstances.**

**"Making our Commonwealth matter to its younger members is the task for those of us who have lived through its development over the last fifty years or so. I hope that when the ten commonwealth leaders who have been charged with conducting a review of our association's future report to the Summit in Brisbane in six months' time they will bring with them a message of hope and renewal. For what the Commonwealth becomes will depend on its success in addressing itself to the new generation; capturing their imagination; finding their vision; and enlisting their energy and commitment to an association which I believe can be as important to the twenty-first century as it has been to the twentieth.**

**"Signed Elizabeth R.  
"12 March 2001."**

**The Speaker:** Item number 5 on today's Order Paper, Questions to Honourable Members/Ministers. Question No.1 standing in the name of the Third Elected Member for West Bay.

## QUESTIONS TO HONOURABLE MEMBERS/MINISTERS

### QUESTION NO. 1

**No. 1: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works what is the remaining expected life of the Government landfill and what are the plans for the future with regards to landfill.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Department of Environmental Health commissioned two recent topographic surveys (March and November 2000) at the George Town landfill. These surveys were used to determine the rate at which the available landfill volume is consumed and to predict when the available space will be totally exhausted.

The Department has developed a Final Grading Plan for the George Town landfill that is based upon the assumption that:

1. the current footprint or area of the landfill will not be changed;
2. the side slopes will remain as is, typically not exceeding 3:1; and
3. the top elevation will be 50 feet above sea level.

The Final Grading Plan will be achieved in September 2002. This projection does not include the possibility of dramatic waste volumes that may be generated as a result of a disaster such as a hurricane.

Remaining landfill capacity calculations were based upon the assumption that waste tonnage entering the landfill would grow at an annual 5 percent rate. The 1999 estimates placed waste generation at 44,000 tons/year (based on solid waste planning estimates and one-half year of weigh-ins at the landfill). With an annual 5 percent growth rate, waste tonnages would be expected to approach 46,000 tons in the year 2000. In December 2000, the Department of Environmental Health tallied annual weigh scale data for the first full year of weigh-ins. The total was 57,379 tons; Department vehicles collected 40,091 tons of that total. After only one and one-half years of weigh-ins, insufficient data exists to determine whether this is part of an overall trend in waste generation. If so, the landfill capacity calculations will result in less than the two years' capacity remaining.

In response to the year 2000 weigh figures, the Department of Environmental Health examined the potential for stretching the existing footprint slightly north and confirmed that further volume capacity could be achieved. This would be a fallback measure to extend capacity to somewhere between March and August 2003. The Department is, therefore, using an estimated two years' capacity at the George Town landfill as a goal for construction of a new solid waste disposal facility. I emphasise that this is an estimate that must be closely monitored and revised periodically by the Department of Environmental Health as it is difficult to predict the many variables, such as the rate of growth in waste generation, that could impact on this estimate.

In preparation for the eventual closure of the George Town landfill, the Department of Environmental Health has completed an Alternative Systems Analysis on behalf of the Ministry of Planning, Communications and Works. This study characterises the current solid waste system and presents several waste management alternatives for the future and the costs of implementing them. A common thread among all alternatives is the need for a new landfill. I am prepared to table this study for the benefit of the Legislative Assembly and to commence the public debate over future alternatives. In the interim, the Department of Environmental Health will begin a landfill site selection process in preparation for the closure of the George Town landfill within the next two years. A closure plan for the George Town landfill will be prepared by the Department. It will include proposals for future use of the site and a recommended post-closure monitoring protocol.

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I wonder if the Honourable Member could say approximately how far north the estimate will be taking the landfill, as it creates a concern on my part in regards to the proximity of the North Sound and the effects it could possibly have in that area.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** It is difficult for me to give an exact answer by way of distance to the Member's question. Let me say to the Member, though, that the Head of Department and I—in fact all of the other members of staff who were involved in the 'look-see' as regards to any additions—are very conscious of the very fact he mentioned in his question. There was consultation, I believe, with the Department of Environment to ensure that the risk was not a high risk to

increase the capacity going in that direction. If the Member wishes a firm reply in writing, I could get that.

**The Speaker:** Supplementaries, the Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I do not really have any desire for a reply in writing. However, just to clear my mind, if the Minister at some point could arrange for a visit for the rest of the Honourable Members of the House to visit the site.

**The Speaker:** Please turn it into a question.

**Capt. A. Eugene Ebanks:** Honourable Minister, would you arrange a visit to the site at your convenience?

**The Speaker:** Before calling on the Honourable Minister, I would advise Honourable Members to direct your questions to the Chair.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Needless to say before I answer I can remember my first day of asking questions but we will all get there, not to worry.

Mr. Speaker, I do not have any problems whatsoever arranging a visit. The analysis that I spoke of in the answer, will be tabled shortly. The original analysis was done from March 2000 but was not presented and tabled in this Legislative Assembly. I am simply getting a few updates done to that analysis because a period of time has passed since then. So in a matter of days, the document will be tabled. In tandem with tabling that document we will make the arrangements for the visit so that Members will have the benefit of being able to read the document and actually have a 'look-see' and be able to get a clear understanding to what the position is.

**The Speaker:** Are there any further supplementaries? The Third Elected Member for George Town.

**Dr. Frank S. McField:** Could the Minister say if so far the Department of Environmental Health has been able to suggest where a possible site location would be?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if I may just refer to my answer— please give me a minute.

Just to quickly read the part of the answer so that it will be clear. **"A common thread among all alternatives is the need for a new landfill. I am prepared to table this study for the benefit of Members and to commence the public debate over future alternatives. In the interim, the De-**

**partment of Environmental Health will begin a landfill site selection . . ."**

So, we have not gone through the process of being able to identify specific locations as yet, but the process that will be used will be one that is public.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, could the Minister say how long this process would take?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** To be truthful, Mr. Speaker, I have not issued any instructions as to timelines as yet. I am waiting to table the document and to speak to all Members of the Legislative Assembly regarding that process so that everyone is on board when it is done.

**The Speaker:** The Third Elected Member of George Town.

**Dr. Frank S. McField:** Mr. Speaker, could the Minister say to what extent will the location and size of the site be influenced by other considerations such as alternative methods of disposing of waste?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I think what I heard the Member say was location and size of site?

The Member is wondering how will that influence alternative waste management systems that might be employed.

The fact is there is no answer that I can give at present for that because the Department has not gone that far with the entire process.

This study—just so that I can quickly explain, and as soon as I have tabled it Members will see what I am saying—is to give various alternatives for us to consider. The Department has not taken a fixed position of making a specific recommendation because the dynamics will depend on the policy emanating from the Government in consultation with the Members. The route that is being taken is that there are various alternatives, which we will discuss, have the facts available to us, and then make the necessary decisions.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I will put this into a question. Just for the information of the Minister, the reason why I am asking the question in this manner is because I would like to know if anything was done by

the past government. Do we know that the landfill will somehow expire within less than two years? Was anything started—any motion—to alleviate these conditions?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I am pretty certain that the Third Elected Member for George Town will remember when we were both on the Backbench all the questions that were asked about the landfill and the fact that it would soon be to its maximum capacity.

The study that we had requested, which was promised to be tabled, was done in March 2000. The Department was not in a position to act any further because there were no policy decisions made. The document was not tabled. There was no discussion about the document so it was at a standstill.

At this point in time I am proposing to do the best that I can to move the situation forward so that decisions can be made as timely as possible.

**The Speaker:** Does any other Member have a supplementary?

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker, through you to the Honourable Minister.

I know there is a minimum amount of recycling. Is Government giving consideration to trying to separate the glass, the plastic, the aluminium cans? It has been said in other territories that the glass, especially, can be used for some of the work on the roads. Just recently on CNN I heard that this is being done extensively in parts of the United States. I just wondered if Government could give some consideration and promotion to this area.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am aware of what the Member has just spoken about and the question, whether it is being considered by the Department. The Department is very conscious and in the process of examining the various alternatives. Information is now being collected (as I speak) to try to determine certain volumes and the practicality of doing just what the Member asked about. But that too will be part and parcel of the options that we will be looking at. We have to see what it is going to cost to do that and what are the benefits to be derived either way: not necessarily by equating it to a dollar bill, but if we are looking at the environmental impacts and volume being occupied and that kind of stuff. That is part and parcel of the document to be tabled and the discussions that will certainly ensue.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member state if studies have also been conducted to determine the effects of drainage from the George Town landfill on the North Sound, and on the surrounding water table?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am not certain that I can speak to any specific study. What I do know is that there have been several tests done in the canals, that we call the dikes, to check the quality of the water—to see if there is any contamination. And, there also have been ground water tests done on a regular basis which would be able to determine if there was any underground activity contaminating either the immediate area or extending farther out. I think the Member would be considering the North Sound.

At this point in time there has been no detrimental activity that would cause for great concern. While that statement has been made by me, the others in the Department and the Ministry are very conscious of continuing the practice and that not having the proper base for the landfill there is a risk involved. That is one of the reasons for wanting—not only because of the lack of space—to shift the landfill site as it is a risk not only to the immediate environment but also to the North Sound in the longer term.

**The Speaker:** I am going to have to limit the supplementaries to two additional.

The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** Mr. Speaker, through you, could the Honourable Minister state whether there is any commission or study that has been done on the air quality surrounding the immediate area of the landfill site? As we all know the decomposing waste will turn into some toxic fumes and generate—

I am just wondering if there has been any commission or study done or if it is an ongoing process?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I cannot say if any study has been done which has brought about a specific result. I am not trying to be generic in the answer. I just don't have the facts in front of me to be able to speak to the question specifically.

I can find that out and if the Member wishes that answer in writing or verbally, whichever he wishes, I will give him the reply.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** I would appreciate if the Minister could get the information to the House.

Could I also ask for an undertaking from the Minister that if such a study has not been commissioned if it would be possible to have one done?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you. As new as I am, Mr. Speaker, I will not get caught into that trap.

I certainly am very conscious of what the Member has asked, but I cannot give a commitment of that nature. What I will commit to is that once the document that I have referred to before is tabled and we begin discussions that all input from Members will be taken into consideration and whatever is reasonable and necessary to do will be done.

**The Speaker:** Moving on to Question no. 2 standing in the name of the Third Elected Member for West Bay.

## QUESTION NO. 2

**No. 2: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture if there are any plans to introduce a Trade, Vocational or Technical School so that students passing through the school system without graduating, or other young people, will be able to learn a trade to become productive citizens.

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Government has no plans, at present, to do away with the comprehensive system of education where college-bound and non-college bound students are educated together. Government is, however, looking at ways to provide a more meaningful course of study, including qualifications for what is euphemistically called non-academic students. At the same time, the Government has begun to look at an apprenticeship scheme which will combine work and study and at entrepreneurship schemes which will involve young people and boost their skills to enable them to join the workforce.

## SUPPLEMENTARIES

**The Speaker:** Supplementaries, The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** First I would like to thank him for this comprehensive answer and to ask the Honourable Minister whether it would be a correct assessment upon reading the question, to come to the conclusion that up until now the Government has had a comprehensive education system.

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, the present political directorate has inherited a comprehensive system of education and it is my understanding that such a system of education had its genesis in the 1970's.

**The Speaker:** Are there any further supplementaries? The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Could the Minister give the House some indication as to the non-academic courses or areas of study that might be included in teaching the various skills that he has referred to in his answer?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Currently, there are several non-academic courses being taught: art, home economics, carpentry, auto-mechanics, et cetera.

Mr. Speaker, the reason the Government is taking an interest in this is because it realises that the introduction of these courses is critical to later success. It has been established that we need to pay greater emphasis on the introduction to ensure that we have proper lab facilities and proper workshop facilities. These are the areas that the Government intends to place its emphasis on in the next triennium.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Would the Minister say if the areas he has named, if students have the opportunity of actually taking an examination in these areas or to what level are they taught at the school at this time?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Yes, Mr. Speaker, students have options of taking some of these subjects at either CXC or through the IGCSE examination syndicates.

**The Speaker:** Supplementaries, the Third Elected Member of West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker. I wonder if the Minister could say at what stage in the student's schooling, whether it is in junior high or when he is ready to come out of high school, will he be introduced to vocational or technical studies?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.



**Hon. Roy Boddén:** Students are introduced to these subjects from the time they enter the George Hicks School and they follow through up to the John Gray High School until graduation time.

**The Speaker:** Are there any further supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say after finishing high school—in his most recent answer to the supplementary, he said, “*up to the George Hicks High School*”—what provisions are in place for continuation after high school in vocational training?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddén:** That answer is forthcoming in the answer I have prepared for the next question, if the Honourable Member can wait, Sir.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** Can the Honourable Minister say whether or not the subject of information technology is included into the trade, vocational or technical curriculum in any of the schools’ curriculum, be it primary through high school?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddén:** It most certainly is, and I apologise to the House because that was my glaring omission.

Mr. Speaker, this Government places great emphasis on information technology and we have embarked upon strengthening the procedures and the system we inherited in terms of information technology. Currently, all of the primary schools have information technology units and we are striving to bring some uniformity to the kinds of equipment used and programmes to which the children are exposed. This continues up through middle school into high school. And, of course, the Community College—with the cooperation of Cable and Wireless and under the auspices of Bill Gates and his organisation—has an excellent programme of continuing education studies in the computer field.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

Through you to the Minister responsible for Education, can the Minister provide us with the courses offered at the Cayman Brac High School for the non-academically inclined, and are they in-line and as comprehensive as those offered in Grand Cayman?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddén:** Mr. Speaker, the courses offered at the Cayman Brac High School follow a similar trend as those offered in the high schools on Grand Cayman.

On a recent visit to the Cayman Brac High School, I was impressed with the quality and the enthusiasm of the students. My team and I were entertained at the Bluff Café and treated to a most sumptuous meal by the students in Home Economics—boys as well as girls. Immediately after that they invited us to visit a project which they had embarked upon constructing a storehouse, that is, in the field of carpentry and building technology. So, yes they are. Indeed their success is only limited by the size of the school population.

In terms of information technology at the [Cayman] Brac High School, we are in the process of upgrading and reorganising their computer lab. I think it suffered some kind of damage due to a lightning strike but we should be well on the way to restoring this to its original, if not, improved state.

**The Speaker:** Do you have a follow-up?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** You mentioned the IT at the Cayman Brac High School and its equipment. Can the Minister also confirm that the three primary schools in Cayman Brac are adequately equipped with the computers and the support staff for IT?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddén:** Mr. Speaker, it gives me great pleasure to give these answers since I am speaking from a position of knowledge because I personally visited all these schools. I would say that conditions at the Brac for education and educational exposure are excellent because we have small sizes, excellent equipment and pupil/teacher ratio is very low.

Yes, the primary schools in Cayman Brac are well equipped to expose the students to the world of information technology. The examination results at the high school level prove that the teachers at the Brac are doing an excellent job and that the students are receptive and *with it*, as we say.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, can the Honourable Minister say if that is true also for East End? Does the East End Primary School have sufficient technology equipment available for the learning experience, the exposure experience? And, could the Minister state why the primary schools have *Apple-*

based information technology equipment and the high school, *Windows*?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** To say that we are equipped to introduce the students from the primary school to the world of information technology is a true statement. However, that statement does not by any means mean to convey the fact that we are in the best position we could be.

The Ministry and the Government are aware of the challenges which we face and I assure all honourable Members that we are working to meet these challenges within the limits of the constraints, which we now face.

I want to specifically refer to East End. The East End Primary School is one of the schools where we still have some challenge. The Honourable Member asking the question, accompanied me along with members of my department (including my Permanent Secretary), when we visited the school. We discussed these problems. I gave the Honourable Member my assurance that the Minister and the Ministry would work to overcome the challenges and indeed we are doing that.

There are some discrepancies between some of the programmes and some of the equipment offered in the primary schools regarding compatibility, with that offered at the High Schools. We are working to bring complete and total compatibility, but Honourable Members will have to realise that *the world was not built in a day* and it takes us some time. We, in the Education establishment are constantly working to improve the standards and improve performance.

I ask Honourable Members for their patience and understanding.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** This question is directed again to the Honourable Minister for Education. I wonder if he could state for the record what is the policy regarding inviting representatives from the district during district visits, as it was revealed in the last answer that the Member from East End was invited, unlike the First and Second Elected Members from Cayman Brac and Little Cayman to whom no invitations were given during the Education visit to the Brac?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, I do not think it is accurate to remark that the Honourable Member for East End was invited. I certainly cannot recall extending any personal invitation to him. It is my understand-

ing that he is a regular and frequent visitor to the school. When I arrived there, I found him there and I do not think it was in my place to ask him how he got there, and I did not.

The reason why the First and Second Elected Members for Cayman Brac and Little Cayman Brac were not invited on the visit that we made to Cayman Brac was because I told the Permanent Secretary on the first visit I wanted a heart-to-heart talk with the teachers. I preferred to meet them without any of the other representatives being present because I had some things to say to them which would not have been of interest to the other representatives.

**The Speaker:** Do you have a follow-up?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I wonder if the Honourable Minister could give an undertaking that since he has done the housekeeping on his first official visit that he would undertake to invite First and Second Elected representatives from the district of Cayman Brac on any subsequent visits.

I can undertake for myself that if there comes a time during the meeting that there is a conflict of interest, I have no problem stepping outside and enjoying the cool breeze on the Brac.

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, I give an undertaking in the interest of transparency and accountability to invite any and all Honourable Members to accompany me on school visits when the visits are of a mutual interest and can be mutually informative. What I do not want to say is that I give an undertaking to invite them at all future visits because sometimes it may not be convenient. Sometimes matters crop up which are of an emergency nature and sometimes they are of such a sensitive nature that it may not be relevant, nor of interest, to Honourable Members to accompany us on those visits. But I can say this much, Honourable Members will be invited at least once per annum to accompany our team from the Ministry when we visit the schools of the various constituencies.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I wonder if the Minister could in the interest of open government, transparency, honesty and all those other things say, whether or not, these seemingly favourable conditions that he has described existing in the schools have been a result of the present or of the past government, or of both?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, if the Honourable Member can show me the relevance and association of that question with the substantive question I shall be glad to provide my disposition, Sir.

**The Speaker:** I will have to limit additional supplementaries to two. Third Elected Member for George Town would you re-phrase your question?

**Dr. Frank S. McField:** I think that the Minister in answering the question did give us a picture of what was happening in the schools as one which he seems to be rather satisfied with and proud of. And, I was trying to find out how much his government has been able to achieve so far in terms of these results or could he easily say whether or not he came and found those conditions there?

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

**The Speaker:** Before asking the Honourable Member to reply I would appreciate the suspension of Standing Order 23(7) and (8) in order that Question Time can continue beyond 11 am.

The floor is open to the motion.

**Hon. Roy Bodden:** Mr. Speaker, I respectfully beg of you to allow the suspension of the relevant Standing Orders that I may answer the immediate question and all other supplementaries thereafter, Sir.

**The Speaker:** The question is that we suspend Standing Order 23(7) and (8) in order that Question Time can continue beyond the hour of 11 am. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time continuing.

#### **AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I wish to say that I have gone on record publicly to state that at the end of my visits I was pleased with what I found in terms of infrastructure and foundation in most of the schools. I commented, Sir, that generally they were well equipped. The physical plans were reasonably well maintained and I gave credit to past administrations and past political directorates including that of the immediate.

I made no attempt, Mr. Speaker, to claim for myself as Minister, nor for the Government of which I am a part, any credit not due us. Mr. Speaker, I have always practised honesty and graciousness and will be glad to give credit where credit is due. I do not seek to take all the glory, or any glory, for myself – particularly that which is not due me.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, in the defence of the Minister of Education—

**The Speaker:** Please turn it into a question.

**Mr. V. Arden McLean:** I will, Mr. Speaker. He is right. I learnt of his impending visit that morning from the teachers at that school in East End because I have a very good relationship with the teachers and the principal at the school. I invited myself and he graciously accepted me and I thank him for that.

Mr. Speaker, could the Minister explain to this Honourable House what is the policy with regards to politicians or representatives visiting the schools within the parameters of the school hours and otherwise?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture. I am allowing two additional supplementaries. The First Elected Member for Cayman Brac and Little Cayman has caught my eye after this one and the Second Elected Member for West Bay.

**Hon. Roy Bodden:** I thank the Honourable Member for his question and although it puts me on the spot a little now, I am not caught completely flat-footed. This is one of the matters which we are presently discussing and I believe that in keeping with the announced policy of the Government towards openness and transparency it would be good if Honourable Members could visit the schools anytime they wished. However, it is a matter which the Ministry and the Department will have to get together to iron out because there are certain protocols and certain procedures which need to be followed.

First of all, the Education Department is responsible for what happens in the schools and on the school compound on a day-to-day basis. While I as a Minister might not have any objections to politicians or representatives visiting their schools, the matter should first be cleared through the Education Department after consultation with the schools' principals. I undertake to give to Honourable Members a clear and definitive position in writing after I have fully consulted with the Education Department and my Permanent Secretary so that there can be no misunderstanding of what the policy is.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman, a supplementary.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, would the Honourable Minister confirm whether or not I was extended an invitation to visit the schools on Grand Cayman and not Cayman Brac and Little Cayman?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, regrettably, I am not in a position to confirm that. But as regards the visit to the schools in Cayman Brac perhaps it is fortunate that the Honourable Member was not extended an invitation to visit the schools in Cayman Brac because she was already extended an invitation to accompany the Minister for Youth and Community Affairs on her official visit. So, I can hardly see what the big deal is about not being extended a visit to the schools in Cayman Brac since the Honourable Member could not have been in two places at the same time.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, would the Honourable Minister state what the situation is in regards to technical and vocational training opportunities to schools on Little Cayman?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, it looks like I am paying for my old sins today. *[Laughter]*

What exists on Little Cayman can hardly be described as a school. It is a facility which caters to the education of two children and they are at the very early stages of elementary school. The population of Little Cayman does not justify any greater educational investment at the time than that, so we do not have the challenge of providing technical and vocational education for the students on Little Cayman at this time.

**The Speaker:** Moving on to Question No. 3 standing in the name of the Third Elected Member for West Bay.

### QUESTION NO.3

**No. 3: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture what technical/vocational courses are available at the Community College and what is the current enrolment in each, broken down by country of origin.

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** (See Appendix I)

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I think today should be noted as an occasion where Caymanians seem to be in the majority in the information that the only Minister has given us in regards to these courses.

The question that I would like to ask is whether in these various subjects all spaces are filled, or if indeed there is more capacity for persons to enter these fields of study?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I would like to assure the Honourable Member that it is my information that there is more space for, hopefully, Caymanians who are desirous of enrolling in these courses.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Minister say based on his answer whether or not the Community College is at its full capacity physically? If so, are there any plans for expansion of the Community College?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** It gives me great pleasure to inform Honourable Members that the Community College was developed as an institution to provide immediate access to tertiary level education and professional training for working Caymanians. As such, it is a showpiece that one and all can be proud of.

Recently, I had the pleasure of appointing a new board to the College and sitting with them briefly at the first Board Meeting along with the President of the College. And, I have been subsequently informed that the future of the Community College is a rosy one.

The College is not up to capacity. Expansion plans are on the way. They are practical plans and Honourable Members can look forward to the college even rising to greater heights.

**The Speaker:** The Second Elected Member for Bodden Town. Do you have a follow-up?

**Mr. Gilbert A. McLean:** No, it is a new question.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, can the Minister state what is offered in Cayman Brac compared to what is offered in Grand Cayman for the opportunity of its citizens to have equal access to tertiary education immediately?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, unfortunately, the offering at this level over at Cayman Brac and Little Cayman has to be limited because of the size. However, I take great pleasure in informing the Honourable Member that Cayman Brac students, where they qualify, have full access to a \$12,000 scholarship, which allows them to access these courses at the Community College of the Cayman Islands.

**Mr. Gilbert A. McLean:** Would the Member say if any of the subjects listed here are done through distance learning?

And, is there any intention in the future to restart areas of vocational training in the building trades, hotel training and so on, which I understand is no longer carried on there and which the college started out with?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The answer to the first part of the question is that none of these courses are done through distant learning. There is a collaborative effort on the part of the Community College of the Cayman Islands and the University of the West Indies in some courses—including degree courses—where distance learning takes place and the Community College facilities and some of its staff are used for tutoring. As I understand it, that is a collaborative effort between the Community College of the Cayman Islands and the University of the West Indies. It is called UWID-ITE—University of the West Indies Distance Learning Education Project.

If there is a demand, certainly, the College is equipped to cater to some of these courses including hospitality courses. There is a fully equipped kitchen and Honourable Members will know that several years ago the hotel school was operated out of there. It is my understanding that demand fell off.

In recent times I have been speaking with my colleague, the Minister of Tourism, with the view to resuscitating this on a formal and practical way which will be enticing and interesting to the students.

As I understand it, the problem is this: there is a gap between what happens at the technical and vocational level at the secondary schools. As a result of that, it is difficult to just on a cold-turkey-basis introduce these courses at the Community College and expect the full participation of students, who may not have had continuous exposure and developed an

interest at earlier levels. It is the proposal and plan of the Government to reformulate the system so that there is introduction at the middle school level followed through the John Gray High School then up into the Community College. This will whet the appetites and interests of the students to such an extent that they will develop a continuing interest in these areas and there won't be any problem of lack of interest at the high school level.

**The Speaker:** In the interest of time I am going to have to limit this to three additional supplementaries.  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, it certainly is heartening to hear the last response from the Minister. Through you, can the Minister state how long the Construction Technology Certificate, Electrical Technology Certificate and the Hospitality Studies Course run?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Certificate courses are of one-year duration and diploma courses are of two-year duration.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister inform this House how many students graduated from the John Gray High School for the school year 2000?

**The Speaker:** I do not think that is directly related to the substantive answer but if the Minister wishes to answer he may. The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, if this is what my friends are doing me, can you imagine what other people are going to do me? Unfortunately, and regrettably, I am not in a position to answer that question at this time, Sir.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I appreciate that fact, however, being a relatively young person I can inform the Minister that in 1989 when I graduated there were over 300 students. One would think there would have been growth since then and so, Mr. Speaker, the reason for asking that question is simply because if you look at the number of Caymanians enrolled in what is termed the vocational programme, it comes up to some 55.

I was just a bit disheartened at the low enrolment considering that we have hundreds of high school

students graduating, not to mention that we also have high school students graduating on Cayman Brac as well.

**The Speaker:** Please turn that into a question because this is Question Time.

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you. Can the Minister state whether or not it is a fact that government policy now requires that when one is given a scholarship to pursue a discipline he must spend two years in the Community College to obtain an associate's degree?

**The Speaker:** Again, this is outside the ambit of this particular question but if you wish to answer you may.

The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, I can categorically state that is not the policy at this time. However, if the Community College offered courses and particularly, at the associate degree level, which can help the student, then students are encouraged to avail themselves of studies at the Community College.

This is logical for a number of reasons—not the least of which is the confidence of studying at home plus the foreign exchange that can be saved. But the educational authorities recognise that a significant part of tertiary level education is a broadening of the experience and that includes the experience outside of formal learning.

I want to comment, Mr. Speaker, if you will allow me on a point raised by the previous Honourable Member who made a statement or asked a question. The average graduating class of the High School is probably around 300. I do not think that it grew significantly from the time he stated that he graduated. In relation to that, the enrolment at the Community College last year was 2000—80% of which were Caymanians.

Mr. Speaker, I want to say to Honourable Members that we are quite cognisant of the challenges we face in education and some of them are going to be time consuming and difficult, but they are not insurmountable. Honourable Members should rest assured that they have an educator and a practitioner as Minister and with my team, I am sure that the results we are going to deliver are going to be pleasing and satisfactory to the House and to the country as a whole. We just need a little time and understanding, and Honourable Members will be apprised and informed as will the public.

Thank you, sir.

**The Speaker:** Moving on to Question No. 4 standing in the name of the Second Elected Member for West Bay.

#### QUESTION NO. 4

**No. 4: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport what is the subsidy at Pedro St James Castle and the total number of visitors and visitor revenue in 1999 and 2000, broken down by cruise ship and local resident.

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The Government subsidy, total number of visitors and revenue generated for Pedro St. James for the year 1999 and 2000 was as follows:

|                                      | 1999    | 2000    |
|--------------------------------------|---------|---------|
| Subsidy                              | 619,778 | 643,617 |
| Total number of visitors to the site | 23,300  | 25,077  |
| Total visitors' revenue              | 210,131 | 240,418 |

The present entry and accounting systems do not determine between the status of visitors and revenue generated. Thus, it is difficult to give a breakdown of local residents and cruise ship visitors and revenue received from cruise ship business.

#### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Would the Minister be able to say whether or not the number of visitors and the revenue generated for the years 1999 and 2000 are meeting the projections?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Perhaps the Member could say what projections he is talking about.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, if my memory serves me correctly there were certain projections made about the number of visitors in revenue, and, therefore the viability of the Pedro St. James project when that project was undertaken.

So, my question to the Honourable Minister is, can he state whether or not the number of visitors in revenue for the years, 1999 and 2000 accord with the projections which were made at the time that the project was proposed?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** As Members know, nothing about this project in the stages of development has gone right. There are no figures to say that . . . In fact, I think everything is just out of whack and we have to take time, turn the position around. There were no marketing programmes in place or use, I should say.

With the new Board in place and new Manager on site and an overall Overseer, I hope to turn this around by next year. At least, when I say turn around let me clarify that—to increase visitors to the site.

**The Speaker:** The Second Elected Member for George Town, a supplementary.

**Mr. Alden M. McLaughlin, Jr:** Is the Honourable Minister in a position to say what the recurrent cost of operating the Pedro St. James' attraction is currently?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** What I will have to do is to find out and get it to him in writing because I do not have that readily available to me at this time. As I said earlier, the subsidy is quite substantial, as Members can see.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** The Minister mentioned that there is a new Manager at Pedro St. James. Could he say who that person is and when did that person become the Manager at Pedro St. James?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The new Manager is an old member of staff—and perhaps the first member of staff—Mr. Carson Ebanks.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** I wonder if the Honourable Minister can say to the House the names of the present committee members for the Board at Pedro Castle?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** It is not part of the question and it has been gazetted, but I will attempt to relate those names to the House.

The Director of Tourism, [Mrs. Angela Martins]; Mr. Kirkland Nixon, Mrs. Karen Hunter; Mrs. Zeta May Bodden; Mrs. Orilee Ebanks and Mrs. Deidre Seymour.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** It appears to me that based on the statistics that were provided for that answer, we are collecting less than ten dollars from each visitor to Pedro Castle—that is what it calculates to, a little over \$9—and that is within each year as well—the two years asked for.

Mr. Speaker, can the Minister say what steps are being made to enhance the spending of the visitors at the Pedro Castle?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** That is a good question, but first of all we have to get visitors to the site before we can get them spending. We are working on an aggressive marketing programme with cruise ships, et cetera.

Hopefully, we can be successful in getting Pedro Castle to a place where it can become more self-sufficient. At the present time to get the number of visitors increased, we will have to wait and see how effective the new marketing programme will be.

**The Speaker:** Two additional supplementaries.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say if we have aggressively advertised for Caymanians for functions like weddings, et cetera, to be held at the Pedro Castle site? Is it a possibility in the future?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, that is a part of the marketing programme, but I can say to the House that so far out of these visitors a good proportion of them would be Caymanian firms who hold special functions and events at Pedro Castle at Christmas time and various times, also marriages and other ceremonies. I just cannot say what the numbers are, but as I said, we do have a new marketing programme and that is all part of it.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, I wonder whether the Minister can say whose responsibility it was, as it related to the marketing programme which he indicated was not in place or not used?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** You know, Mr. Speaker, I would like to say to that Honourable Member that perhaps she could tell me because she was part of the former government who ran this project. And, she might have some information to give me because I certainly cannot add anymore to what I have already said.

**The Speaker:** The Second Elected Member for West Bay, the final supplementary.

**Mr. Rolston M. Anglin:** Mr. Speaker, can the Minister say how receptive the Cruise industry has been to having the project as part of their tours considering its proximity to the Port?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, there has not been much feedback from the Cruise industry. I have taken the Florida Caribbean Cruise Association to Pedro Castle. We have had meetings there and we have talked about it, but there really is not much feedback. We do get a few visitors from the cruise ships.

What we have had was trouble collecting from the tour operators. The system that was in place, the tour operators had not paid Pedro Castle for like six months. So, we have put a system in place to stop that sort of abuse. But there has not been much feedback as yet. As Members know we have just taken over and I think they need to give us some more time to get our programme on the way.

Thank you.

**The Speaker:** Moving on to Question No. 5 standing in the name of the Fourth Elected Member for West Bay.

#### QUESTION NO.5

**No. 5: Mr. Cline Glidden, Jr.** asked the Honourable Minister responsible for Planning, Communications and Works to state:

- (a) What is the total amount of rent paid annually by Government and its Departments; and
- (b) What plans, if any, are there to improve on this situation by either building or buying additional office space?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Sir.

(a) In the year 2000, Government paid rent totalling \$3,361,916. In the year 2001 it is projected that \$4,136,489 will be paid.

I will add to that, Mr. Speaker, by saying that projected amount of \$4.1 million is not inclusive of sev-

eral requests from various departments and agencies who are at present really cramped for space but given budget constraints are going to be forced, it seems like, to continue to exist within the existing space that they have.

The answer to section (b) of the question is:

(b) A select committee made up of senior civil servants is currently investigating the options to the increasingly large take-up of space from the private sector. It is estimated that some additional 160,000 square feet of accommodation will be required over the next three to five years. Various statutory authorities are included in this figure, particularly the Cayman Islands Stock Exchange, Monetary Authority and Pensions Board. It is considered that this need can best be met by the construction of purpose-built facilities on existing Crown land adjacent to the present Government Administration Building.

#### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, would the Honourable Minister say whether any consideration is being given to enhancing the existing government buildings to make them more commodious and conducive to productivity?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** In order to make them more commodious and conducive, I believe that we have to look at the big picture.

In regards to the two largest accommodations that Government now owns—the Tower Building and the Government Administration, which we know as the Glass House—both buildings are in need of attention. But it is the Tower Building that is in dire straits with regards to the structural integrity and the need to refurbish.

We find ourselves in the position of having to look at a staged development and whenever we are able, to complete a first new structure where we can move the existing tenants from one of these buildings then refurbish that, et cetera. So, while we do not have it fine-tuned at this point in time, what the Member is asking is certainly part and parcel of the big plan. I do not know if we would even find space to shift people from either one of these buildings, but nevertheless the economies of scale dictate that we are going to have to acquire our own accommodation to move them into before we can get to that stage.

**The Speaker:** The Second Elected Member for West Bay.



**Mr. Rolston M. Anglin:** Mr. Speaker, could the Minister say whether or not any of the two present facilities, namely, the Glass House and the Tower Building have been condemned?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if that rumour is spread it is not a fact. The fact is, as I said before, the Tower Building is in more need of structural repairs than the Government Administration Building. It is expected that within 2 - 3 years we will have to do the repairs that are obviously necessary. Recognising that fact, after the structural integrity of the building was tested that is being borne in mind in the whole master plan again.

There are some views to dispose of the Tower Building site but there are also other schools of thought which might allow for people to be vacated from the site and the refurbishing to go on, and it would still accommodate some of the agencies of central government as part and parcel of the whole new accommodation package that we are looking at.

**The Speaker:** Two additional supplementaries, the Member from East End.

**Mr. V. Arden McLean:** I wonder if the Minister can say whether the Government intends to purchase already completed properties to accommodate, or will the Government go straight to building its own buildings on the Crown property next to the Glass House?

With regards to the Tower Building, it was no good from the time we bought it and I am just wondering if the school of thought on the disposal of the Tower Building is not a better one in the interest of Government since the parking around Tower Building does not lend to the number of departments currently existing within the Tower Building?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, as the answer states, the Government at this point in time is certainly more disposed to having its own premises constructed on existing Crown land rather than to be purchasing any existing buildings. There are more reasons than one for that disposition which also has to do with the present cash position, but that is not the only consideration.

The second part of the supplementary question regarding the Tower Building and whether it is not best to dispose of it, no final decision has been made on it. The technical people are examining the pros and cons.

With regards to the situation about parking, it is going to totally depend on what agencies are housed in the premises if it is kept, as regards to what the

needs are for parking. So all of those considerations are going to be borne in mind. However, the magnitude is one that calls for the equation to be looked at very closely to find what is the right combination as to who goes where and when we do what. All of that is being considered now.

I do not have a problem answering other questions, but let me say to all Members and Ministers today that as soon as we have a position that is very clear as to the way forward—and that is being worked on as we speak—I certainly will let all Members know what that position is. And again, I shall be quite willing to accept any recommendations that may vary from the disposition of the group working together on this.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** Could the Minister please state whether all the Government buildings and, specifically, the Glass House and Tower Building, are current with building code regulations, specifically, including fire and safety?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I can truthfully say that is not the case at present. It is an inherited situation for many people, not just me who has just been there. I think Ministers in the past were in the same position. Recognising all of those factors, it is part and parcel of the whole big picture. So when I spoke about the refurbishing of the existing premises, that included bringing it up to the required standards for fire and for all of the other sections which complete the area of building control.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, it is good to hear the Minister say that serious thought is being given to the erection of purpose built buildings for government. I have seen the incredible and unbelievable inadequacies for space in the Glass House. But in keeping with his answer he gave earlier with respect to parking, would the Minister give some undertaking that he would look into the matter of parking right now, at the Glass House (as it is commonly called) and the Tower Building to see if it is possible to provide some percentage of space for the public? It does appear that every single soul in those two buildings claims a parking spot.

I wonder what the policy is, or if there is one, or if the Minister is thinking of developing one in that regard.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Let me take it one building at a time. With regards to the Government Administration Building, I think, all of us recognise the inadequacy there with the parking. The only difficulty that we have is, in the short period of time that it is going to take for us to get the master plan for the various pieces of properties that Government has acquired there and to know exactly what is to be located where, it might be more wasteful to provide additional parking by way of paving or filling property and such the like just to deal with parking alone.

Notwithstanding the fact that there is a bitter pain at the moment, with regards to parking, the thought at present is to get the master plan as quickly as possible. Once we know what will go where, even while construction is going on we will be able to address the issue of parking at the Government Administration Building. We will not have to wait until construction is completed. That is the plan for that circumstance.

With regards to the Tower Building, it is a bit more difficult because at present we have not come to a final decision with regards to whether or not the Tower Building site will be kept. Given the situation that obtains at present, I have not been willing to go forward to seek approval to acquire any more property that may adjoin the site at present because I am not so sure whether that is being *penny wise and pound foolish*.

Decisions that need to be made will be made as soon as we have all the facts together and when we have a better idea of whether it suits us to vacate those premises and to refurbish the entire building including utilising that big hole that is in the middle now. If the structural integrity can be brought to where that is satisfactory, then we will be looking at what the necessary parking requirements are going to be.

I hear what the Member is saying, and while I have experienced what I am sure he is thinking about at present with both sites, I am simply explaining that although we are going forward to bring about solutions, we cannot address parking in an insular fashion because of the other considerations. But for certain, the parking issues are right up front with the other priorities.

**The Speaker:** Moving on to Question no. 6 standing in the name of the Second Elected Member for George Town.

#### QUESTION NO.6

**No. 6: Mr. Alden M. McLaughlin, Jr** asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development to state if the arrangements with Caribbean Home, the company that currently provides health insurance coverage to Civil Servants and Civil Service Pensioners, is operating satisfactorily.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, the insurance arrangements at the time of providing this answer, are not operating satisfactorily.

Recent amendments proposed by Caribbean Home Insurance Company purported to be effective as of 1 March 2001 would significantly vary the benefits from those agreed upon under the original plan which came into effect as at 1 March 2000. As a consequence, this matter has now been turned over to the Legal Department for action.

#### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, would the Honourable Third Official Member say whether or not this unsatisfactory situation has negatively impacted the health insurance coverage for civil servants and civil service pensioners? And, if so, how is this matter being addressed?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, the proposed modification to the plan would adversely affect civil servants, their dependencies, pensioners and all other entitled cases, if accepted. However, in the interim, a committee has been set up by Executive Council under the Chair of the Permanent Secretary of Health and drawing on expertise from other relevant departments of government to consider the proposal that has been put forward by Caribbean Home and also to make recommendations to the Government.

In the interim, also, those persons who are presently undergoing medical care, or their relatives, or persons associated with them, to be in contact with the Chief Medical Officer so that appropriate arrangements can be made for their continuing medical treatment. And, for continuing medical treatment for civil servants and all entitled, cases are now required to be referred through the Chief Medical Officer until this matter is resolved.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, could the Member say if this now means that Caribbean Home as of 1<sup>st</sup> March 2001 no longer stands responsibility for medical treatment gained by civil servants and members of their families?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I cannot confirm that position to the Honourable Member. As I

said, the matter has been referred for legal action. There is a contractual arrangement between the Government and Caribbean Home. Caribbean Home has sought to modify that arrangement. What's been done has not been accepted by the Government; therefore the matter has been referred to the Legal Department.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, this is simply to know if at the moment Caribbean Home is honouring the original agreement, which would mean that they would be paying for the medical treatment of civil servants and their dependants. Or, is Caribbean Home at the moment honouring the amendment to the agreement?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, because the matter has been referred to the Legal Department, I have information on hand that could answer the questions that have been raised by the Honourable Member. During the break, I could share with him and any other Honourable Members interested in seeing the correspondence.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, would the Member tell the House what happens in the instance of an emergency? How quickly can the Chief Medical Officer (or someone filling his absence) give authority to proceed with a particular treatment?

Would the Member undertake to make available to Members of the House copies of the contract between Government and this particular health insurance company?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** There is a 24-hour line that has been established. Civil servants and all entitled cases have been advised of that number in the event of an emergency. A copy of the agreement that was entered into can be made available to Honourable Members.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, I wonder whether he could say if the Medical Officer has designated someone on Cayman Brac for such authorisation or whether that too has to be channelled through the Chief Medical Officer in Grand Cayman?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, all enquires will have to be channelled through the Chief Medical Officer.

**The Speaker:** Are there any further supplementaries?

If no further supplementaries, we will move on to Question No. 7 standing in the name of the Third Elected Member for George Town.

## QUESTION NO.7

**No. 7: Dr. Frank S. McField** asked the Honourable Minister responsible for Education, Human Resources and Culture what International Labour Organisations' Conventions are the Cayman Islands a party to as a result of the extensions of these conventions to the Cayman Islands by the United Kingdom Government. And, if we are a party to the International Labour Organisations' Conventions, please say what is being done to assure these conventions are adhered to and the proper reporting procedures to the International Labour Organisations are followed.

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The International Labour Organisation declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organisation to respect, to promote and to realise, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

- (a) Freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

For a number of years the Director of Labour has worked closely with the International Labour Organisation Caribbean Office and has utilised the expertise of that Office in a number of areas including the training of Labour Inspectors and members of the Labour Tribunals and Labour Appeals Tribunal.

Our relationship with that Office includes participation in various surveys and data-gathering activities of the International Labour Organisation (ILO), attendance at conferences, seminars and training institutes and hosting periodic visits by ILO officers. My Ministry intends to continue and, if possible, to strengthen this cordial and beneficial relationship. In addition, we intend as a matter of some priority to conduct a thor-

ough review of our Labour Law to ensure that it is fully in line with the highest international standards.

Mr. Speaker, to this I would like to add that recently the Ministry has received an invitation to send a representative as part of the United Kingdom's delegation to attend a conference of the ILO to be held in Switzerland from June 5<sup>th</sup> - 21<sup>st</sup>. It is the intention of the Ministry to find a suitable person to send on this important and informative conference, which is a demonstration of the Ministry's intention and announced policy of continuing to co-operate and to work with the ILO to better improve working conditions and the understanding and relations of labour and employment as regards both the employer and employee in the Cayman Islands.

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, please could the Minister say why he did not answer the question? The question asks what ILO conventions are the Cayman Islands a party to as a result of the extensions of these conventions to the Cayman Islands by the United Kingdom government. What conventions are we a party to?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, the Cayman Islands by virtue of their association of the United Kingdom is a party to all of the conventions of the ILO that the United Kingdom is a party to. I do not have the catalogue but I am sure that the Honourable Member will know what some of these conventions are, having to do with some that I read out: Freedom of Association, Freedom to join collective bargaining organisations, Freedom from harassment, Freedom from discrimination and all the other relevant conventions.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I thank the Minister for giving me a definite answer on the question. Now, I will ask him the second part of the question: What are the reporting procedures and if they are being followed?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, if the Honourable Member can explain what he means by reporting procedures—reporting to whom? Reporting to the ILO? Or if the Honourable Member could be a little bit more specific then I would be happy to provide an answer, Sir.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, when we speak of reporting procedures, the ILO in order to assure that the members who are signatory to the conventions are complying with the conventions. Member states usually report the kind of progress being made with regards to these conventions. So, for instance, freedom of association and the effective recognition of the right to collective bargaining, what is being done from the point of the Department of Labour in the Cayman Islands to encourage and support persons who are interested in the concept of collective bargaining, which is one of the fundamental principles and rights of the ILO conventions?

**The Speaker:** The Honourable Minister for Health, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, one must understand that the Cayman Islands is not a direct signatory to the ILO conventions. The association of the Cayman Islands comes by way of their relationship with the United Kingdom.

That being the case, it is not a requirement of the Cayman Islands to report directly to the ILO in these instances. I can say to the Honourable Member that it is not the position of the Government to encourage or discourage anyone from joining collective bargaining units. Let me state, Mr. Speaker, what I see the position of the Government and what the philosophy of the political directorate is.

The philosophy of this political directorate is that they realise that the relationship is a tripartite relationship. It is employer, employee and then there is the Government. The Government's business is as a facilitator, a provider and an educator. The Government must find itself in a position where it is a neutral and impartial person. The Government must be a referee respected and accepted by both parties.

If the Government would go out and openly encourage people to join trade unions and collective bargaining units then the Government would be compromising its position as a neutral referee—as an impartial body. It would be compromising its position just like if it would go out and side, obviously, with the employers—it would compromise its position.

The Government has to set the mechanism in place so that it is a level and open playing field for those who want to join collective bargaining organisations to do so. But I do not see it as the role of the Government to say to someone to join this collective bargaining and that collective bargaining unit. The Government must make sure that no one is impeded if he wishes to exercise his democratic right to join. Similarly, persons should not be intimidated if they refuse to join.

Thank you.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I hope that my possibility for supplementaries is not limited by the Minister's windy replies.

I would like to ask the Minister if he believes that in order for there to be a tripartite system—and if that is the interest of the Government to have this framework—if he can imagine no ways that the Government could be involved with supporting the concept of collective bargaining by way of assisting persons, and to make sure that persons who are interested are not being intimidated, for instance, in the workplace. And if his reply does not suggest somehow that he is being defensive with regards to the Member's question?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, I am not a judge of my answer so I cannot say if I am defensive or offensive. I am only trying to give an answer that is factual and in keeping with the philosophy of the political directorate.

I reiterate, Government's business, the Labour Law and the policy of the Government must be one that enables persons to practise and perform their democratic rights and responsibilities. Now, if persons are disposed to joining collective bargaining organisations, the Government dare not stand in their way. Certainly, any government I represent I would not put obstacles in their way.

Similarly, if any employer or employing agency tries to prevent anyone from exercising his democratic right to join, then it is the responsibility of the Government to ensure that the law is such that those persons can exercise their democratic rights and join the collective bargaining organisation of their choice.

I know of no case of intimidation which has been brought to my desk where people were prevented from joining any collective bargaining association. If the Honourable Member has such knowledge could he convey it to me formally and I give him my undertaking that I shall act upon it post-haste.

**The Speaker:** Does any other Member have a supplementary so we can put—

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Could the Minister say if his position with regards to collective bargaining is, as he has stated? Does that mean then that he will bring an amendment to the Labour Law to allow collective bargaining to be formally recognised as part of the laws of the Cayman Islands and not just a principle that the Cayman Islands Government is a party to by virtue of the United Kingdom being a party to the ILO convention?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, one will have to understand in this case that any labour law that is drafted in the Cayman Islands has to be in keeping with the relationship of the United Kingdom being a signatory to ILO conventions. Therefore, it would be unwise for anyone to draft a labour law in the Cayman Islands, which is ultra vires that relationship because it would be a waste of time. And I am not prepared to be a time-waster.

I see no reason for there to be any more specific clause or conjunction than to say that *it is a fundamental human right of persons to be allowed to join collective bargaining units*. That does not have to be etched in stone or written in blood. It is an accepted fact.

**The Speaker:** Are there any further supplementaries?

No further supplementaries, we will move on to Question No. 8 standing in the name of the Elected Member for East End.

#### QUESTION NO.8

**No. 8:Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports if the Department of Social Services has any officers stationed, or even working part-time, in districts outside of George Town.

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** There are seven Community Development Officers throughout the districts. Two are assigned to the district of George Town; one to West Bay; one to Boddan Town; one to East End; one to North Side; and one to Cayman Brac, but there are currently no Social Workers stationed in the districts outside George Town. All Social Workers, however, visit the districts to work with their clients and their families. The Community Development Coordinator is a qualified Social Worker with 20-odd years' experience and she works along with her staff, the Community Development Officers, who have had some social training, in all the districts. In instances where the cases require more in-depth work and follow-up, clients are referred to the Department.

In the near future the Department intends to assign Social Workers to work in each district half a day per week. This will be closely monitored to determine if the hours need to be increased.

#### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say with regards to these social workers, do people have to come all the way into George Town, from East End, North Side, West Bay and the other districts? Or does the social worker go to the referrals in the outer districts?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, this is done upon a *needs* basis. If the persons required for interviews are capable of coming into George Town then they do so; if not, a social worker will visit those persons in their districts.

**The Speaker:** Any further supplementaries?  
The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, can I then determine from the answer provided that the Social Services Department in Cayman Brac would be comprised of a community development officer rather than social service workers?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, it is really good that I have the personality that I have, seeing that I just visited the Social Services Department in Cayman Brac with both representatives from Cayman Brac and Little Cayman.

We have two social workers in Cayman Brac in the Social Services Department.

**The Speaker:** The Elected Member from East End.

**Mr. V. Arden McLean:** In the latter part of the Honourable Minister's answer, she said that in the near future the department intends to send social workers to work in each district half a day per week. I just wonder if the Minister can state whether locations in each district have been identified for these social workers to be at for that half day per week?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** In reply to this question, discussions have taken place with the Ministry of Health in this regard and they have offered the use of a dedicated room in each health centre, set aside for use by drug counsellors, social workers and any other parapatetic staff in related workers.

Social workers, however, will also be expected to work in the field with clients, singularly, or in collaboration with the respective Community Development Officer.

**The Speaker:** Are there any further supplementaries?  
The Member from East End.

**Mr. V. Arden McLean:** Can the Minister give us some definite time with regards to the near future?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The Director of Social Services has informed me that it will be by June of this year.

**The Speaker:** Are there any further supplementaries?  
If there are no further supplementaries, that concludes Question Time for this morning. I would suggest that we take the luncheon break at this time and return at 2 pm.  
We shall now suspend proceedings until 2 pm.

#### PROCEEDINGS SUSPENDED AT 12.29 PM

#### PROCEEDINGS RESUMED AT 2.07 PM

**The Speaker:** Please be seated. Proceedings are resumed. Item number 6 on today's Order Paper, Other Business, Private Member's Motions.

First of all I would ask for the suspension of Standing Order 14(2) out of an abundance of caution, although there is no Government Business on the Order Paper today. Thursdays are set aside for Private Member's Motions.

The Honourable Minister for Education, Human Resources and Culture would you move the suspension of Standing Order 14(2).

#### SUSPENSION OF STANDING ORDER 14(2)

**Hon. Roy Bodden:** Mr. Speaker, I beg to move the suspension of Standing Order 14(2) in order that Private Members' business can be conducted at this time.

**The Speaker:** The question is that we suspend Standing Order 14(2) in order that we can proceed with Private Members' Motions. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: SUSPENSION OF STANDING ORDER 14(2) APPROVED.**

#### OTHER BUSINESS

#### PRIVATE MEMBERS' MOTIONS

## PRIVATE MEMBER'S MOTION NO. 1/01

### ESTABLISHMENT OF A SELECT COMMITTEE ON MINIMUM WAGE

**The Speaker:** Continuing, Private Member's Motion No.1/2001 Establishment of a Select Committee on Minimum Wage to be moved by the Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** Mr. Speaker, I beg to move Private Member's Motion No. 1/2001 entitled Establishment of a Select Committee on Minimum Wage standing in my name and reading as follows:

**"WHEREAS the high cost of living is placing unbearable hardships on many of the hardworking citizens of the Cayman Islands;**

**"BE IT RESOLVED THAT Government consider as expeditiously as possible the implementation of a minimum wage to be determined by a Select Committee of the whole House."**

**The Speaker:** Do we have a seconder?  
The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I beg to second the motion.

**The Speaker:** Private Member's Motion No. 1/2001 has been duly moved and seconded. Does the mover wish to speak to it?  
The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** Thank you, Mr. Speaker. In rising to introduce this Motion, I must say that I am a bit disheartened to have to be bringing a Motion of this nature to be discussed by this Honourable House in this day and age of the much talked about prosperity in these our beautiful Cayman Islands.

In doing my research for this Motion I was amazed to learn that there were Motions attempting to address this major discrepancy in our country from as far back as 1988, 1995, 1998 and 1999. I find it utterly disgusting that from 1988 our legislators were aware that insufficient wages were a problem and causing serious hardships on the people of this country. Here we are a brand new government, in a brand new millennium in the year 2001, and the problem still exists and as expected, the extent and the ramifications of the associated problems have multiplied.

Well, Mr. Speaker, my colleagues and I, in this Honourable House, were elected by our constituents to fix some of these problems that have been used to disadvantage our people for far too long. We all campaigned and were elected on the premise that a change in the government would be a positive change for our people who are our country's greatest asset—especially here in the Cayman Islands with such a small indigenous population.

Mr. Speaker, I feel that as leaders who have been charged with the honourable job of serving our people we have to realise that this duty will often require the making of unpopular decisions in various sections of the society. My feelings, however, are that if all employers in this country were treating their employees fairly then there would be no need for this legislation.

Yes, Mr. Speaker, it is much in the same way that we have the Traffic Law. We do not require the Traffic Law, for the people who are reasonable and understanding, and exercise good judgement, but for those who are selfish and have no regard or respect for their fellow man.

So, I offer no apologies to those sections of the society not supporting such legislation; I feel that for far too long certain groups have used their influence to allow them to take advantage of the situation that exists and to exploit the hardworking people of this country.

Actually, I would like to believe that in a country ranking as the fifth largest financial centre in the world, and boasting of such a high quality of living, that a minimum wage would have very little effect. Hopefully, the majority of the work force already receives a higher amount than the minimum that would be prescribed.

Mr. Speaker, as I said, *I would like to believe* that is the case and it would be great, but we all know this is not so. I am a new, young Member in this Honourable House and even so, I know that this is not the case. We are all aware of the many employees making \$2.50 or \$3.00 per hour and for a 40-hour week if we equate that, it works out to somewhere between \$100 - \$120 per week. We all know that no one can survive on that. So, how do these people survive? Well, most of them work two or three jobs and even though we may find that ambition admirable, there are many negative social effects that are created when an individual has to spend 18 hours a day working.

I am sure that we as politicians are all aware of the many strains involved in these sorts of working arrangements required for survival. Both parents having to work, no time for family bonding, kids left to raise themselves, high rates of divorce, severe health problems and the list goes on and on.

There are also some taking another approach and that is to supplement their salary with some sort of illegal means. This could range from stealing, to buying the illegal lottery. We have to admit that low wages can actually push people into a life of crime.

Mr. Speaker, I think it is important that we also have to acknowledge how the lack of a minimum wage affects our immigration system. Having a national prescribed minimum wage can only eliminate some of the problems that we are having as regards to labour from outside of these islands versus Caymanian labourers. We often hear the argument that the foreign nationals earn more than the Caymanians even for unskilled labour. Yet, there is no way of as-

certaining the level of skill or the level of expertise and the differences between those of the foreign nationals and those of the Caymanians.

Another issue that adversely affects this country from an immigration standpoint, is that when employers (in whatever area) seek to hire non-Caymanians to do a job at a much lower wage than a Caymanian would, we are then leaving Caymanians unemployed which causes a strain on our Social Services Department. The people coming here to work for lower wages—higher than most of the countries that they are coming from—we are forcing these people to live in substandard housing which causes grave environmental and safety issues.

In another area where concern has been highlighted is the effect on our marine life. A few days ago I saw some foreign nationals fishing off the shores behind my in-laws. When I saw the size of the fish they were taking, I was enraged. When I approached them about it, they told me they were going to use them to make some soup. The little reef fish they were catching were about 3 inches long—the maximum. Hopefully, the forthcoming regulations on the environmental issues will address this issue to some extent.

I have been to some of the fish supply stores and I have been told that they cannot find hooks that are small enough! The small hooks they get do not last long on the shelves. We know that this is contributing greatly to the depletion of our marine livelihood.

I think that commendations are in order for the stand that the Immigration Board took on establishing a minimum wage for work permit applications, even though there is no minimum wage legislation. It is very good to see that they are aware of the problem and are trying to do something about it, even if the wage set is too low.

Mr. Speaker, we also have to realise that if a person does not feel that he is getting a fair wage for the work that he is expected to perform, the chances are that his performance will falter. This could be part of the problem that has caused people to say that Caymanians are lazy because if Caymanians believe that they are not being paid a fair wage for a fair day's work then they will quite naturally decide that they are going to work according to the pay.

This problem is much more obvious when the situation exists when the Caymanian is working alongside the foreign national and the foreign national is being paid more than the Caymanian. The common complaint is *'this person is being paid more than I am and I have to train him'*.

Now, Mr. Speaker, when discussing the minimum wage there are some who may feel the way they implement a minimum wage is by just setting an amount across the board, which would mean that a person could not earn less than that set amount.

However, because of the wide range that would have to be covered, it could actually mean that because the amount would have to be low enough to

cover the entire range you could get employers that reduce certain hourly rates that they pay now to the prescribed rate. So, if someone is being paid \$10 per hour now, and the minimum wage set across the board was \$7 per hour, theoretically that employer could drop the wage to \$7 per hour and remain within the law.

There is also the fact that some workers are involved in jobs where gratuities are received and this would also have to be taken into account.

A 1997 report by the Minimum Wage Advisory Committee highlights some of the problems that would be incurred with one wage across the board. I quote:

**"It must be noted that wage data submitted by employers indicate that minimum basic hourly wages paid by condominiums are on average significantly higher, approximately 46% for like jobs than those paid by hotels. It must therefore be borne in mind that a fair minimum wage for hotel employees will likely be unfair for condominium employees."**

The point, Mr. Speaker, is that a minimum wage across the board will not necessarily satisfy everybody and it could actually hurt some of the employees that we do have now.

What I envisage is a system similar to what exists in the largest single employer in the island now, and that is our Government. The Civil Service has various scales of pay and all of their employees fall within one of these scales. Of course, there is a range within each scale to accommodate the varying levels of skills and experience. This system is also used in all the larger employers like the banks and utility companies.

The purpose of the minimum wage law should be to clearly establish the bottom line in which wages in certain occupation and skills are rested upon. That does not mean for example that because the minimum wage is \$6 per hour that a person employed in that particular vocation, occupation or skill will be paid only \$6 per hour. What it means is that someone in that particular vocation or skill would be paid no less than \$6 per hour as the case may be. But there is a distinct possibility that depending on their experience and qualifications that the person could fit at the upper end of the scale or somewhere in between.

This law would ensure that people in the labour force do not earn less than the stipulated amounts for the respective categories, but that they can earn more depending on their experience and level of skill, et cetera.

Now, Mr. Speaker, in doing the research for this Motion it goes back quite far, so I will try to give a brief history which may save some time in the debate, especially since this House has made a commitment to possibly review our Standing Orders to look at a two-hour time limit. Since that has not been implemented yet and being the first private Member to



speak on the Motion I figured I would start off by trying to set that example.

In April of 1997 there was a Minimum Wage Advisory Committee Report that was given to the then Minister for Community Development, Sports, Women and Youth Affairs and Culture. This report was compiled by a committee of twelve members of a cross-section of Government and the private sector. The mandate of this committee was to investigate and enquire into all matters related to the appropriate level of a national minimum basic wage for hotel and condominium employees, and to make recommendations as to the minimum rates of wages, which should be payable to workers in these two types of establishments.

Now, Mr. Speaker, after much research from which the Committee solicited data on minimum wages from all hotels and condominiums on the three Islands—concerning each establishment minimum starting wage by employee position, and after also examining Government's hourly wage rates recommended by the Contractors' Association—the Committee then used the cost-of-living statistics provided by the Government's Statistics Unit and made their recommendations to the government of the day on the 10 April 1997.

Now, after all of this work, time and effort, the government of the day did not have the political will to implement the findings and recommendations of this Committee. So, again, nothing was done and the people continued to suffer.

In July 1998, the First Elected Member from West Bay and the Third Elected Member from Bodden Town brought a Private Member's Motion asking the then Minister for Community Affairs, Sports, Women, Youth and Culture to report back to the House on the intentions of the Government as to the implementation of the recommendations of the Report.

Well, Mr. Speaker, the Government amended the Motion to place the issue back into a select committee of the House, of which I am made to understand the Minister was the Chairman, which never met. Then in 2000 the House was prorogued and the select committee fell away. And, once again, our poor Caymanians who were struggling to survive, were forgotten again.

Well, Mr. Speaker, the people have spoken and now those same Members who were bringing these Motions to stop the exploitation of our people in the labour force are now in a position that they can do something for this worthy cause. I dare say, Mr. Speaker, that if nothing is done, their fate could be the same as the last government who did not accept this responsibility seriously enough to do something about it.

So now, Mr. Speaker, since we have come full circle, I have full confidence that this Motion will be accepted by the government of this day, who I hope has the political will to make the difficult decisions and

that it will be dealt with in the period as defined, hopefully, within a one-year period.

Thank you.

**The Speaker:** The floor is now open to debate, does any Member wish to speak?

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

**The Speaker:** Would you wish to give way to the Honourable Minister?

**Capt. A. Eugene Ebanks:** Yes, Mr. Speaker, I will give way. Sorry about that.

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, I rise to reply on behalf of the Government as the Minister who has been assigned constitutional responsibility for Labour. I am pleased to say that the Government has instructed me and I did not have to be persuaded to accept the Motion.

The Government realises – and I listened to the Mover – that the time has come in this Country for us to exercise the political will and to make certain statements by our behaviour and by our setting in place certain mechanisms which will serve not only to level the playing field but to encourage the hardworking people of this Country.

I am proud to associate myself with the movements in this Parliament to have a minimum wage implemented. I can safely say that from the time I came here in 1988 this is a movement which has been close to my heart and in much more challenging times, beginning in 1993, 1995 and again in 1998, I have been in all three of those instances associated with Motions calling for the establishment of a minimum wage.

I would hope that we can, within the year, effect this legislation and also that the legislation would be accepted by employers as being fair and reasonable. Certainly, I would see the opportunity arising for them to have some input at the Committee stage, if it goes to the committee, or at some level where their views and concerns can be represented.

Mr. Speaker, to go on any further into the 21<sup>st</sup> century without an instrument such as this is only contributing to the frustration and only making it easy for those persons who insist on exploiting the system to continue to do so.

In making this statement I recognise the fact that the Cayman Islands is what I call a frontier society. And so, Mr. Speaker, the work, the economy, the society is set up of many different elements and bases—some of them existing in contra distinction to the other, and some of them existing in adversarial relationships with the other. Also, we have to under-

stand that the Cayman Islands came out of a merchant society, where those people who were in a position to provide the capital were always in a dominant position. Modern thinking dictates that production is a partnership—a partnership between those who hold the capital and those who provide the labour. And, as such, the partnership must be one which is mutually advantageous to both parties for it is not unlike a marriage. So, if it is one-sided, it is bound to break down. The thrust and flux of the situation is bound to make it bogged down.

Production is also based on trust and mutual understanding. If people believe they are deprived of a fair day's wage, and yet, they are expected to produce a fair day's wage, the feelings cannot be good on the part of the worker or the labourer. So, we have to come to grips with certain realities. In the past one of the things that spoilt and prevented an amicable solution from being reached was that there were too many persons who only wanted to protect their special interests and were not prepared to come to the table for fair, open and frank negotiations. I would hope, Mr. Speaker, that those persons have been long gone because as a Minister I would frown upon any attempt to deprive hardworking people of the honest day's wage that they should get.

The situation, however, is compounded by the fact that in the Cayman Islands we have many different nationalities recruited and vying for some of these posts. When you have a situation like that, Mr. Speaker, persons who are bent on taking advantage—and notice I did not say *exploiting* because I am giving the benefit of the doubt—they are sometimes keen to play one faction against the other. Unfortunately, in these kinds of cases while it should not be, the person or group most disadvantaged is the Caymanian. Now, that would not seem obvious because these are the Cayman Islands. But let me put it this way: A Caymanian can afford to demand and hold out for a certain wage.

When you recruit persons who have reasons to emigrate for purely economic reasons, they are much more keen on bargaining and lowering the rate of their wage or their salary than persons who find themselves in the jurisdiction of the work and the employment. So often I hear complaints about people being recruited because they agree to work for a lower wage or lower salaries than Caymanians. There is substance to these complaints. Often upon investigation all hold water. I would hope that when we come to talk about this we can do so in a spirit of honesty and frankness.

And to go back, Mr. Speaker, to the efforts of the past: I cannot understand why it took us this long and these many tries before we could agree that a minimum wage is necessary. Let me hasten to add, less anyone consoles himself in the fact that we have agreed, that the agreement is just the beginning and now we have to work out the mechanics of this situa-

tion and get it into legislation and legalise that all can accept. It is here that the wrangling is going to come.

Mr. Speaker, when we come to the Table, I hope that people come with open minds prepared to yield and to understand the position of the other side because there is another side other than the side of the employee. Also, the employers and their representatives can be frank and fair. It is a partnership, Mr. Speaker, which leads me to say that I believe it is a partnership best facilitated by a strong and informed government so that the Government can take a middle of the road position and can ensure both employers and employees, and their representatives that fairness and frankness will be the order of the day. When I say frankness, Mr. Speaker, pardon the pun.

Mr. Speaker, I believe that in a society that touts itself as abiding by Christian principles, as being democratic, and as being fair, the time has come for the establishment of a minimum wage by category. I want to emphasise *by category* because if there is a blanket minimum wage exactly what the Honourable Mover said will happen is bound to happen. If the minimum wage is struck across the board—if we use just a minimum wage per se, blanket minimum wage—and that minimum wage is arrived at \$7 and people are now earning \$10 per hour for argument sake, certain persons are going to use the \$7 as a licence to lower the wage. So, I specify and emphasise, it must be by category.

*[Inaudible interjection by a Member]*

**Hon. Roy Bodden:** Mr. Speaker, I am reminded of what some companies did with the medical insurance and pension fees: they lowered the scales and lowered their contribution when it suited them. This is exactly the kind of practice that needs to be eliminated if our society is to continue to move forward.

Mr. Speaker, we already have an example of this: the Government which is one of the major employers has for its group employees a minimum wage structured by category. Indeed, Mr. Speaker, I can still hear the voice of the now Second Elected Member from Bodden Town reverberating and emphasising that the Government has its minimum wage by category structured and it could be used as an example.

I cannot let politicians get away. I believe that the reason why we are still struggling with this is because politicians lack the political will to do what they know is right. They allowed themselves to be bamboozled, baffled and intimidated by the establishment. It is time we get beyond lip service and get down to the realities of the situation.

Mr. Speaker, this Motion is in the right direction and after at least three false starts that I have categorised and counted, we need now to begin. Perhaps, in his wind-up, the Honourable Mover might like to explain how the mechanics of the exercise should be handled. But I want to say something about select

committees and this kind of work. I do not necessarily believe that a select committee would be the best mechanism by which to handle such an exercise although the Select Committee seems almost ideal in the sense that it will open the hearings up and allow all and sundry, who want to contribute to contribute.

In the past however, Mr. Speaker, select committees—if the Hansards and Annals of this Honourable House are to be believed—do not handle certain matters in an ideal way. Indeed many good ideas and good bits of legislation have been buried unceremoniously by taking them to select committees. So, if we go the route of a select committee, we have to ensure that the work of the committee is consistent. It should be done within a reasonable time-line so that the findings of the Committee can be brought forward in time for legislation to be drafted and the law to be put in place. It must not be allowed to drag out for the length of the Parliament and die, as many other important ideas have died particularly in the recent past.

Then, Mr. Speaker, if we ensure that this is done we are about a third of the way towards doing what should have been done a long time ago. I accept the Motion on behalf of the Government and look forward to seeing this long needed piece of legislation put in place so that all those persons, not least of which are hard working Caymanians, can have access to a fair day's wage for a fair day's work.

Thank you.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I am going to try not to be a politician and try to seriously be 'frank' (*laughter*). *We cannot have our cake and eat it too.* We know that a select committee of the whole House will create certain types of difficulties because we have had committees of the whole House. And, we know that especially when we have Ministers who will probably be very busy within the next year trying to balance budgets it is not going to be easy for them to find the time to become members of the many select committees that probably will be established by this House during this year and perhaps even more so as we go along.

We have a House, Mr. Speaker, with a lot of interesting ideas and part of the problem that we have as a people is coming to agree not just on the ideas but how they should be implemented. The idea of trying to better the conditions of working people is something that all politicians, even if deep in their hearts they don't believe, must publicly attest to. The majority of the people who vote are working people—people who have to sell their labour and their skills in order to survive. Therefore, in the politics of a country, working people should be the essential playing important roles in the dialogues.

To want to improve the wages of those on the bottom, certainly should be a concern of the Govern-

ment. It also has to realise that Government in itself, simply because it is empowered to legislate, does not have all the answers to all the problems. It must rely on those persons who are actually practising the roles of employers and employees in the society. If we are going to talk about wages, we have to talk about economics. We have to understand that wages is just one of the many aspects of working conditions.

I heard the Minister this morning answer a question with regards to the collective bargaining concept. The Minister was not willing to say that Government would go to any point to support the establishment or the survival of any kind of bargaining agency for working people, although it has been demonstrated in many countries that such agencies have helped to improve not only wages but also other conditions needing improvement and scrutiny in the workplace.

To say that to create a minimum wage would give the employee who is being exploited a tool to combat poverty and other types of ills that might result from low wages, is not necessarily borne out by comparative literature. For instance, the minimum wage in Jamaica, we understand is around JA\$800 per week. That minimum wage in itself does not necessarily stop or prevent the existence of poverty in the society. As a matter of fact, in countries with extreme numbers of unemployed persons and where businesses are trying to cut corners in order to exist, the establishment of a minimum wage often does very little to solve the problem. The minimum wage is established at a level where at the end of the day it does not really provide people with the basic wages to be able to purchase what they need for survival.

So, how then is the minimum wage determined? Can it be determined by the political opinions of government or even the moral outlook of the society? Or are there other considerations that must be taken into account and weighed heavily?

For instance, if tomorrow we were to establish a minimum wage, which is what the mover of this Motion is calling for—a national minimum wage: the Government is saying a minimum wage by category. But let us take the first proposition which I believe is somehow implied by the mover of the Motion.

Mr. Speaker, again I must compliment the mover of the Motion because his heart is in the right direction. He said all the right things, I believe, or has the sincere concerns but the question now is whether or not it can work. And, whether or not in going into the exercise what we are going to be taking into there. There are still some who seem to have made up their minds already about what should be the result of the Select Committee and for that reason I feel it is necessary for me to speak now on the question of a national minimum wage.

For instance, if there was a national minimum wage and we had a large number of Caymanian women working in the private and public sector making perhaps \$1,500 per month—which is what we looked at and said that 51% - 56% of the people were

making below \$1,500 per month—and they decide that they need to work but at the same time they need somebody to work for them. So, what we begin to realise is that this whole thing about employer and employee is not just a situation where you can say that class is the employer and that class is the employee. We are all employers and employees in our own rights and today I am employed . . .

So, I am saying, someone needs a domestic to help and we have some 5,000 domestics on work permits in the Cayman Islands, a typical example. They believe that they could be more efficient in terms of their productivity in the workplace, their ability to look after their children . . . and we were talking today about youth problems and the fact that kids are not being taken care of. No one is going to pay parents to stay home so they are going to have to go to work. And if parents have to go to work, they might be better off having someone to look after their children and to clean their houses, and make sure that when they come home they can 'cock up' their legs a little, rather than being bad-tempered because they have to cook, clean and do all those things.

Now, I know back in my mother's days they used to be able to manage that, but in today's modern world especially when you think about the time you have to spend getting ready to go to work—just to get dressed up the way you should to go to these jobs—you need some kind of assistance in the house. And perhaps even more so in cases where there are single parents because you do not have the men to depend on.

Let us use that as an example: How would a national minimum wage take into consideration the positive or negative impact that such legislation would have on that particular condition in the society? Now, some people would want to say right away, like we were doing with the pension, '*Let's exclude the domestics*'. But you get into a situation where it seems as if your laws are not geared to cover everyone but just to cover particular categories of people. Then you get into the imperfections which can occur as a result of these forms of institutionalised discrimination in your society. So, that is one example that I am very concerned about.

But a gardener . . . and a lot of the gardeners that are working here are not Caymanian gardeners, they are gardeners working for landscaping companies that are out there paying a wage. If they had to pay a minimum wage that might be more than they could afford, it would send these companies out of business. You have to remember that at the same time we are talking about Caymanians having the right to create businesses in the Cayman Islands, you have to make it possible for small Caymanian business people also to establish those businesses. Unfortunately, when we come to the view of exploitation, small businesses usually have to start with the person who owns the business, sort of giving their labour to the business until they can afford to employ some

cheap labour and then they can move up as they go along. But the profits have to be made out of the exploitation of labour or the employment of labour, to use a much more dignified term.

We understand if the wages which businesses have to pay are higher than what they can afford at the point which they begin, simply because the Government legislates what they must afford, then we are destroying the possibility for Caymanians to be successful entrepreneurs, for young small businesses to start. So, we have to look at where the Caymanians really are in terms of their dependence on cheap labour—in the homes and in the small businesses, the gardening business and the construction businesses. I know a lot of small Caymanian contractors that would not necessarily be better off as a result of that.

Now, this is not to say that I do not recognise that if the human being is treated as an unimportant asset, if labour is seen as something that is cheap and something that should not be trained and rehabilitated then the society is going to lose. But what I am asking is whether or not there is not another approach for this because once we destroy the possibility for flexibility to exist in the market, once we structure the market place by rigid legislation, it takes away the initiative from the social partners that should be responsible for arriving at what is a liveable wage and what is a liveable condition for the employers. Well, in other words, what the employer can afford to pay and what the employee can afford to work for. This should be worked out as much as possible in the modern world between the employer and the employees.

This is the reason why when the Government answers and says that it believes in the tripartite system, the tripartite system would not be seeking at this particular time to legislate for anyone the conditions that should exist in the workplace. But those conditions should be arrived at as a result of mutual discussion between the social partners. The Government would provide the framework for the discussions to take place but the conclusions would be a result of what the parties could agree to.

Now, there are a lot of people in our country who believe that Government should do everything for them. That Government should be out there doing whatever has to be done to solve certain problems rather than their becoming a part of the solution to their own problems. So, there is definitely going to be a strong voice especially after Election when people talk about how they are going to solve all the problems of the community. They will be a strong voice for these types of changes but as time goes on we see that these emergencies usually change.

Mr. Speaker, they change because we realise that Government is only one of the social partners. And there is the business sector that will at one particular point have its input, and it is at the point that things all begin to change again. So, we might be able to criticise previous political directorates and

even present ones for what is done or what is not done. But at the end of the day until we reach the point where when we are dealing with conditions in the workplace, we are willing to create conditions for negotiation rather than conditions for legislation, we are not going to get any place. We have to find the happy medium there.

So, if we go by a national minimum wage across the board we are going to have certain problems. If we go where we have it by category, now, who is going to determine what it is going to be like by category? The minimum wage by category is collective bargaining. That is what it is. If the Government can sit down and collectively bargain with the hotel industry as to what the price of labour in the hotel industry should be, is that fairer than allowing the people to be organised in the hotel industry to bargain with the hotel industry as to what the price should be? Which position does the Government want to take?

I understand that most people in here are so afraid of anything that has to do with collective bargaining in any case that they stay far away from it. I was the only one who asked any question with regards to the ILO. But we have a minimum wage and we have everyone in here saying that they are concerned about working people. There are going to be people who perhaps don't even understand why my argument is the way it is since I am the one who is out there professing to be a person who is speaking for working people. But working people need jobs and if they don't have jobs they are worse off so [they] have to think just like business people. Working people have to think about profits and how to maintain profits and therefore how to maintain their jobs. That is what the new labour movement is concerned with.

It is concerned about the partnership between labour and management—a partnership that will breed harmony, productivity and prosperity. Not one that will lead to more rigid legislation, less flexibility in a competitive world that is expanding globally each second. That is not what labour wants. Labour wants the possibility to be able to sit down and negotiate the terms of employment that would lead to the improvement of working conditions including wages. That is what I believe we should be fostering.

If someone believes somehow that because I have this approach that I am not genuinely interested in working people, I think, that they are mistaken. Mr. Speaker, I believe I have taken enough risk out there from the point of view of my political and personal career to support labour initiatives without backing down, without being afraid to have some kind of credibility when I get up here and talk about wages. I have spoken to working people who know a lot about the issue of minimum wage. Many of those persons in the hotel industry are fearful that if there is a minimum wage it will not be as high as what some of them are making sometimes now in the Cayman Islands—at least, Grand Cayman down along the [Seven-Mile-

Beach] toward the West Bay area where they sometimes make \$7 - \$9 per hour including gratuities.

Mr. Speaker, we understand that the \$3.50 and \$2+ an hour, that some of these hotels have maintained over a period of time, is rough. It is also because of the prices in the country and not because of the wages. So we cannot just punish the employer who is employing labour and the merchant who is selling goods and services so that he does not have to contribute anything. At the end of the day we need to see that how a person needs to live does not only have to do with the wages but with the prices they have to pay for apartments, mortgages, car loans, electricity bills and water bills, for God sake, that we have to pay for these days - \$100+ dollars per month for water.

Those things cause our wages not to go as far as they possibly could if people had a little bit more conscience with regards to pricing. But is the Government going to suggest that they now have price control? Or is it only easy to have wage control? If you fixed wages by category, Mr. Speaker, I do believe that what you are doing is fixing prices because labour is a commodity, an important commodity. If you are able to fix a price and say, 'a secretary is paid this, this is the minimum that a secretary could be paid' and so forth and so on, you would be fixing these prices.

Now, all of this is being done because there are those of us who would like to see the problems that we see existing in our society, especially the social problems, corrected. Low wages are the cause of problems; they cannot buy anything because prices are too high. So let us be fair in approaching this. We know that we have more political support for the wages than we would have for the prices but what we need to do is to begin discussions with those persons who are employing and those persons who are selling goods and services in the society as a whole.

Mr. Speaker, I shall wind up and I am quite sure that there will be some persons speaking after me who will refer you to Section 21 of the Labour Law (2000) Revision, which deals with the question of the national minimum wage and how the framework appears to already be in the law.

For Executive Council to establish a national minimum wage and to also punish persons for not following the minimum wage, the question is, Why hasn't anyone ever tried to do that in the Cayman Islands? Mr. Speaker, we do not want to send the wrong signals. Regardless of what anyone thinks about my movements with unions in this country, I am convinced that what we are saying is that we bargain—we sit down and we talk but we do not legislate. We create flexibility. We preserve that possibility.

So, with us not being able to come up with a substantial amount of money to balance our budget, with people calling me and saying, 'our business is going. We have not had any work in a while.' Small Caymanian companies, Mr. Speaker. But 'if they are

*going to charge me more to build a house than I can not even employ them.'*

We need to make sure that what we are doing is not just acting on impulses and what we feel is right or wrong here. We need to study the problem: to take input. I support it going to a select committee but I have said that in going to the Select Committee we need to go there with a body of knowledge already. We need to involve people who will assist us in making a good decision and not assume that because we are Government and that we have the power to legislate that we have any monopoly on experiences and knowledge.

We need to do something about a living wage in this country, but we also need to encourage people to improve their skills and seeing promotion and the improvement of skills as also a way of improving their wages.

Thank you.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, the Motion currently before this House seeks to appoint a select committee of the whole House to determine a minimum wage for the Cayman Islands and that the Government implement within a one-year time-frame the Committee's recommendations.

Mr. Speaker, without seeking or wishing to disagree with the objective of the Honourable Member who has moved the Motion, I do believe that sending this matter to a select committee of the whole House is not the right way to approach this issue. I do not believe, Mr. Speaker, having had a look at the Labour Law and particularly the two sections to which the Third Elected Member for George Town referred, that a select committee is the correct vehicle by which to achieve the end desired.

The Labour Law and particularly Section 20 sets up the legislative framework by which a national minimum wage is to be fixed. And, if I may say so, it appears to me that framework is mandatory and that there is, in fact, under the current legislation no other way of establishing a national minimum wage.

Mr. Speaker, if I may refer to the statute, Section 20, subsection 1, provides that "Subject to subsection (2) the Governor may by Order, prescribe a National Minimum Basic Wage". So, whether or not a national minimum basic wage is established is a matter for the Governor in Council.

Subsection 2 of Section 20 provides that "An Order under subsection 1 may only be made, varied, amended or revoked after consideration of recommendations made to the Minister by a Minimum Wage Advisory Committee established under Section 21".

Section 21, subsection 1, provides that "The Governor may establish a Minimum Wage Committee to investigate and enquire into all matters related to the appropriate level of a National Minimum Basic

Wage and to make recommendations as to minimum rates of wage which should be payable".

So, it seems to me that if the objective of the Motion is to determine what should be the national minimum basic wage, that what is required is for the Governor, which means the Governor in Council—in other words, the political directorate—should "establish a Minimum Wage Advisory Committee to investigate and enquire into" this issue and make the appropriate recommendations to the Minister.

Section 21, subsection 3, provides for the constitution of the committee which "shall consist of not less than eight members who shall be appointed by the Governor and who shall comprise equal numbers of employers and employees, together with such other representatives of such other interests as he may see fit".

So, Mr. Speaker, it is my view that the Select Committee is not the right vehicle to set the minimum wage in this country. That is a function that has by legislation been given over to a combination of the Minimum Wage Advisory Committee and ultimately the Governor in Council.

It is perhaps useful for Members of this Honourable House to debate the issue as to whether or not there should be a national minimum basic wage and I believe that the Motion does provide us with that opportunity. Government has indicated that it does believe that there should be the establishment of such a national minimum basic wage.

Mr. Speaker, as far as I am concerned, the jury is still out on that one for me. I believe it is a matter that should be proceeded with, with a great deal of caution because there is much to be said for the reasons why a national minimum basic wage should be established. The mover of this Motion has done a good job in setting out some of those matters, but there is also the reverse side of the coin which has been alluded to by the Third Elected Member for George Town. There is the real risk that when you fix minimum wages you create a situation where marginal employees become unemployed. There is the question as to whether or not there should be a national basic minimum wage which is what the Labour Law seems to contemplate. And there is the other question as to whether or not you need a minimum wage in relation to various categories of occupations or jobs.

So, Mr. Speaker, I ask all Members of this Honourable House—and Government in particular—to proceed with caution. To think carefully and give much consideration to whether there should in fact be a minimum wage established, and if so, whether we need to think in terms of categories or otherwise.

As I said, Mr. Speaker, I do not believe that the Select Committee is the appropriate means to achieve the end that the Honourable Member who has moved the Motion is seeking. And, for those reasons I would ask the Honourable Member to consider seeking leave of you, Sir, to make the appropriate amendment to his Motion in due course.

Thank you, Mr. Speaker.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

I would like to congratulate the mover of this Motion in bringing an issue to the surface that we legislators all take quite seriously, that is, the hardships that our people face. The district I represent probably has some of the lowest wages paid throughout the Cayman Islands and, I, like the Member moving the Motion, am committed to working with my colleague from the Brac and all colleagues in this Honourable House to eliminate such low wages.

The method of achieving what we are all seeking, is to provide our Caymanian people with a living standard that we can all be proud of and feel that we have fulfilled our role as legislators. However, we must be careful that we are not using inappropriate legislation: or using legislation to address symptoms, not problems.

When I look at my district we have low wages but the problem is not the wage—the problem is lack of jobs that allow employers to charge rates below what we would consider acceptable rates of pay. We need to address the problem—not the symptom. To cure the problem we need to increase jobs.

As the Third Elected Member for George Town pointed out, labour is a commodity. It is governed to demand and supply forces like all other commodities, and a price is derived—the price for labour is wage. A price is derived after years and years of moving between the demand and supply, and we reach an equilibrium. That price, that wage, is what the employee is willing to work for and the employer can afford to pay. When that price is reached, we are then in a stable set of the labour market.

When Government takes on the role of trying to legislate what that equilibrium price should be—normally it would be a price above the equilibrium because the legislation would be seeking to increase a price—when I refer to *price of labour* I am referring to *wage*. You are setting a situation where employees earning below that minimum wage could effectively be without jobs.

As a legislator responsible for good governance of this country I find it difficult to support anything that I feel would put my people, the people of the Cayman Islands, in a potential situation where they could be without jobs. We could reduce the amount of employed Caymanians if we do not be careful with legislating a minimum wage.

My background as a *laissez-faire* economist who believes in free movement of wages, of price, as a determining factor for the quantity of employees, dictates to me that we cannot set a precedent by trying to control the wage because we are then setting a precedent of where we are going to start to try to con-

trol other aspects of our country—of our economy—which is governed by free movement.

What we need to do as legislators, is to ensure that the tripartite system works—one in which we have a labour market that has no impediments of exit of the market. If an employee is working at an establishment and truly feels that the wage is unacceptable, our system should be strong enough: Government's role through its Labour Department, its Human Resources Department, should ensure that employee has free mobility—can move, can seek and not be discriminated for another job.

As a government we must provide a system so that our people can strive to achieve a higher pay through improving their marketability in the labour force. They can seek some of the vocational training that we were speaking about earlier, some advanced studies to improve their chances. We must ensure that a system is there to bring justice to those individuals who have been exploited and have grievances.

We spoke of Government in this system playing a middle of the role where they are not getting involved with the employer or the employee. However, in this Motion, a minimum wage would be putting Government directly into the labour market and dictating what a minimum wage would be. I urge this Honourable House caution in this regard.

The Motion reads: **“WHEREAS the high cost of living is placing unbearable hardships on many of the hardworking citizens of the Cayman Islands.”** Emphasis is on the cost of living. We must remember that a wage is the income for the employee, but it is the cost to the employer. When we talk of increasing the cost to the employer, we must remember that we are living in the Cayman Islands and the employer will pass that right back on to the employee. He will go back out to the stores and buy things at a higher cost. So we are not curing the problem; we are addressing these symptoms.

Mr. Speaker, I urge this House to take seriously the fact that we do have 56 percent of our populace earning less than \$1,500 per month in an economy that has cost-of-living that we all know cannot be sustained at these low rates of income, but we must address it appropriately. We must address the true problem.

I note that we are in a time of economic slowdown in this country. A time in which we will see greater emphasis put on employers having to tighten their belts, having to look at ways of cutting their costs to survive. When that employer has to cut costs and government is setting a legislative minimum wage that they cannot cut the wage below, they will cut ours. They will cut employees in order to keep their costs under control. Are we truly doing our people justice by providing a minimum wage?

The mover of the Motion spoke of issues such as: discrimination in the labour force, where a Caymanian employee was earning less than the expatri-

ate employee. A minimum wage is not the appropriate way in this legislator's opinion to handle that. We must have areas in our labour law to prevent such discrimination. We do not need to mandate a minimum wage.

I also make reference to the mover of the Motion and his acknowledgement of the minimum wage set by the Immigration Department which was established to ensure that those here on work permits were earning enough to sustain themselves. This is using the Immigration Law to enforce what the Immigration Department is about. The Immigration Department is to vet those that are coming across our borders and ensuring that when they are on our shores that they can sustain themselves.

However, our role is a lot different when we are talking of setting up a minimum wage for the entire populace. We cannot make a comparison of the two. The Immigration Department has the responsibility to ensure that each immigrant can support himself. It is a true concern and has been addressed and I support that.

However, for Caymanians, we must subject the labour, the setting of wage, to the economic forces. If we feel that our populace is being paid too low, which we all agree, we must then create extra economic demand for Caymanians and we have mechanisms that we can do so: economic stimulus packages. We can also look at increasing the cost of employing an expatriate through the amendment to the Registry of Fees and Charges to increase the amount paid for a work permit, which would restrict the supply of labour from the foreign component. That in itself would increase the demand of your Caymanian labour and consequently increase the value of that very special commodity.

I always make an analogy when trying to understand the importance of demand and supply: the use of diamonds. Diamonds, Mr. Speaker, is an expensive commodity because there is not a lot of it and a lot of people want it. If there were a sudden discovery of a reservoir of diamonds, the market value would go down. The Organization of Petroleum Exporting Countries (OPEC) restricts the supply of oil to keep its price up. Price is the price of the commodity; wage is the price of the labour.

We have tools as a government to effect the wages paid in our economy through selective and careful restriction on the supply of labour through higher immigration costs. We are looking for sources of revenue—there is a good source. I will make this argument in a more elaborate way during the time of my contribution to the Throne Speech and the Budget Debate. But I truly believe that we can make a big difference for Caymanians by doubling the cost of an immigrant work permit. We will still have the provision—if you want to bring someone in you may, but it is going to cost you. That makes a Caymanian in greater demand because that Caymanian can now be shaped, educated, trained and motivated to fill that

job. We have the control over all of these variables. I am of the view that the use of the minimum wage is not the appropriate way of achieving our goal.

Referring to my earlier statement, that we must ensure that legislation is appropriate and make sure that legislation is addressing the problem not the symptom, I reiterate 'the use of minimum wage legislation is not the appropriate legislation that we need in this country to achieve our goal of ensuring that the populace has a higher income'. We must look at other alternatives. When we are talking of preventing discrimination, we must make sure we are dealing with it in an appropriate manner not a minimum wage. We need a discriminatory legislation—a piece of legislation right within the Labour Law that states that we cannot discriminate. Employees performing similar or identical duties must be paid similar or identical wages. That is the way to address it—not to legislate minimum wage.

In closing, Mr. Speaker, I borrow the phrase from my colleague, the Third Elected Member from George Town, that if we simply give more income in one hand and take it out by greater cost of living, that the vendors will pass on, we have not achieved our goal.

I will do as the Third Elected Member from George Town has obligated. I will support that this goes to a select committee, if that is the way the Motion will end up. However, when we sit down in the Committee room these are some of the issues that we will have to address because for years we have had the provision within our laws to provide a minimum wage. It just so happens that a minimum wage has never been prescribed. I look forward to healthy debate when we sit and look at ways that we can address this problem.

Thank you very much, Mr. Speaker, for my contribution.

**The Speaker:** The floor is open to debate, does any other member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker. When I look at this Motion, I see that the Resolve is asking for this Honourable House to appoint a select committee of the whole House to determine a minimum wage for the Cayman Islands and that the Government implement within a one-year time frame the Committee's recommendation.

Certainly, this Motion is assuming that there is a need for a minimum wage in the Cayman Islands and I think this point has been raised by the Second Elected Member for George Town. It does not ask, as it could have, that the Committee determines whether a minimum wage is necessary and what that wage should be. So, going on the basis of the *Resolve* of the Motion, the Motion is asking to determine a minimum wage.

I have listened to the various arguments put forward by the persons who spoke before me. What we



are talking about here is that you could possibly have a minimum wage of the barest minimum of some minimums that I have heard, like \$1. I am aware of that because in Cayman Brac some hotel workers used to be paid \$1.75 an hour. That could be a minimum wage! We are talking about determining an amount of money per hour that is the very minimum for the people at the bottom of the work chain, or whatever we might choose to call it. In other words, we are trying to determine a minimum to pay the 'sufferers'—those who suffer the most among us. Those who get paid the least and often they perform the hardest, most demeaning tasks.

Most countries in the world have a minimum wage or they are working towards doing that—even in the most economically strapped countries, we find those persons prescribing by law a minimum wage. Now, of course, employers are not going to prescribe minimum wage. There are certain things everyone in the state looks to the state to do, and one of those things has to be the prescription of a minimum wage. I cannot really understand why the idea of having a minimum wage in the Cayman Islands is such an awful thing that it is going to affect employers and employees so that as a result of prescribing this, prices will shoot to the sky higher than they are now.

Suppose someone determines that the minimum wage is exactly what is being paid now by category, for example. I know the Minister raised the question of minimum wage by category. Well, in the world of reality that is the way wages are paid now. An accountant is paid more than a clerical officer and you might have one or two levels within the clerical officer scale, so already in the world wages exist by categories. Again, it is possible to determine minimum wage by category although—and I have certainly looked into this to quite an extent including getting information and text from the International Labour Organisation (ILO) that sets out how governments may set minimum wage by category. The text also points out that it is more difficult to implement and to keep intact because of the movement of persons from one category to the other and otherwise.

We all know that wages are affected by the demand. In Cayman the demand has grown to 60 per cent more than the country can supply; that is a statistical fact. So, we are talking about a very, very unique situation not only in the Caribbean, but the World. But within what one would see as a most unusual situation there are people who, we as legislators and other persons know, are being paid wages below what can rationally be seen as fair and equitable, and providing sufficient money for even a meagre reasonable existence.

Wages that the people in this country are working for now, are the wages they were working for twenty years ago—or less in some instances. Bedroom maids for instance, let's say \$3 an hour: they were making that twenty years ago! So, the fact that a hotel room might now be sold for \$800 or \$1000 a

night, into that there has to be some profit! It is hard to believe that the profit that hotelier is getting may be only \$50 out of that \$1000 and the \$950 goes to pay for so many other expenses in that whole operation. It is outright major profit to whatever extent, but it is certainly high.

Now, what has obviously happened here is that the wages that would have naturally increased for the people who have worked in these jobs have for all practical purposes been suppressed by bringing in what I have heard before in here as cheap labour. Cheap labour! Now is cheap labour something for us to work towards in the Cayman Islands, or is finding a fair minimum wage something that we should work towards?

We hear of the United States—the bulwark of capitalism—closing certain factories there and sending it across the border to Mexico where we hear that wages are a few pesos, or you have other manufacturing companies that are laying it off in the Far East to get cheap labour. I bet you when the product comes back it is not sold cheaply! (Like the television sets, computers and everything else being made in China where we understand there is cheap labour).

We are looking at the Cayman setting. Mr. Speaker, I suggest that this Motion is one that is meaningful—one that addresses a certain condition in this society that needs to be addressed. We are talking about a minimum wage. Indeed, I think, the Immigration Board is acting within the law because . . . and I cannot quote the section right off but I know there is a section which states that the Board must satisfy itself that the person who is being granted a work permit will be making a wage sufficient to maintain himself in a decent and acceptable way. So, if we want to use that hourly wage or that weekly wage, that is something that could be done.

Or, Mr. Speaker, if the Committee would want to recommend that we take a whole slew of wages paid by different employers and strike an average wage and call that a minimum wage, that cannot hurt the Caymanian society, but it can surely help those who are being paid below what we know is a fair wage in this country.

There may be a trade union in the Cayman Islands. There may be two or three, but one of the main efforts of a trade union(s) . . . and I do have some knowledge about it. In fact, when I was talking about it in this country 10 - 20 years ago I got all sorts of labels attached to me *that I could even conceive such a thing*. I know that one of the main things that they bargain for is to increase the wages of individuals and to improve their working conditions. So, how could I stand in this Legislative Assembly (where I am supposed to be not only representing the professionals and those who make wages that they can live on) and say that it is bad to have a minimum amount that you can pay an individual. I believe I would have failed in my duty.

Mr. Speaker, I certainly support us finding a minimum wage in the Cayman Islands. I realise that it does not combat poverty in a society but it prescribes a minimum. I also want to make the point that a minimum wage is not something for Caymanians. It is a minimum wage to be paid to everyone working in the Cayman Islands. That is what a minimum wage is.

So, the whole idea of this differentiation does not logically come into play. It is just like a trade union. A trade union in the Cayman Islands should not be an entity that is looking solely after the rights of Caymanians; it should be open to all persons working in the Cayman Islands. Similarly, standards should be set across the board for everybody who works here. Perhaps if it were done in that way—if we got away from the thing of the Caymanian *versus the other one and so forth*, and understood that every job in the world can be costed and has a job value, we would understand that whether it is someone from Timbuktu, George Town or Bodden Town doing job X, it would have the same value. I think we are missing these concepts considerably in this country.

Mr. Speaker, the Second Elected Member for George Town raised the point with which I must agree, that it is prescribed in the Labour Law, Section 20 (1), Part III, Remuneration and Hours of Work, it says, “**The Governor may, by Order, prescribe a National Minimum Basic Wage.**” Well, we know there is a difference between *may* and *shall*, and since the existence of this law, to the best of my knowledge there has not been a minimum wage prescribed.

Mr. Speaker, when someone is coming to invest here, or to start a company, or to do a particular type of work, one of the first things they will enquire about is: Is there a minimum wage? From that minimum wage they can pretty well calculate what one cost is going to be if they are having this type of a person who falls in the minimum wage category. I submit that it is essential. It would make a difference in this society to have a minimum wage prescribed.

The Member, I am sure, is aware of this particular section in the law, but he chose to bring it to the place that made that law in the first instance, that is, this Legislative Assembly, which makes laws, and amends or repeals them. It is within the business of this legislature to refer this matter asked for in this Motion to a select committee.

The Minister for Education and Human Resources pointed out that matters referred to select committees often die a most unnatural death (and I have seen many die) through nothing being done once it is in a select committee. There is a duty (I believe) that when a matter is referred to a select committee, time is allotted to deal with that matter. I believe it is possible that a select committee of the whole House could meet once, twice or whatever. That Select Committee could refer this matter back to the methodologies as provided for in Section 20 of the Law and make a report to the House after Members

have given their ideas about what should be, after having made their representations, I think that is possible. But to say that it is something that should not be—that the whole idea of a minimum wage could be something bad for this country—really makes me wonder.

I think, Mr. Speaker, that we could make one commendable step if the Select Committee meets and passes the matter on to the means provided by the Governor to have a minimum wage that we would be better off for so doing.

Mr. Speaker, I support the Motion that is before the House prescribing a minimum wage.

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** Mr. Speaker, I rise to lend my support to what I believe is a very worthwhile Motion before this House. For a long time various governments have wrestled with this matter of a minimum wage. As long as I have been in this Parliament I have been talking about it. And as the Second Elected Member from Bodden Town and other Members have been saying, *‘when we get close to it there is always somebody to throw a spanner in the works’*.

When I was responsible for Labour I got a committee set up. I promised the House I would. That Committee made a report and the government of the day was happy to let me go out there, talk about it and take the licks, even to let me set up the Committee. But once that Committee reported, I could not get it out of Executive Council. It is time to stop talking, to sit down with people we know and Members of this House and see whether this minimum wage is something that will work. Certainly, I believe that we should set a minimum because there are people today in categories of work who are being paid less than they were twenty years ago.

I do not want to get into any particular area. I started out at that time by saying we would set a minimum wage for the hotel industry and take it from there. I believe, Mr. Speaker, that a minimum should be set. I was in Cayman Brac a few days ago and people there are still making less than \$2 per hour in some instances. This is at a time when inflation has grown out of proportion and people are making less and less and less.

So, I see nothing wrong even though the economy does seem to be somewhat in decline and we would have to tread carefully. Mr. Speaker, all those things taken into account, we cannot sit down here with our heads in the sand after telling the people whom we campaigned just recently, *‘Elect us and we are going to make life better for you’*. Well, better for whom?

At the same time some of those people are complaining that we have to watch this and that, they are the same people who complain about the maldistribution of income. Well, why do you think we

have a mal-distribution of income? These are the kinds of reasons why we have it.

Mr. Speaker, someone did say *'you cannot have your cake and eat it too'*. You cannot campaign on an issue that is good for you but because there are situations that surround you in your constituency you have to take a slightly different position. Politics will be politics and politicians will be politicians, but the people's business must be done once and for all. This is a matter to which some closure must come. It has been around too long and nothing has been done.

Now, my learned friend, the Second Member from George Town, stated that the Member should not have brought the Motion because the Select Committee, in his opinion, is not the right way. He said that the law rightly sets out *the right way* but that is *not the only way*. The law says, as the Second Member from Bodden Town said, that the Governor *may* establish a minimum wage advisory committee. As long as I have been in this Parliament the furthest I could get it was past Executive Council for a committee to look into it, but when it came back to Executive Council it stayed right there.

Mr. Speaker, the law says that *the Governor may set up a minimum wage committee* but it was never done. While it sets out some parameters, the law says nothing about this House not being able to set up a committee. It could not bar this Honourable House from setting up a select committee to deal with a minimum wage or any other business—no law can do it.

The Standing Orders of this Honourable House is the instrument that sets out how business is to be conducted here. Above that is the Constitution and there is also the Legislative Assembly (Immunities, Powers and Privileges) Law which protects this Legislative Assembly. But none of them say that we cannot bring this law or set up a select committee.

The Standing Orders say that a Member can bring a motion and a select committee can be set up at any time and for any matter. No law, no governor, nor anyone else can stop this Honourable House from setting up a select committee. Our Standing Orders say that *the select committee should have power to call on witnesses to come to the House or to the Committee to give information on the matters before it. It will have to make a report and every committee shall have power to send for persons, papers and records.*

So, Mr. Speaker, I think what the young Member is attempting is the same as many old Members wished to get done, but did not get far in their efforts. I think we need to give ourselves time. It is true – as one Member said – that Members are busy. Today, however, everyone gets a good salary and, yes, as I said we would have to *tread carefully* but we need to set some sort of minimum or else the social decline will continue.

So, Mr. Speaker, I rise to congratulate the mover and the seconder in moving this Resolution.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

First of all, let me make it abundantly clear that I support a minimum wage. I would like to congratulate the mover of the Motion for bringing such a motion back to this legislature, which has been around as long as I can remember – and I have followed the legislature for many years.

I have to question why previous legislators in this country were afraid. What were they afraid of? All legislators go out during campaign and talk about how they are going to better people's lives. Once they come to the Legislative Assembly they turn their backs on the promises that they made to the voters. That is unfortunate. But that is the situation as it stands.

I campaigned on the basis of a minimum wage. I made the people of East End a promise that I will do whatever is within my power to see that a minimum wage is put in place in this country and speak on whether or not it should be straight across the board or in categories. Much has been said about those two scenarios.

Mr. Speaker, in my former profession I worked in a very big organisation. Certainly, there were categories within that organisation for positions, and there were different points within those categories, but they were positions. They were not based on individuals in those categories. It is the value of that position to the particular company. And while it is fair to say that there were categories for all the different sections of the organisation, there also was a minimum that no category went below.

Speaking about the tourism industry in this country, there is an elderly lady in my district of East End who is soon to be retired from that industry. This lady worked for many years making less than \$3 per hour. She will retire with little over \$3,000 in pension. That is appalling! That bothers me, Mr. Speaker, and it should bother every legislator and every resident in this country!

Someone spoke about cheap labour: Is it cheap labour or is it exploitation of the people who work in this country? We must stop exploiting people – and I am not talking only about Caymanians – I am talking about every working being in this country.

I believe that some employers in this country are using foreign imported labour to keep Caymanians out. They are exploiting these people because as someone said (I think it was the mover), even though the wages here are low they are higher than what these people make in their respective countries. However, we cannot afford to allow it to go on in the Cayman Islands. We boast of having so much, yet there are Caymanians in this country practically living in squalor because of the lack of a minimum wage.

Someone applauded the Immigration Board on setting the minimum wage, but I am not here to applaud them because they included gratuities in that

minimum wage and gratuities have absolutely nothing to do with a minimum wage. A minimum wage is what is paid as a wage for a day's work, whether it is on an hourly, or a daily basis. That is what that employee has agreed to work for, therefore, the employer expects to get a day's work out of that employee. A day's work is a day's work.

Mr. Speaker, gratuities are given for services rendered. It has nothing to do with the employee doing the job that he was employed to do, except in the sense that he treats the clients of the employer in such a manner that they see fit to give him a gratuity. Gratuities must be shared among the employees apart from their wages, but it is being included in their wages to make it look like they are paying Caymanians well. They are not paying some Caymanians well and the time has come to take our heads out of the sand and put a minimum wage in place. There is nothing wrong with categories, but there must be a minimum that you cannot go below.

Next, we need to find out the cost-of-living index in this country. No one has attempted to address this. The Statistics Office will give us inflation rates, and this rate and that rate. The census has not even been distributed. That is a very good place to start debating this Motion from. We got a little glimpse of it a few weeks ago, but nevertheless it has not been distributed for the populace to be able to see, and more particularly for the legislators to see exactly where this country is going. We need some kind of guidance as to how the country has progressed over the last ten years, and the census will give us a lot of this information. Certainly, that is if we can trust it.

Mr. Speaker, the lack of good wages—if we want to call it cheap labour—also creates instances where we get substandard housing in this country. We start creating environments where crime becomes the order of the day. We start creating situations where we get the imported labour encroaching on the Immigration Law by going and working two, three, four jobs, and then we start complaining that Caymanians cannot get the jobs. Then we talk about how Caymanians do not want to work and we talk about how Caymanians think that the Government is here to provide for them. While I believe that may be so, it is minimal.

Mr. Speaker, the Caymanians that I know do not want anything to be handed out to them and those who believe that the Government is here to give them everything, a minimum wage is not going to affect them anyway – they are not going to work whether you put it on their laps or otherwise. Therefore, a minimum wage will not do anything to assist or protect them. It is to protect the Caymanians who have forever been hardworking. It is to make them feel a sense of belonging in their own country. This is their country and if they cannot earn a decent wage for an honest day's work then the rest falls away as well: thus, the reason we see so many Caymanians who cannot qualify to even have a home. One of the

greatest things that Caymanians held dear to them was the ability to build their homes.

I recall many years ago when the Planning Law was being drafted, Caymanians did not need to have a certificate of occupancy. Why? Because they built a little piece today with the money they had and the next year when they came home on vacation they would build on another piece: eventually they had a reasonable house for the whole family. That was put in place by our seamen. Well, I am here to say that the days of the seamen are over, therefore . . .

*(Inaudible interjection)*

**Mr. V. Arden McLean:** Well, it is almost over, Mr. Speaker – at least, my days at sea are over. I am here to say that the tables have now turned: the labour is coming here. I think, it is time we give them a fair opportunity in the market place whereby they can build for themselves as well. If they could do it by going to another country then they should be able to do it in one of the richest countries in the world. There is no need for them to go overseas anymore. Therefore, we as legislators have to make provisions for our people, and for the people who come here.

An example has been given concerning a minimum wage being put across the board: If \$7 is the minimum wage and a person is making \$10, some employers may want to drop it to \$7. Well, that will be a dark day in this country because I am sure if an employer values an employee at \$10 then I do not see that employer allowing that employer to drop that wage down to \$7 as a result of minimum wage. That is not what a minimum wage is about.

There is another argument, but of course this one comes from the employer – that the cost of living is going to increase and inflation is going to increase. Well, inflation has been on the up for a very long time. Cost of living has been on the up for a very long time. That is the reason why those who earn \$3 or \$4 per hour – U.S. dollars at that – are experiencing difficulties. That is exactly the reason why they cannot pay and they live on near squalor as I said earlier. And if that is going to cause cost-of-living increase, well, we are going to have to live with that. But of course that argument is coming from the employers because they do not want to dip into their bottom lines so they are going to put up the cost on their products.

Mr. Speaker, I think it is time that someone other than the Government digs his hands in his pocket too. If it is so nice doing business in this country, (it must be profitable by those persons still being here because one does not invest money in a losing proposition), some payback should be coming.

We talk about partnerships and about commodities—labour being a commodity. Partnership, Mr. Speaker, yes, that is what it should be, but a partnership is not one-sided. There must be some equality in partnerships for them to continue, thus the reason why the Third Elected Member from George Town

can start a union in this country. The reason being, because it is lopsided and the employees are not being treated fairly.

Whether starting a union is right or not, employees are getting fed up because of the low wages that they are receiving. Mr. Speaker, I respect the Second Elected Member from George Town and he rightly pointed out the section of the Labour Law which says that *a creation of a minimum wage is vested in the powers of the Governor in Council*. If the Government is mindful to do it, then we can stop all the debate right now.

Mr. Speaker, as we said, for many years it has not been done and it was vested in the Governor in Council for many years as well and nothing has been done. Now, I will not blame the new government, they are yet . . . and unfortunately this is the first Motion in this Honourable House since the new government took office. I have every confidence—since the Minister of Education and the Minister for Tourism have been advocating a minimum wage for many, many years—that in short order we will see a minimum wage in this country.

I find it quite amazing that the people in this country who oppose a minimum wage are the same people who, I believe, are exploiting labour. That should not come as a surprise. A number of these employers, have been in business for many years and they have reaped the benefits from paying low wages. Mr. Speaker, the Immigration Board – formerly the Protection Board – has supported this whether intentionally or unintentionally by giving work permit upon work permit to one employer and not demanding to see a legitimate wage proposal. We have perpetuated this problem over the years and it has to stop. They will make their applications and write down some fallacious number and no one follows up on it to see if has been carried out.

I am challenging the new government to ensure that Caymanians are protected. As soon as this goes to the Select Committee and recommendations are made, hopefully a minimum wage will be put in place. I am challenging the new government to ensure that the mechanism is put in place for employers to pay employees what is rightfully theirs.

I am also challenging the Government to ensure that gratuities are not included in wages. It is a separate amount of money that must be paid for services rendered. They have to stop! For too long in this country we have not been concerned for the *small man* who is being exploited. All we are concerned about is what we are making and how we can live our lives, not realising that it is the *smaller man* who affects how we live. Until someone realises that *he* is a part of the voting public this is not going to get any better. I just do not understand how the voting public can put up with having been given so many promises and then they re-elect those same persons in four years time.

I feel sorry for the new government because with all these new ones on the Backbench I am sure they are going to be bombarded with new things to do. I am sure that they will rise to the task and in four years time they may leave greyer, but I trust that the country will be better off.

Mr. Speaker, I support this Motion. It is long overdue, that is, the minimum wage. The Motion has been here for many years but the minimum wage has not been forthcoming. I support it and again I applaud the mover. I applaud the Government for accepting it, and I look forward to being a part of the committee.

Thank you.

**The Speaker:** In accordance with Standing Order 10(2) we have reached the hour of adjournment. I will now call upon a Member to move the adjournment.

The Honourable First Official Member.

## ADJOURNMENT

**Hon. James M. Ryan:** Mr. Speaker, I beg to move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 o'clock tomorrow morning. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10 o'clock tomorrow morning.

**AT 4.29 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 15 MARCH 2001.**

**PARLIAMENTARY QUESTION ASKED BY  
THE THIRD ELECTED MEMBER FOR THE WEST BAY CONSTITUENCY  
TO THE HONOURABLE MINISTER RESPONSIBLE FOR  
EDUCATION, HUMAN RESOURCES & CULTURE**

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**QUESTION:** What technical/vocational courses are available at the Community College and what is the current enrollment in each (broken down by country of origin).

**ANSWER:** The Community College of the Cayman Islands currently offers 14 programmes that prepare individuals for the world of work.

These programmes fall into two categories:

1. Vocational – target population – recent high school graduates
2. Professional – target population – working individuals.

**1. Vocational Programmes**

The following are the enrollment statistics for VOCATIONAL PROGRAMMES for September 2000:

| Programme                           | Total | Caymanian | Cuba | Honduras | Jamaica | USA |
|-------------------------------------|-------|-----------|------|----------|---------|-----|
| Accounting Certificate              | 14    | 10        |      |          | 4       |     |
| Computer Applications Certificate   | 20    | 17        |      | 2        | 1       |     |
| Construction Technology Certificate | 9     | 7         |      |          | 1       | 1   |
| Electrical Technology Certificate   | 15    | 13        | 1    | 1        |         |     |
| Hospitality Studies Certificate     | 10    | 8         | 1    |          | 1       |     |

**2. PROFESSIONAL PROGRAMMES**

Applied Management Practice

Computing

MCSE

A+

Legal Secretarial Certificate

Foundation Banking Certificate

Banking Diploma

Associate of Applied Science

Accounting

Business Administration

Office Administration

### Professional Programmes Enrollment Summary

| Programme                      | Course Enrollment |
|--------------------------------|-------------------|
| Applied Management Practice    | 24                |
| Computing                      |                   |
| MCSE                           | 18                |
| A+                             | 15                |
| Legal Secretarial Certificate  | 52                |
| Foundation Banking Certificate | 33                |
| Banking Diploma                | 36                |
| Associate of Applied Science   |                   |
| Accounting                     | 41                |
| Business Administration        | 40                |
| Office Administration          | 7                 |

### Professional Programmes Breakdown by Nationality

| Country      | Applied Management Practice | Legal Secretarial Certificate* | Foundation Banking Certificate | Banking Diploma* | TOTAL      |
|--------------|-----------------------------|--------------------------------|--------------------------------|------------------|------------|
| Canada       | 0                           | 1                              | 1                              | 0                | 2          |
| Cayman       | 18                          | 37                             | 29                             | 28               | 112        |
| Chile        | 0                           | 1                              | 0                              | 0                | 1          |
| Columbia     | 0                           | 1                              | 0                              | 0                | 1          |
| Honduras     | 0                           | 2                              | 0                              | 1                | 3          |
| Jamaica      | 3                           | 8                              | 1                              | 0                | 12         |
| Mexico       | 0                           | 0                              | 0                              | 1                | 1          |
| Montserrat   | 0                           | 0                              | 0                              | 1                | 1          |
| South Africa | 0                           | 0                              | 0                              | 1                | 1          |
| UK           | 1                           | 2                              | 0                              | 3                | 6          |
| USA          | 2                           | 0                              | 2                              | 0                | 4          |
| Venezuela    | 0                           | 0                              | 0                              | 1                | 1          |
| <b>TOTAL</b> | <b>24</b>                   | <b>52</b>                      | <b>33</b>                      | <b>36</b>        | <b>145</b> |

\*figures affected by late registration

II. Professional Programmes – Computing – Enrollment/Nationality Summary

| Country           | MCSE      | A+        | TOTAL     |
|-------------------|-----------|-----------|-----------|
| Barbados          | 1         | 0         | 1         |
| Canada            | 1         | 0         | 1         |
| Cayman            | 9         | 7         | 16        |
| India             | 0         | 3         | 3         |
| Jamaica           | 4         | 2         | 6         |
| South Africa      | 0         | 1         | 1         |
| Trinidad & Tobago | 1         | 0         | 1         |
| UK                | 0         | 1         | 1         |
| US                | 4         | 0         | 4         |
| <b>TOTAL</b>      | <b>18</b> | <b>15</b> | <b>33</b> |

III. Associate Degree/Enrollment/Nationality Summary

| Country      | Accounting | Business Administration | Office Administration | TOTAL     |
|--------------|------------|-------------------------|-----------------------|-----------|
| Cayman       | 36         | 36                      | 7                     | 76        |
| Cuba         | 0          | 1                       | 0                     | 1         |
| Filipino     | 1          | 0                       | 0                     | 1         |
| Honduras     | 1          | 0                       | 0                     | 1         |
| Jamaica      | 1          | 2                       | 0                     | 3         |
| Guyana       | 1          | 0                       | 0                     | 1         |
| UK           | 1          | 1                       | 0                     | 2         |
| USA          | 0          | 0                       | 0                     | 0         |
| <b>TOTAL</b> | <b>41</b>  | <b>40</b>               | <b>7</b>              | <b>88</b> |



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**15 MARCH, 2001**  
**10:13AM**  
*Third Sitting*

*[Prayers read by the Honourable Minister responsible for Community Development, Women's Affairs, Youth and Spots]*

**The Speaker:** Please be seated. The Legislative Assembly is in session.

Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for late attendance from the Hon. Minister responsible for Education, Human Resources and Culture and also from the Hon. Minister responsible for the Ministry of Health and Information Technology who is away recuperating from an operation.

Item number 3, Questions to Honourable Ministers /Members. Question 9 standing in the name of the Third Elected Member for George Town.

**QUESTIONS TO HONOURABLE MINISTERS/MEMBERS**

**Dr. Frank S. McField:** Mr. Speaker, this question is directed to the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture who has been delayed.

**The Speaker:** The Honourable Minister responsible Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I beg that Questions 9 and 10 be placed at the end of Question Time, at which time the Honourable Minister should be present.

**The Speaker:** So ordered.

Moving on to question 11, standing in the name of the Third Elected Member for West Bay.

**QUESTION NO. 11**

**No. 11: Capt. Eugene Ebanks** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs if there is mandatory drug testing of prisoners and prison guards and how many prisoners and prison guards failed these tests in the

past year.

**The Speaker:** The Honourable First Official Member responsible, for Internal and External Affairs.

**Hon. James M. Ryan:** The Prison Rules do not contain a mandatory drug testing provision for prisoners or staff. However, the Rules do provide the drug testing of prisoners if there are reasonable grounds to suspect a prisoner has been using illegal drugs.

Following the disturbances at the prison in 1999, drug testing of prisoners was suspended, but resumed in April 2000. In the 11 months since then, 276 prisoners have been tested and 44 (or 16 percent) have tested positive.

An average of 10 percent of the prison population is tested each month. It is encouraging to note the reduction in positive tests over this period.

|                     |          |                    |
|---------------------|----------|--------------------|
| April/May/June 2000 | 63 tests | 15 positive (24 %) |
| July/Aug/Sept 2000  | 89 tests | 16 positive (18 %) |
| Oct/Nov/Dec 2000    | 80 tests | 10 positive (2.5%) |
| Jan/Feb 2001        | 44 tests | 3 positive (7 %)   |

A programme of random drugs testing for staff is to be introduced by June this year.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable First Official Member give the logic behind not giving mandatory drug tests, given what seems to be a high prevalence of positive testing?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I think the simple answer is that the testing is done in accordance with the Prison Law. But I would like to add that work is being done on amending the Prison Law. The Prison rules is an area that will be carefully gone into.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** Can the Honourable First Official Member say what arrangements are made for excuses or visits outside of the prison for prisoners, seeing that we have a problem with prisoners testing positive? I would imagine that it is pretty hard to con-

trol prisoners who are allowed to leave to visit family, to leave for funerals or even to leave for Christmas parties? How is that arrangement made for prisoners to actually leave the prison?

**The Speaker:** That is somewhat outside of the substantive question, but if the Honourable Member wishes to answer, he may. The Honourable First official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The social visits outside the prison are few and far between. There are in exceptional cases, social visits, or family visits (for the sake of argument) to occasionally attend a funeral, etc. but, as the Member would know there are regular work parties outside of the prison.

If inmates are allowed out, there will be a prisoner profile done so that the prison authorities are aware of the individual inmates, and they are searched upon their return. There are also drug tests done.

In addition to this, when inmates are allowed outside they are normally escorted by prison officers.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable First Official Member confirm if these numbers tested here are in line with the previous part of the answer that stated they were based on suspicion, or are these numbers simple samples of the populous on a random basis?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** These figures we have here are not only for those who might be suspected of drugs; there is also random drug testing done. There is a policy in place that every inmate going up for parole has to be tested. So, it includes all those who are eligible for parole as well.

**The Speaker:** The Second Elected Member from Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Just to follow up: what criteria are used in doing your random selection? On what basis do you select the prisoners?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The random drug testing is done mainly for inmates who are going on to the enhanced wing. Those legislators who visited the prison will recall that there is a selection of the prison where persons who are of good behaviour and who meet

certain other good criteria are placed in the enhanced wing. Other than that, the drug testing is largely as a result of suspicion aroused prison officers' observations, etc. Then, of course, those who go up for parole are all tested.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It has always amazed me that someone in prison can test positive for drugs, but I guess someone can enlighten me on that at a later time.

Can the Honourable First Official Member say if any study has been done, an investigation as to where these drugs are coming from inside the prison?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** First of all, it is a sad fact of life, but nevertheless a fact of life—and not peculiar to Cayman—that prisons around the world have problems with drugs. About three years ago I started the drug-testing programme at Northward Prison. When the numbers of inmates testing positive was discovered, we began to take steps to deal with it.

Let me say that this is not an easy task. One has to deal with persons who visit inmates, family members; one has to deal with drugs being thrown in from the outside; one has to deal with work parties or groups going out just to name three possible avenues.

I would like to stand here today and say that we have eliminated drugs at Northward Prison, but the figures will show otherwise. We have brought the numbers down dramatically since there has been a drug-testing programme. And the various measures have been put in place. All prisoners who go out will be searched upon their return. Visitors are searched. The higher fence at Northward with the other two fences inside will be a further deterrent to drugs being thrown over the fence.

Those are some of the ways we are dealing with drugs. On an occasional basis, we have been using a drug dog. And it had been planned to extend that to a more comprehensive programme, but because of budgetary constraints that may not be possible. Efforts are being made in several directions and the results show that the efforts are paying off.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Just to follow up on that, I know that on my visit to the prison there was a Visitor's Centre being built. Can the Honourable First Official Member say when that will be finished? Will that prevent visitors from coming in contact with the prisoners to avoid the transport of drugs inside the prison?

**The Speaker:** I think we are getting well outside the substantive question. If the Member wishes to answer, he may. The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I should remind this Honourable House that the Visitors' Centre is not being built with public funds, but by contributions that have been solicited from individuals in the private sector. We have worked on the Visitor's Centre as we have been able to get materials. But I am told that it is hoped we will finish the Centre in two to three months.

**The Speaker:** I am going to have to limit this to three additional supplementaries.

The Second Member for West Bay.

**Mr. Rolston M. Anglin:** I was wondering if the Honourable First Official Member could state the justification for not testing prison officers, [seeing that there is such] an alarming rate of positive testing.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I mentioned that random drug testing for staff will begin in June of this year. In fact, the prison authorities gave notice several months ago I believe. I do not know that there is any justification for not testing prison officers. That is why there is going to be a drug, testing programme for prison officers beginning in June.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. Eugene Ebanks:** Can the Honourable First Official Member say if any one prisoner tested positive for drugs more than once? And who conducted the tests?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Yes, there have been inmates who have tested positive more than once and prison authorities have dealt with them by way of punishment under the prison rules.

In respect of who does the actual testing, it is done by the security section of the prison.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable First Official Member advise the House as to what disciplinary action is taken when a prisoner tests positive for drugs?

**The Speaker:** The Honourable First Official Member

responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The most common punishment meted out to inmates who test positive will be the loss of remission, as well as loss of other privileges that are normally earned by inmates, and the loss of the privilege to work outside the prison.

**The Speaker:** Moving on to question 12, standing in the name of the Third Elected Member for West Bay.

#### QUESTION NO. 12

**No. 12: Capt. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works what is the estimated time for completing the Dalmain Ebanks Civic Centre and approximately what it will cost.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The continuation of the Dalmain Ebanks Civic Centre is subject to approval of funding in the 2001 capital development budget. If the proposed funding is approved in April 2001, it is anticipated that the construction of the facility will be completed in approximately May 2002. The estimated cost of the completed facility is \$4,000,000.

#### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End,

**Mr. V. Arden McLean:** Can the Honourable Minister tell us the cost per square foot on this building?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The building is 24,000 square feet. The projected square footage cost is \$126.35. This does not include site preparation and external works, but it includes all other costs relating to the building itself.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Minister say whether or not the Dalmain Ebanks Centre will be capable of being used as a hurricane centre? Will it be structurally sound enough for that purpose?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Yes, that is exactly part of the dual purpose of building the centre. Just for the Mem-

ber's information, on completion the hall will seat approximately 1400 persons, that is for graduations and those types of functions; and it will accommodate approximately 900 people when used as a hurricane shelter.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say if there are going to be MLA offices in the Dalmain Ebanks Civic Centre? And will there be a split air-conditioning system?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Unfortunately, I really cannot say this morning where the split is going to be. But if the Member wishes I can find out.

Regarding MLA offices, I do not have the plans with me at present, but I am certain that the representatives from West Bay can liaise with me before construction begins. We will see whether it is a feasible proposition. If it is cost effective, then certainly I am quite able to say that we would look forward to accommodating it so that we would not have to think of anywhere else.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** Can the Honourable Minister say whether or not the fill that had to be removed from the site for the footings is being sold to offset some of the cost of the project?

**The Speaker:** The Honourable Minister for Planning Communications and Works,

**Hon. D. Kurt Tibbetts:** That is the intention— "sold," meaning sold in-house for other projects that PWD might have to do. Just so the Member will also know, I think the Softball Association made a request through the Ministry for 12 loads of that fill for a project they were doing their own. That request was granted, but that was it. The rest of the material is going to be used on other projects and the costing will be balanced out by double entry (not single entry) bookkeeping.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 13, standing in the name the Elected Member for East End.

### QUESTION NO. 13

**No. 13: Mr. Arden McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works to state the number of miles of roe, and/or public highways that may have

been (a) contracted (b) completed with asphalt concrete and surfacing; and at what cost per mile.

**The Speaker:** The Honourable Minister for Planning communications and Works.

**Hon. D. Kurt Tibbetts:** The Public Works Department (PWD) commenced a resurfacing programme in 1999 extend the pavement life on main roads and secondary roads that are heavily trafficked. The attached she shows a summary of the areas that were resurfaced 1999 and 2000 (see Appendix

**West Bay Road:** The total cost of resurfacing 4 miles of West Bay Road from Sleep Inn to the Fire Station, was \$2,945,444. The average cost per mile for this project was \$701,296.

**Other areas:** The total cost of resurfacing a total of 29.6 miles in all other areas as listed on the attached summary sheet [See page 77] was \$8,495,254, at an average cost of approximately \$287,000 per mile.

I do not think it makes good sense for me to read the attached sheet. Members will have it clear and can ask supplementary questions from it.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Minister explain the huge differential cost per mile between the resurfacing of the West Bay Road and resurfacing elsewhere?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** First of all, let me state that I was not there at the time so there were no directives coming from me. Nevertheless there is an explanation.

The works required along West Bay Road were considerably more extensive than in other areas. In addition to resurfacing of the pavements, corrections were also made to the vertical profile to address major drainage problems that existed in several areas on the West Bay Road.

PWD recommended raising the road in low areas using hotmix asphalt, rather than the normal techniques of granular based material, which would have been much more time consuming and disruptive to traffic as well as businesses along the West Bay Road. The cost would have been comparable as a greater quantity of granular based material would have been required to achieve the same base strength.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say how much more material would have been used? My understating of the answer to that supplementary was that if they had not used asphalt concrete they would have used more sub-base material to build that road up. I wonder if he can say how much more material?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I have asked representatives from PWD to come to the Legislative Assembly. They are on notice, but they are not here yet.

Let me say during the interim that when the answer to the Second Elected Member from George Town states that the cost would have been comparable as a greater quantity of granular based material would have been required to achieve the same base strength, I think the Member is asking how much we are talking about when we say a greater amount of material. I am not quite sure what the answer is, and I do not want to take too many chances because I know the Member is very knowledgeable about this area—perhaps more knowledgeable than I am—but I think it has to do with compaction of that base material.

I am not quite sure what the cost is, compared to the hotmix, but as soon as the representative from PWD comes we can get that answer.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I did not really mean to put the Minister on the spot, but I can assure him that base material compared to asphalt concrete—which is somewhere in the region of three to four times the cost—they would have to use a lot more to fill that up.

Anyway, I wonder if the Minister can say, apart from the amount of material used on West Bay Road compared to that used on the rest of the roads, if the reduction, the disparity in the cost per mile is also as a result of competition in the marketplace.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I understand the Member to be asking if the lack of competition in providers of asphalt concrete—

**The Speaker:** Honourable Minister, I think he is asking for an opinion, if you wish to give it, you may.

**Hon. D. Kurt Tibbetts:** (*Jokingly*) The Member does that to me outside of the Chamber anyhow, so it doesn't matter.

I was going to say that it is difficult for me to give an exact answer to that, but, again, if the Member

would stow the question, as soon as the rep from PWD arrives will be able to give an answer to that.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I note with interest on the list of roads completed and in progress, that all of the districts are represented except Cayman Brac and Little Cayman I know there is good reason for that—the lack of an asphalt plant on the Sister Islands. However, I wonder if the Minister has given any consideration to commencing roadworks while Island Paving/Logan International has a plant located in Cayman Brac for the paving of the Gerrard Smith international Airport.

**The Speaker:** The Honourable Minister for Planning Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, the Second Elected Member from Cayman Brac has really driven down another road here. The fact is, at present we have not completed the capital side of the Budget. Members will be conferred with in deciding those amounts to be allocated, if at all possible and priorities indicate that there should be road works in Cayman Brac and/or Little Cayman, then certainly it will be a prudent decision to time it while the Plant is there doing another hotmix project. The Member asked if I am considering this and I can gladly say that I am. Of course, we will have to consult with the Honourable Chief Secretary who is responsible for Sister Islands Administration, and the two reps from Cayman Brac and Little Cayman. Suffice it to say, if at all possible, it will be done. I appreciate the Member bringing it up.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** Can the Honourable Minister say if there has been any significant change in the per tonnage price of asphalt over the last three to five years? If so, would he know the reason why?

The reason why I feel this question is relative is because we are talking about cost per square mile, and we are also speaking about other roads to be done. So it would, be good to know if the cost has changed, and what the reasons were.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** That is the third question that will have to wait for a few minutes. We will try to get sensible answers as soon as the rep from PWD gets here. He's on the way now.

As to whether there has been any significant change in price over the last three to five years, I suspect a supplementary before addressing "competition"

will have had a bearing on the reply. As soon as we get the facts, I will let the Member know.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. Eugene Ebanks:** I wonder if the Minister could give some explanation as to why the roads were all paved and then had to be cut again for the sidewalks to go in. I have seen in my travels where sidewalks are put in and then the roads paved to the sidewalks. However, in this case it was the other way around. I just wondered if there was some explanation for that.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am advised that in actual fact it did not cost any more doing it one way or the other. But let me say that at that point in time, during the latter part of last year, there were directives for these roads to be done within a certain period of time as quickly as possible. So, in many instances, drainage was not considered because there were specific timelines. The truth of the matter is, the PWD did not have the ability, nor were they allowed to plan and phase the various actions that had to take place in a most cost-effective manner.

Even now, after many of the roads have been done the PWD is now having to go back to entertain drainage when under normal circumstances they would have done so in tandem with the construction or paving of the roads. Unfortunately, this was not the case, but it is important for me to say because certainly the professional at PWD have the ability to do it right.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Minister said that as soon as his technical advisor arrived he would be able to answer the previous questions. Is it okay to address those now?

**The Speaker:** Please go ahead.

**Mr. V. Arden McLean:** Thank you. Mr. Speaker, can the, Honourable Minister say if competition in the marketplace has contributed to the large difference in the price for the West Bay Road—compared to roads in other areas per mile—that is the \$701,296 per mile on the West Bay Road compared to \$287,000 per mile in other areas?

**The Speaker:** The Honourable Minister for Planning Communications and Works.

**Hon. D. Kurt Tibbetts:** In answer to the Member's question, if we speak to what work was done on the West Bay Road, that work was put out to bid. There

was more than one tender for it, so it was not that it was just given to one contractor to do the job. It was by competitive bid.

Secondly, it has to be borne in mind that if it had not been done the way it was—using the hotmix to a larger, degree than the base material and then the hotmix—the length of time it would have taken doing it the longer way would have disrupted the traffic flow and there would have been additional labour cost as well.

In regard to the total per mile cost, and the question specific as to whether competition had anything to do with it, the fact is, it was put out to bid and there was competitive tendering involved. So, basically, it was not like it was just one person to do the job, and that whatever they charged Public Works had to pay.

**The Speaker:** I would appreciate a motion for the suspension of Standing Order 23(7) & (8).

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

**Hon. D. Kurt Tibbetts:** I move the suspension Standing Order 23(7) & (8) to allow Question Time to continue.

**The Speaker:** The question is that we suspend Standing Order 23(7) & (8) to allow Question Time to continue beyond the hour of 11 o'clock. Those in favour please say Aye, those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time continue.

**AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** Now that we have the technical expertise in the House, can the Honourable Minister say whether the average cost per ton of asphalt for Government has changed significantly over the past three to five years? If so, what caused that change in price?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The fact of the matter is that over the last three to five years it is net a fact that the cost of hotmix has gone up and continued to go up. At one point in time (three or four years ago), it was \$165 per ton. When larger volumes were demanded by PWD it went down to like \$139 per ton. This was

when there was still only one supplier.

Since the market has become more competitive, because there are other contractors, it is now between \$100 and \$110 per ton. So, it proves the point that competition certainly stabilises prices.

It would not be factual to say it has been on the rise, but, rather, the contrary.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. Eugene Ebanks:** Can the Honourable Minister say if the \$701,296 per mile for West Bay Road covered just the asphalt paving or did that include the sidewalks as well?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** It did not include the sidewalks. The sidewalks that were redone cost a total of \$230,000.

**The Speaker:** The Fourth Elected Member for West Bay. This will be followed by two more supplementaries.

**Mr. Cline Glidden Jr.:** Can the Honourable Minister say if since all this roadwork has been done, and all this money spent, and it was done in a relatively short time, if there has been any request that will require some cutting of those newly paved roads in the near future?

**The Speaker:** The Honourable Minister for Planning Communications and Works.

**Hon. D. Kurt Tibbetts:** The fact of the matter is that PWD was in contact with the various agencies that might have had to do that type of work within the roads. The did meet on a regular basis and as far as possible when certain roads were going to be paved PWD tried to time it so that it would be less disruptive and destructive, the fact is that the volume expected to be done in such shed period of time caused that attempt to not be as effective as it might have been had there been an orderly planned situation.

So, there is quite likely a situation you will find in the not-too-distant future where those recently done road will be dug up for other works. But, again, it is not that PWD was not conscious of the situation. I have been told, though, that the West Bay Road is least likely to be affected.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 14, standing in the name of the Elected Member for East End.

**No. 14: Mr. Arden McLean** asked the Honourable Mister responsible for the Ministry of Planning, Communications and Works to state how many miles of public highways remain to be completed; during what period; and what is the anticipated cost.

**The Speaker:** The Honourable Minister for Planning Communications and Works.

**Hon. Kurt Tibbetts:** Under the current resurfacing contracts, the section of road remaining to be completed is approximately three miles in Bodden Town, from Will T Drive to Moon Bay condominiums. Works in progress this section at present are scheduled for completion by the end of March. The anticipated cost of resurfacing this section of road is \$860,000.

## SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It appears that the cost per mi gets lower and lower. That is good.

I wonder if the Minister (and I am coming back this one as I have been doing since December) can tell us about those roads in the eastern districts? Is it anticipated that they will be finished with the nice smooth stuff the rest of the country has, and when will it be done?

**The Speaker:** The Honourable Minister for Planning Communications and Works.

**Hon. D. Kurt Tibbetts:** First of all, to address what the Member asked, and just to give a gentle reminder, there is a section of the East End Road, from Half Moon Bay up to High Rock that the contractor has an obligation to redo because it was done unsatisfactorily. PWD is pressing the contractor to redo that section.

Regarding the rest, that is with what we call the "rough surface," with just one layer, needing a second layer to smooth it off, I truly cannot give a commitment for a specific time period when it will be done at this point in time. If it is at all possible, it will be done this year. It is just going to depend totally on what the agreed capital works will be within the budget and the priorities.

I can appreciate the Member's position, as well as the Minister of Community Affairs from North Side who faces the same circumstance. Again, we will do the best we physically can to get that done as quickly as possible, But it is a bit difficult for me to stand here now and give a firm commitment. Let me say that from the time it was first mentioned, it has always stuck in my mind; and every time I see the Member I remember it. We will get to it as quickly as we can. The only thing that will hold it up is the funds—if it is held up.

**The Speaker:** The Second Elected Member for

## QUESTION NO. 14

George Town.

**Mr. Alden M. McLaughlin, Jr.:** The Honourable Minister has not addressed the completion and resurfacing of the Crewe Road Bypass in his response.

*[Inaudible comment]*

**Mr. Alden M. McLaughlin, Jr.:** I hear the Minister saying it was not asked, but the question asked the Minister to state how many miles of public highways remain to be completed; during what period; and what is the anticipated cost. I do believe that that question encompasses the completion of the Crewe Road Bypass as well.

My question to the Minister is: Can he confirm (notwithstanding his answer to the substantive question), whether or not the Crewe Road Bypass will be completed during the course of this year?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Just for purposes of clarity, the question was answered in the vein of resurfacing. Work is continuing on the Crewe Road Bypass at present. There are a few matters that have to be sorted out with settlement of claims. Those are being dealt with presently. Once we get these out of the way, the intention is to complete the Crewe Road Bypass up to Bobby Thompson Way this year. It is not going to be possible to continue any further for this year. But that in itself is going to provide some alleviation of the traffic problem.

The area being worked on now from below the Lion's Centre through Randyke Gardens over to Bobby Thompson Way will be completed.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I am cognisant that this question may be treading dangerously close to the line of irrelevance to the substantive question, but if the Minister would be so kind as to indicate whether or not further steps will be taken to address the congestion problem at the junction of South Sound and Crews Road in the vicinity of the Grand Harbour Hurley's? If so, what steps are proposed?

**The Speaker:** I do think that is outside the ambit of question, but if the Honourable Minister wishes to answer, he may. The Honourable Minister for Planning, Communications and Works.

*[Members' laughter]*

**Hon. D. Kurt Tibbetts:** Notwithstanding what the Member said about treading on irrelevance, I will attempt to answer it.

Obviously, the way the Member asked the ques-

tion he is of the opinion that what obtains there at present is not satisfactory either. I am assuming that is his opinion at this point in time. I think everyone knows what has been done thus far. I think the exit through the old Soul Sound Road onto the road leading to Bodden Town (given the circumstances), much improved.

I was hoping not to have to talk to this until people saw it, but at present we are re-examining the situation to see if there are any other improvements that can be made. A traffic study has been done as to numbers flowing at various times and I think an assessment will be made very shortly.

We have also had complaints—vigorous complaints—from the owner of the Grand Harbour development because the present situation does not allow exiting the development to turn right to go down Crew Road and in his opinion it has impeded the continuation of his project by way of sales. Of course, safety is the main factor that has to be considered. There is also some difficulty coming out of the South Sound Road, though the through-lane makes it more efficient than it was.

When we are satisfied as to any improvements that can be made that will enhance the situation, we will be doing that. And whatever decision is taken with that will be taken very shortly, within a matter of weeks.

Regarding the specific answers, it is impossible for me to give those at present because the firm decision to what will be done, if we will be doing anything, has not been made yet.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I know the question stated public highways, however there are numerous roads in my constituency that have been started, and people ask when they are going to be completed. As far as I am concerned, this is very close to the question. Just so the Minister and the PWD expert will know what I am referring to, I will give two examples: In West Bay, references are made to "sand storms" experienced on Aqua Lane and Capt. Curry Drive and there are other roads. Those roads have just been surfaced with marl. Residents in that area are requesting that those roads be properly surfaced.

There is another situation where cars disappear off roads because of holes-like those on Garston Smith Lane. Residents wonder when that road will be completed.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I think the Second Elected Member for West Bay is referring to roads where the base work has been done and they have not come back to seal. I am told that simply because of the way



matters transpired last year, it was a matter of running out of time to complete them. They will be completed this year, and they are on a schedule. As quickly as the PWD can attend to those specific roads, they will be done.

**The Speaker:** Two additional supplementaries.  
The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** I know it has been a grilling for the Minister, and I hope that my forthcoming question is of some relevance. If not, I ask for your indulgence.

Can the Honourable Minister say—and this is to do with major highways—whether there is any consideration being given to reverting back to the prior system for two lanes heading into George Town at the end of West Bay Road in the vicinity of Seven Mile Shops and Sleep Inn? My constituents have expressed their opinions on the traffic situation and they feel that traffic flowed better when there were two lanes, compared to the present situation where the centre lane is used for turning.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** While the Member may have had some complaints from his constituents, I am told that when the Harquail Bypass was completed, the traffic flow in that area of the West Bay Road became less. Many vehicles went through the North Sound junction and made exit by the stoplight next to the cinema, or by the other exit turning left. Nevertheless, that has taken away a fair amount of traffic coming into town, because they turn left, use the bypass to come out to the industrial Park area and then go on to their destinations in town.

The PWD feels that lane would be more effective as a right-turn lane for allowing traffic to come off the main road rather than leaving it as two lanes and people who want to turn unable to do so. It was also a bit dangerous having to manoeuvre two lanes coming up.

So at this point in time, while the Member may have some complaints, I have to take the position that those complaints do not override the situation that obtains. In fairness to the situation, the technical people hear what the Member is saying and they will make some observations. If it proves best to revert to that, then that can happen. But I do not want to use what a few individuals may consider to be an inconvenience compared to the major traffic flow, to make a decision that would adversely affect the whole picture.

I hear what the Member is asking, and we will observe for a while and see what is the best thing to do. I trust he will appreciate it is not something we want to just jump at.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony Eden:** I would ask that you allow me two brief comments, on the Grand Harbour Junction, and then a quick question.

I have observed that the left turn access coming out of Hurley's going to Bodden Town (the east side), are stopping there because they come right on to the main road. People stop and let them out. The other observation is that people are doing five to ten miles per hour in the main lane going to Bodden Town. If speed could be picked up in that area it would change dramatically. Once you cross the Red Rabbit area, it just disappears.

Can the Minister say what is the expected life span of the hotmix we are now doing on the roads?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The observation the Member from Bodden Town made regarding the exit from Hurley's, the truth is, it is a matter of driver education. There is nothing telling the people to stop, but I think that by nature most Caymanians try to be courteous. On many occasions, however, because of the way the traffic flows, in trying to be courteous we solve one person's problem and create 100 problems behind us. I think that after a while people will get to understand that it is better to allow the smoother traffic flow by people getting out when there are natural gaps, rather than trying to create those gaps and cause the traffic to back up.

Speaking to the expected life span of the hotmix that has been done, if we talk about the rough course there now, the expected life span is only about five years. That is why it is important to keep the programme going, that those surfaces are not left like that, that they get the finished course. The finished course there now is expected to last about 15 years.

**The Speaker:** Moving on to question 15 standing in the name of the Elected Member for East End.

#### QUESTION NO. 15

**No. 15: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works to say whether the finishing or sealing of road verges was a part of any contractual agreement with the company or companies that have been responsible for the recent road works.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Under the current road resurfacing contracts, the contractors were required to place granular material along the road shoulders or verges. This was required in those areas where the finished level of the new pavement was much higher than the existing shoulder along the road. After the the

contractor has placed the material, the PWD is responsible for the grading, compaction and sealing of the shoulder.

### SUPPLEMENTARY

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say when it is anticipated that all the shoulders will be completed? I recognise where we have the rough course, such as East End and North Side, that it may be difficult to do it because we still have to lift that somewhat, but it certainly would not be that much, maybe just an inch.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The extensive workload of both paving contractors as well as PWD crews did not allow for completion of shoulder work during the year 2000. The shoulder works are currently in progress and it is anticipated that area will be complete by the end of April. In the areas where only the rough surface is at present, even though the smooth finish has to be done, there are some areas where the drop-off is fairly deep. That will also be done as a safety precaution, even if it is not sealed. The base will be put there so the drop-off is not as dangerous as it is at present.

**The Speaker:** Are there any further supplementaries? If not, we will return to question 9, standing in the name of the Third Elected Member for George Town.

### QUESTION NO. 9

**No. 9: Dr. Frank S. McField** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture if the Government has embarked upon the restructuring of the Human Resource Department and, if so, how will the new Department be structured.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** Government intends to restructure the Department of Human Resources to focus on arbitration, conciliation, and advice. What is known now as the Labour Department will be responsible for regulation the Labour Tribunals will be relocated, and a Learning and Skills Centre will provide advice and support to both employees and employers—in a nutshell, these are the proposed changes. The Ministry will continue to seek advice, including advice from the Labour Department itself, and from other sources, before these changes are finalised. Concurrently, in keeping with these changes the present Labour Law will need to be revised to bring in line with modern

labour practices and human rights.

### SUPPLEMENTARIES

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say exactly what he means by "arbitration" and "conciliation?"

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** It is the opinion of the Minister and the Ministry that there can be a more effective and efficient system than the tribunals. Currently, there are tribunals. I am reminded constantly, including this morning, that decisions are still outstanding and have been outstanding for months.

It is this Minister's opinion that we should move to an arbitration system and the advantages are as I list them: There is less formality than in the courts and in the tribunal system as it exists; the arbitration award is final; there is no appeal as there is in the present system, provided no special case is to be stated; the time and place of the hearing can be fixed to suit the convenience of both parties; and disputes are settled by experienced technical people of integrity who understand the complexity of the problems presented to them for adjudication. It is a quick process, it may be cheaper, and it is private: it is also a system that is increasingly popular in these kinds of disputes in other jurisdictions.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say what empirical information he has available to suggest that the tribunal system within this jurisdiction has not been able to accomplish its mission?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** Any intelligent person who has been following the complaints and the handling of the tribunal system over the past little while will understand that there is an element of dissatisfaction by both the complainants and by those persons complained against.

I have inherited a system where tribunal awards have yet to be made to some people. As I said, just this morning I had a telephone call from a lady with whom have been dealing, who has had a problem for over one year, and she has not been able to get the result of the tribunal award. That is but one.

Persons who sit on the tribunals . . . the system is fraught with problems. When I assumed constitutional

responsibility for the Ministry, the first thing I was faced with was a slew of resignations of persons who were chairmen of tribunals. We had to find replacements for those. In the midst of all that, there were awards to be made by these tribunals, some of which the chairmen have not signed off on. If there is any more evidence than that needed, then Heaven help us!

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I always wonder why the Minister is so huffity-puffity about answering questions. I mean, the reason we can exchange—

**The Speaker:** Please turn this into a question.

**Dr. Frank S. McField:** Mr. Speaker, the reason I am asking the question is because I feel that somehow there can be some intelligent exchange between the Minister and me.

Can the Honourable Minister say if in the restructuring of the Human Resource Department there will be a Director of Human Resource and a Chief Labour Officer, and whether or not the Director of Human Resources will also be the Head of that Department, meaning he will be the superior officer to the Chief Labour Officer?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** We are still in the process of formulating exactly what this restructuring will be. On Thursday, 8 March, we held a meeting with all of the Labour Department to explain to them, and to discuss with them and receive feedback, as to the Ministry's and the Minister's idea of the restructure. To this point, it is still an ongoing process of dialogue, discourse and discussion,

The Minister and the Ministry are open and when we have finished the discussions and formulated a firm direction, the Minister, in keeping with his style, will make a public announcement. But at this time, I am unable to say if there is going to be any Director of Human Resources, Chief Labour Officer, or any other such post.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister assure this House that however the restructuring comes about that the end result will mean that a Caymanian will be head of Labour and Human Resources in this country?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** I am sure that informed and edu-

cated Members will understand that I have no constitutional responsibility, authority or jurisdiction to appoint any government civil servant. My major premise is policy. Quite obviously, I would be ill advised as a Caymanian to advocate that a person other than a Caymanian be placed at its head, but I can only make a request, a suggestion and an application for a Caymanian. The ultimate responsibility lies with the Public Service Commission or whoever makes the appointments.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna O'Connor-Connolly:** Thank you, Madam Speaker. In the Honourable Minister's answer, I note that he stated that the labour tribunals would be relocated. If understood correctly there was some indication that we may be doing away with the labour tribunal system. Could the Minister state for clarity exactly what the position is? Will we be keeping the labour tribunals as, indicated in his answer, or will they be made redundant?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, until we have a new labour law we have to maintain the tribunal system. So, the proposal for the arbitrator only takes place after the new labour law comes to Parliament and is voted on.

But since the lady Member asked that question, let me give you an example of why we have to do away with the tribunals. The lady Member had appointed someone from Cayman Brac to a labour tribunal in Grand Cayman Government had to pay the air fare, rent a car and provide hotel accommodation. So, Mr. Speaker, these are some of the kinds of inefficiencies and nonsensical practices why I am saying now, as Minister, that the system has to be reviewed.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna O'Connor-Connolly:** Can the Honourable Minister give an indication as to the amount of outstanding caseload, now or in writing, back in 1997 as opposed to the year 2000? And, by way of a commitment, both the past Minister (who was his colleague) and I, put forward the labour tribunals and think it was quite a good system.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** I do not wish to engage in any comparative study as to what is a good system, My responsibility as the person in charge of labour now is to find the best, most efficient and satisfactory way of

dispatching the complaints we have. I believe, after taking advice from my permanent secretary and other knowledgeable and technical persons, that the system we plan to implement in the new labour law is definitely a better more efficient, cheaper system, that will yield more satisfactory results.

As to the first part of the question, I give the undertaking to find the number of outstanding complaints. Unfortunately, I do not have the information at this time. I will be happy to provide it in writing.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** The Minister seems to suggest that there is a body of knowledge that will result in the improvement of labour relations. Can the Honourable Minister say why he is talking about arbitration, conciliation and advice as a new system that operates in other countries and in order to accomplish this suggesting the review, of the Labour Law? Why is it that the Minister is not talking about the review of the Trade Union Law, which is an important part of this system?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** I do not want to sound facetious, but the answer is easy: I am the Minister of Labour, not the Minister of trade unions!

**The Speaker:** The Third Elected Member for George Town. I am going to have to limit it to two additional supplementaries.

**Dr. Frank S. McField:** Mr. Speaker, I know this is going to be cut off here because obviously we are not going anywhere here. But I guess people understand what is happening.

Can the Honourable Minister say whether or not his Ministry is aware of any directive issued to anyone in the Labour department to support the changes he is talking about? If so, how can we be guaranteed that the information which exchanges now between the Labour department and his Ministry will be the result of free, uninhibited thinking?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** There was no directive. The simple answer is, this is the Government's policy. This is the policy of the current political directorate espoused by its representative myself as the Minister who holds constitutional responsibility for labour and labour-related issues.

The guarantee that there is going to be dialogue is a guarantee that I offer personally because I am democratic, open, and have been transparent and already steps have been put in place. What we have to

deal with and what we encounter are mischievous, uninformed persons who insist on saying things because they have access to sources that other people may not necessarily have access to, making the task more difficult.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I would like to ask the Honourable Minister, as indicated in the last sentence of his response, whether the Labour Law is currently being reviewed and if so, by whom.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** To the best of my knowledge there is no current review of the Labour Law. It is proposed that there be a review, and certainly that is a proposal that I, as Minister, would encourage because I think it is necessary that we get a modern Labour Law.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 10, standing in the name the Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I am wondering if I should not withdraw this question in a show of good faith that questioning does not necessarily mean that I am wanting to somehow destroy the reputation of the Minister... I do not know.

**The Speaker:** You are not withdrawing it?

**Dr. Frank S. McField:** Yes Sir.

**The Speaker:** Please continue.

#### QUESTION NO. 10

**No. 10: Dr. Frank S. McField** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture to say what were the main conclusions of the Minimum Wage Advisory Committee April 1997; and will the recommendations/conclusions be made into Law and, if so, when.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** The Minimum Wage Advisory Committee was appointed in 1997 under section 21 of the Labour Law to investigate and enquire into all matters related to the appropriate level of a national minimum basic wage for hotel and condominium employees and to make recommendations as to the minimum rates of wages which should be payable to workers in these two types of establishments.

A ten-Member committee met under the chairmanship of the Director of Labour and submitted its final report in April 1997. The Report, which was never tabled in this Honourable House, concluded it to be in the best interest of the country that a national minimum basic wage for hotels and condominiums be implemented at an early date,

I should like to commend the Minimum Wage Advisory Committee for its recommendations and for doing such a thorough job. I believe that it will be a good starting point for further discussions. However, one of the recommendations was that the new minimum wage levels be phased in over three years. This study would now have to be updated and it would be necessary to see whether the economic arguments still apply.

The other point is that I believe that all service workers should have the protection of a minimum wage, not just those in the hotel and condo sector. I think that we can build on the good work of the minimum wage associations and by involving the employer associations as well as employee representatives, we can look at introducing a minimum wage by sector. This is something that my Ministry will begin looking at with the reorganisation of the Labour Department.

#### SUPPLEMENTARIES

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** We just had a motion, which we are still debating, regarding minimum wage. What was mentioned yesterday was section 20 of the Labour Law, which allows the Governor to prescribe a minimum wage. If this was a report done to the Ministry responsible for labour, can the present Minister say if he has any knowledge as to why this was not taken into account and not prescribed in 1997?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I have no idea, Sir. I assumed constitutional responsibility for Labour and labour-related matters on the 16<sup>th</sup> of November 2000. What transpired between 1997 and that time I do not know.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, with all due respect, does that mean that governments only start functioning every time we have changes? He—

**The Speaker:** Please turn it into a question.

**Dr. Frank S. McField:** Mr. Speaker, can the Minister say if anyone in his department would have knowledge as to why, if it was considered efficient to estab-

lish a minimum wage, and why if a study had been done recommending a minimum wage in the condo and hotel association minimum wage was not prescribed by the Governor or the Governor-in-Council at that time?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I do not want to be so ridiculous as to dissuade other Honourable Members from asking me questions in the future, but I hardly see how it could be reasonable and logical for anyone to expect me to give an account for something done prior to my assuming responsibility for it.

When I came to the office I was made aware that this document was there. I stated my intention to have complete and thorough review of the minimum wage by category. I was prepared to bring the proposal to this Honourable House myself. I was later made aware that certain parsons were bringing it in a Private Member's Motion to which I said I would consult with the Government and that it was my disposition to accept.

That being the case, and this study being complete in 1997 only covering two sections, I did not deem it urgent, nor appropriate to have this matter brought into play.

I, myself have a question, and that is, "Why did not my predecessor who had responsibility for labour do something about it?"

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna O'Connor-Connolly:** Would the Honourable Minister give an undertaking to this House to seek the advice of the Government's principal legal advisor as to which is the most expeditious and efficient manner of getting the long awaited national minimum wage provisions put into law in the Cayman Islands? And would he undertake to take his advice?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** There is a Private Member's Motion the conclusion of which has not yet been reached. I can not go outside of the authority of the Honourable House if the House says we have to have a select committee and begin the process all over again, I would be ill advised and run the risk of being sanctioned by the House I would suggest that it is the best course of action I await the outcome of the Private Member's Motion which is currently on the floor.

I give all Members my assurance, as can be witnessed by my involvement in the three attempts to have a minimum wage instituted in this country by category that I am interested in this. I am committed to seeing it done. But I am also committed to having it

done in the most efficient way according to the dictates of the Honourable Members of this House.

**The Speaker:** Two additional supplementaries.  
The Third Elected Member for George Town.

**Dr. Frank S. McField:** Would the Minister be in a position to say if in fact the recommendations contained in the report of the 1997 Minimum Wage Committee would be in his opinion an administrative nightmare to enforce?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddin:** Mr. Speaker, to tell the truth, I reviewed the recommendations. I did not study them in detail. Therefore, I do not consider myself informed and equipped to give such and opinion.

I can say that times have changed. The economy has changed. And it is possible that the minimum wage recommended at that time may be irrelevant now and may need adjusting upwards.

**The Speaker:** Final supplementary. The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say from his review of the report by the Minimum Wage Advisory Council whether there was any intention to have a minimum wage applied to other sectors? While I understand that the hotel and condo sectors would have been the areas of great concern at the time, did the Advisory Council make any such recommendation that it should extend to other sectors?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddin:** At the time the Advisory Council made its report, the Council's work was limited exclusively to hotel and condo workers, in my opinion that was one of the weaknesses of the exercise. . .

I believe that to be effective and successful we must have a review of the whole spectrum, not just the hotel and condo.

**The Speaker:** That concludes Question Time for today. It is customary that we take a break; I am grateful that yesterday we did not require it. Is it the wish of the House that we take the morning break now, or continue until 12.45 and take the luncheon break? *[pause]* The majority agrees, so we shall continue.

Item number 4 on today's Order Paper, Other Business, Private Members' Motions. The continuation of debate on Private Member's Motion No. 1/01, Establishment of a Select Committee on Minimum Wage.

Before we begin, I would like to call Members' attention to Standing Order 41, which speaks of irrele-

vance and tedious repetition, and I would also like to refer to Erskine May, 22<sup>nd</sup> Edition, pages 393 and 27 which speaks of relevance in debate. I ask all Members to make this a relevant debate. Thank you.

Does any Member wish to speak? The floor is open for debate. Does any Member wish to speak? The Second Elected Member for West Bay.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 1/01

##### ESTABLISHMENT OF A SELECT COMMITTEE ON MINIMUM WAGE

(Continuation of debate thereon)

**Mr. Rolston M. Anglin:** I rise in support of what I think is a timely Motion—one that I feel could greatly enhance the lives of people in our Caymanian society. Obvious, when we have discussions and debates on wages, one cannot have that without speaking of the economics surrounding wages and employment.

It is my opinion that numerous Members of this Honourable House raised very good points that will need to be brought up in the Select Committee. We must seek to address these points because in life for every action there will be reactions; there are numerous reactions that all of us as responsible Members must take into account when we go down this road and speak of minimum wages.

We have to recognise that wage, as was previously mentioned, is a commodity governed by the laws of demand and supply. However, think it is safe to say that when you have imported labour, or an imported commodity, this too will have an impact on the local price. In a perfect world we can look at theories of demand and supply and apply them to life. We can use empirical evidence and come up with reasonable estimations as what will happen to our economy when Government institutes certain mandates by law.

I want to talk about the fact that we have great market distortions in Cayman. In a perfect world we would have every country operating as a cocoon. Each country would have supply and demand factors for labour and derivation of a wage. Unfortunately, in this world human capital is free to move within the confines of each sovereign state or dependent territory's immigration policy. When we talk about wage in the Caymanian context, we have to recognise the impact that imported labour has on the price of labour in Cayman: in other words, the impact it has on wage.

We have imported labour that comes from territory significantly less economically prosperous than the Cayman Islands. When we look at supply and demand labour and the corresponding wages, we must also at the conditions that prevail in the jurisdiction we

a speaking of. In the Caymanian context we have to look at what the expectations are of (a) Caymanians, and (b) imported labour.

Most Caymanians will have a family, will desire a house, will desire an automobile to move to and from school and work. Most Caymanians also aspire to have reasonable living conditions. A Caymanian's expectation of wage is often significantly different than that of imported labour, especially at the lower ends of the labour market.

Mr. Speaker, when we drive around our community and see where certain imported labour live—mind you, there are Caymanian families that live in these conditions as well—but when we see where imported labour, willingly live, most Caymanians are aspiring to move on. A lot of imported labour in this country live in conditions that cannot be described as anything better than slums. But, in the context of where they have come from, their lives are better.

Again, our Caymanian families expect a decent place to live, and an automobile to move around. However, when we look at imported labour, in a lot of instances, not only do the people live in slum conditions, they do not necessarily desire to have a car and privacy no longer means what it would to most people. So where you would find numerous people sharing cramped quarter. . . and I speak from experience of seeing eight adults living in a two bedroom house in my constituency, what they would expect the market to bear in the way of a wage is significantly different than that of our Caymanian people whom we were all elected to represent in the first instance.

When persons come to our country from conditions that most of us cannot even imagine, this is a huge step up in life. What they would expect as a wage would be significantly lower than what our Caymanians would expect and accept.

The *rubber meets the road* when we throw the employers into the equation. Why would an employer employ a Caymanian if he can get the imported labour to do the job for a fraction of the cost, assuming he can get the work permit? But our immigration situation has grown to the stage where, in my opinion, it is unmanageable with the current system. No one seems to have a handle on it, or on its impact on wages in this country and the effect it has had on our Caymanian people.

Let us touch on this imported labour again in relation to the employer. It is my opinion that the employer can pay them less because of the expectation of lifestyle versus a Caymanian. There is also something called a work permit which has become a magic wand in our society. Employers wave it over the heads of their imported labour. They do not even wait for him to ask to jump, they automatically look at him and ask "how high?" We not only have market distortions within the labour force because of the imported labour, in my opinion we have exploitation in the labour force.

We were elected to make tough unpopular deci-

sions once they were for the betterment of our country and our people. We were elected to speak openly, honestly and frankly about the issues and the situations that prevail in our country.

I must commend the Second Elected Member for Bodden Town. In his contribution to this Motion he, in my opinion, was the one who focused on the fact that, yes, you can have economic theory, but you have to apply it in the context that prevails in your country. He spoke quite a bit about imported labour and the impact it has on the labour market, and, more importantly, on the price of labour the wages our people earn. I am not here to say that the establishment of a minimum wage is a magical cure all. In life, everything is inter-related: Education, Immigration, and Labour.

I was heartened to hear the Honourable Minister for Education speak to bridging gaps within the vocational and technical training realm. As other Honourable Members have correctly said, we cannot simply go after the conditions we see, but we must seek to cure the issues that underlie the visible conditions. We must seek to address the systemic problems. In so doing we will cure the ills that people overtly see day to day. Obviously education is a key component to solving our wage problem here in Cayman.

Our immigration policies and future reviews will have a direct impact, however, when I look around the various countries in this world that have relative economic success, countries such as the United States of America, and I see minimum wages it makes me think.

In fact, when digging deeper, we quickly find out that it is proven in most free market economies that people at the fringe of the employment market do not necessarily get what the market will bear in terms of wages. Most employers know who the marginally unemployable are. Most employers know exactly how to manipulate the situation so that their wage does not fit within the context of the economic model which dictates that price is very near the intersection of demand and supply.

We have a group of citizens within every society who are often referred to as the "marginally unemployable." Within the Caymanian context, we must look at what makes our people marginally unemployable. We must look at the causes, not the symptoms. The symptom is that they are marginally unemployable—why?

In my humble opinion, there are a few factors that contribute greatly to this: (1) Educational background; (2) employment practices of certain employers in Cayman (3) mental health status; (4) motivation (or lack thereof and (5) police record—criminal conviction. So, Mr. Speaker, how does a minimum wage cure any of those ills? It is my opinion that a minimum wage can address two, the other three will have to be addressed by other policies which we in this House will have to debate and address.

As I said before, it was heartening to hear the Honourable Minister for Education speak to the need

of proper vocational and technical training in this country. I feel that this is the route that will address the first point mentioned—the educational background of the person.

We have to equip our people with tangible skills needed within the labour market. Mr. Speaker, we cannot simply rely on employers to train people. We have tried that for many years. It just has not worked.

It is my opinion that there needs to be greater emphasis on technical and vocational training in this country. We must ensure that once our people are equipped with skills they are not shut out of the labour market, or that their wages are not suppressed because an employer looks at the economic situation and simply says I can import labour cheaper and because I have the magic wand called a work permit, the person cannot get up and leave as his free will like a Caymanian can. So, who am I going to employ? And at what price?' The economics of the situation can quickly disintegrate within the Caymanian context.

We must, in my opinion, move forward and openly and frankly debate this issue and ensure that the people we describe as marginally unemployable are truly given a chance. With the system that currently exists, it is my opinion that they are not. It is my opinion that in the Caymanian context minimum wages do not make the marginally unemployable more unemployable. It is my opinion that unscrupulous employers and the situation that exists—that is the availability of cheap labour, and the magic wand called a work permit—makes our marginally unemployable people even more unemployable. Why would an employer hire them when he can get this readily available cheap commodity called imported labour?

Economic theory is great. Most theories are great, you read them and you get a warm fuzzy feeling because you think you start to understand an issue. But, we must always look at the theory within the confines, taking into account all the variables that exist in the local marketplace. I will say again that it is my opinion that the availability of cheap imported labour and the magic wand called a work permit makes the marginally unemployable in this country even mere unemployable.

If that is not so, how can I explain to a mother of four (who because of health reasons was forced to stop working, albeit hopefully temporarily) why it is that when her previous employer went out of business, that she could not find a job for six months? She is Caymanian, she has worked steady for the last 13 years, she has no criminal convictions, she has no mental health situation, she has no problem with motivation and has good references and she can do the job she wants to do. This lady cleans condominiums. She has done it for many years. She is a diligent hard worker and she is reliable. How is it that a person like that can take six months to find a job?

Obviously, a minimum wage would not cure that situation in its entirety. That issue has wider reaching effects within the labour market in Cayman. But I beg

to say that the availability of cheap imported labour in conjunction with the magic wand called a work permit, made her less attractive to potential employers after all, she's a Caymanian, she has a voice in this country; she has a voice in the labour market. If you do not treat her fairly she can move on freely and get another job. When she would go from condo to condo and from hotel to hotel and apply for a job, why didn't some of these employers seek to employ her? She has four kids and a small house. She is a hard working lady and has worked consistently. She has bills to pay and children to feed, all in this expensive island.

Would she have gone in and accepted \$2.50 per hour as she was offered at one place? That could be a person that is best described in the Caymanian context as marginally unemployable because she has no real tangible skill, no educational background to speak of. But, she is able-bodied, she is Caymanian, and she wants to work.

After not being able to secure a job within that six-month period in the private sector, she turned to the Government. She went to the George Town Hospital applied for a job. Again, the door was slammed in her face and she was told no, there was enough staff in the housekeeping department. I was able to find out that the time of her application there were three expatriates on contracts.

I do not expect magicians this Island. However, I would expect (and I am sure I speak for everyone in this House and everyone in this Island) that when there are art capable Caymanians who are willing and able to do certain jobs, that they would be given the opportunity to do those jobs. But you see, because of our unique situation in Cayman, certain Caymanians are being shut out of labour market.

I recognise the fact that jobs pay wages and that any policy that we seek to implement in this Honourable House must first protect Caymanians, but it must also allow Cayman to be conducive for business as it is business that creates jobs and jobs that pay wages. However, we must ensure that the system is fair and equitable. We must remove the loopholes, to try to eliminate exploitation, so that we can allow all Caymanians a fair opportunity to earn a decent wage.

We could then say "*well, let us allow the market dictate the price.*" I have yet to hear anyone demonstrate why, if the labour market is so perfect around the world, almost every other country in the free world has some sort of a minimum wage. Labour is not something you go and buy off a shelf. This involves lives; this involves families and our communities. When our adults go home frustrated by low wages, discouraged by employment conditions, they are, at a minimum, disgruntled. How can disgruntled people effectively raise children, and provide the legacy required for us to move forward as an Island in a positive manner?

When our people have to work from 9 am to 5pm, take a break and then work from 8.00 pm to 11.00 pm and the children of our country are left unsupervised,



how can we expect anything other than the increase youth violence? So, when we speak of a minimum wage, we are not just talking about what people make, we are talking about a lot of other issues that strike to the core of some of the problems we face in this Island.

When an employer can look a Caymanian in the face and say *"well the person from jurisdiction X is willing to work for \$10.00 per hour, that is all you are going to get"* irrespective of demand and supply, that is when we as a government must look at the situation rationally and ask if a minimum wage should be part and parcel of the cure. In my opinion it is and should be part and parcel of the cure.

In my previous job I went from institution to institution performing audits. I had the opportunity to meet many Caymanians from many districts. I got to meet people from the cross-section of Caymanian society. I got to meet Caymanians who managed to reach a level of management, or supervision. I got to meet the Caymanians who are also at the lower ends, the clerks, the administrators, the messengers. The only way I can describe the feeling that I have for our society is *cancerous*.

When one of the first people asked me why I should leave my private comfortable life as an accountant to get into the dirty world of politics (as they called it), I asked if they had spoken to anyone recently and found out what life is really like for an ever-increasing number of our people. The gentleman looked at me and said *"say no more. I understand where you are coming from."*

I had the privilege of having a gentleman in construction come to my office looking for a job last week. We started talking about wages and I asked what he made in the late 1980s. He said \$10.00 per hour. I said that was a pretty good wage in the late 1980s. I asked what he makes now. He said \$10.00 per hour, but he was willing to work for \$8.00 per hour because construction is relatively unstable.

When you look at the rate of inflation in this society since the, late 1980s (1989 for the sake of argument), 11 years ago the cost of living in this country was dramatically different than it is today. When a gentleman can look at me and say that despite the economic boom we have experienced over the last few years . . . demand and supply did not help him. His wages stagnated!

Mr. Speaker, I know a few contractors and I had the occasion to ask one who I know quite well what has happened to his margins, that is his return on contracts after he has paid all his expenses. He said, "Rolston, over the last ten years I have done exceedingly well." He has three sets of apartments to show for it. I do not know his personal banking details, but I do know that two sets of apartments are not with the bank any longer. I would say he did quite well.

He readily admitted to me that 80 percent of his crew are the imported commodity of labour. I think we can easily paint a picture of what has happened in this

Island. Yes, we have had an economic boom over the last number of years which was in my opinion directly correlated to the boom in the US economy. However, the Cayman situation regarding labour is far from the perfect economic model. It is my opinion that for many of our people you can throw demand and supply out of the window. Yes, I know for people on the higher end of the scale (because I personally experience this) demand and supply is alive and well. There are some 400 qualified accountants on this island, only 50 are Caymanian. Trust me, most well qualified and experienced Caymanian practitioners in accountancy can make more than the market bears.

But, we are talking about our constituents around this entire island who are at the lower end of the scale. Demand and supply has not worked for them. I beg say that instituting a minimum wage would go a long way to curing some of these ills. With all things you can not do things willy-nilly, especially when you are going to talk about things like minimum wage. You must do your research. That is why the mover of this Motion is referring the Motion to a select committee. I commend him on that approach.

**The Speaker:** May I interrupt you for just a moment? We have reached the hour for lunch. Will you be finished within a few moments, or would you prefer to finish after lunch?

**Mr. Rolston M. Anglin:** Because I am not long-winded, I can safely say I will be wrapping up within the next couple of minutes.

**The Speaker:** Please continue.

**Mr. Rolston M. Anglin:** Thank you.

I would like to throw out one last thing: I had the opportunity during the campaign and again recently to get some information from the Economics and Statistics Office as to what it takes the average person in Cayman survive. Their estimation is somewhere in the neighbourhood of \$1500 to \$1800 per month.

Mr. Speaker, when we hear of this high level of the cost of living in Cayman, and if we assume that on the high end it is \$1800, that would equate to having to make \$11.25 to break even. If we go to the low end of \$1500 per month, it would take \$9.38 to break even, using hours per week, 160 hours per month as a guide.

There are many Caymanians, there are many people referred to as imported labour in this country who are not making anything approaching those amounts. So when we hear of increases in crime, drug abuse, people losing their houses, financial strain causing divorces, children getting caught up in the midst of this, it is no wonder that our society is decaying the way it is.

I am not saying that a minimum wage would cure these ills, but I am saying that I believe it is part and parcel of the cure. I look forward to debating this issue

with all my colleagues in the Select Committee. I would recommend that the mover of this Motion also utilise minimum wage advisory council made up of private sector citizens who can do a study similar to that done 1997 so as to guide us. But, I support this Motion because I think it is in the best interest of the people of the Cayman Islands. I do not feel that at this point in time it would adversely affect the employability of the marginally employable, I only think it would go to enhance their standard of living.

Thank you, Mr. Speaker.

**The Speaker:** We shall suspend proceedings until 2, p.m.

#### PROCEEDINGS SUSPENDED AT 12.5 PM

#### PROCEEDINGS RESUMED AT 2.22 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continues on Private Member's Motion No. 1/01. Does any other Member wish to speak?

The Third Elected Member for West Bay.

**Capt. Eugene Ebanks:** Thank you.

I too rise to support the Motion brought by the Fourth Elected Member for West Bay, which I seconded. As I listened to the many speakers on the Motion, there was one thing that came to my attention: None of them mentioned the hardship that the absence of a minimum wage creates for many Caymanians.

I say this because with the way the imported labour is in Cayman today, many lower income families cannot compete in the job market. If there were a minimum wage across the board where employers paid Caymans and non-Caymanians the same wage, there would be a lot less work permits involved. Single parent Caymanians, women especially, who want to work and are willing to work, but cannot afford to work for the same wage that the non-Caymanian can work for.

That is particularly true where six or eight non-Caymanians share a one or two-bedroom apartment. The Caymanian has children to put through school, insurance to pay, many other expenses the expatriate does not have, therefore, before you know it, they are in a bind and end up in the office of Social Services. That creates an additional burden on the local populace.

I find that this Motion is very timely in view of the fact that it has been on the books for so many past administrations. When we campaigned prior to this Election we knew we would have to make some very unpopular decisions. That is exactly what we are prepared to do. I must say that there is really not much that I can contribute that has not already been spoken on. However, I feel that the lack of a minimum wage has created exploitation in the labour field. This is a problem that we as a government must address,

I applaud the mover of this Motion and I support it, Thank you.

**The Speaker:** Does any other Member wish to speak? (Pause) The floor is open for debate. Does any other Member wish to speak? (Pause) The floor is open for debate. Does any other Member wish to speak? (Pause) I cannot wait any longer. Does any other Member wish to speak? (Pause) The floor is open for debate. Does any other Member wish to speak? (Pause)

If not, does the Honourable Mover wish to exercise his right of reply? The Fourth Elected Member for West Bay,

**Mr. Cline Glidden Jr.:** In winding up the debate on this Motion, I would first like to thank the Honourable Members of this House who spoke in support of this Motion. I would also like to thank those Members who attempted to be objective and express their concerns with the Motion. I would also like to thank the Minister responsible for accepting the Motion on behalf of Government. I was happy to hear that the Government was planning on bringing the Motion if it had not come forward as a Private Member's Motion.

It was very heartening to hear the Minister speak the partnership necessary between employees and employers. When the idea of the Motion came forward, I envisaged the Minister being the chairman of the Select Committee. I was hoping that a select committee would request Members and have consultation with Members of the private and public sector, both employees and employers. I feel that the only way we can move forward with a practical solution to minimum wage is if we have co-operation on both sides.

Now that we have every indication that this Motion is going to be accepted, I have full confidence that the Government has the political will to move this forward in the indicated time-frame.

The idea behind proposing a select committee was an attempt to get away from the partisan politics that have caused stifling of this necessary legislation for so long. If we send this over to a committee of the Government and leave it as their responsibility, when it comes back to the House there would be a lot of debate and petty politics played. It is very possible that it would fall away as it has done in the past. The feeling and intent that a select committee of the whole House will allow the necessary debate to take place and the implementation will be a much smoother process.

One Member spoke about minimum wage not being a solution to the poverty in Cayman. I can assure all Honourable Members that we are not ridiculous enough to believe this is a solution in its entirety. This is but small part in the way forward to making a better life for our Caymanian people.

When the Third Elected Member for George Town made his contribution, he got the impression that I

implied which way was the best way as to a general minimum wage or a minimum wage by category: What I attempted to do was show the possibility of two ways. I basically used the example of the Minimum Wage Advise Committee set up for hotel and condos to show why one wage across the board was not going to be what I felt was a good idea. But, again, the reason I proposed going to a select committee is that I will have an opinion, as will all Members of this House. Collectively we should be able to come up with the best workable approach.

I said that what I envisaged was a system similar that exercised by our Government and larger employers in Cayman, a scaled system in different categories. If the Select Committee feels that one wage across the board is the way to go then the democratic process will prevail.

There was also a concern mentioned for small businesses. I am proud to state that there is another Motion coming before this House which recognises the need for the protection of small Caymanian businesses. And I want to make it clear that when that Motion was thought about, it was not done so in a vacuum by itself—there is an attempt to address other issues that may come from it.

When the Third Elected Member for George Town said how careful we have to be because the minimum wage legislation could actually hurt jobs, I found it very enlightening to see that he had apparently learned quickly the importance of having a job before worrying about the wage. I am sure that if that lesson had been learnt before December, there are a lot of employees in the Labour Union who would have been very appreciative.

We all have to bear in mind that when we attempt to make things better for people, if the process is not well thought out we are actually making things worse for them. That is why we attempt to go into a select committee where we can get feedback from all Members of this Honourable House on the way forward with such important legislation

The Second Elected Member for George Town mentioned what he saw as being a problem with the legalities of this Motion set in such a way. He even recommended that there should be an amendment because the onus should be on the Government to move the Motion forward.

Mr. Speaker, there have been many mentions made about the changing of the guard. My Feeling as an elected representative of the people—firstly the constituency of West Bay, and the Cayman Islands on a whole—is that when major decisions have to be made, the onus should fall not only on the Government. As a representative of the people I have a responsibility to be a part of that decision-making process. I believe in an inclusive type of leadership, not exclusive. So, if the Member for George Town has a problem in being a part of that decision making process, I respectfully honour his problem. But, as far as I am concerned, I want to be a part of the solution.

Moving right along, when we look at the makeup of this Honourable House, we see that we have quite a good balance with Government and Backbench. I guess I was happy to see that we had an economist as part of this makeup. But there seems to be a part of that that I do not understand because what we had referred to as an increase in the potential cost of living in Cayman by setting a minimum wage, I then heard the Second Elected Member for Cayman Brac and Little Cayman mention that he is proposing that we will double the work permit fees.

If the minimum wage will increase the cost of living by the passing down of that fee, how then will the doubling of work permit fees not also have the same effect on the cost of living? Those fuzzy economics I do not understand too well.

The Second Elected Member for Cayman Brac and Little Cayman also mentioned that credit should be given to Immigration because they were doing their job. Well, I feel that as legislators we were also given a job to do: our job is to make sure that our Caymanian people get an honest day's pay for an honest day's work. That is the job we were elected to do.

In his contribution, the Second Elected Member for Cayman Brac and Little Cayman said that the solution to our problems is not forming a minimum wage, but creating economic packages that would cause economic boom and economic success in the Cayman Islands. I know he has the responsibility for the constituents of Cayman Brac and Little Cayman, and maybe things are different over there, but we have been going through quite an economic boom for the last ten or fifteen year and that has not solved the problem of minimum wage. We still have people complaining of being paid \$2.50 c \$3.00 an hour or less. Unless there is some other change he is talking about, again I do not understand that type of economics. Maybe that works for the employers, but not the employees.

Mr. Speaker, even though Members of this Honourable House may not all agree on the best way forward the purpose of this Motion is because something needs to be done about the low wages being paid in this country. I know we will have differences of opinion, hence the recommendation for a select committee. I fully expect that after the select committee has been set up we will have that debate. I look forward to—in a very timely fashion—being able to go to the people of the Cayman Islands having fulfilled one of the many promises that the Elected Member for East End referred to. I look forward to the support of this House. Thank you.

**The Speaker:** I shall now put the question on Private Member's Motion No. 1/01 shortly entitled, The Establishment of the Select Committee on the Minimum Wage.

**"BE IT RESOLVED THAT this Honourable House a points a Select Committee of the whole House to determine a minimum wage for the Cay-**

**man Islands and that the Government implement, within a one year time frame, the Committee's recommendations."** Those In favour please say Aye. Those against, No.

**AYES (one audible NO).**

**The Speaker:** Only heard one No.

**Hon. W. McKeeva Bush:** Can I have a division?

**The Speaker:** A division? Certainly.

**The Clerk:**

### Division No. 1/01

**Ayes: 14**

Hon. Samuel Bulgin  
Hon. George A. McCarthy  
Hon. D. Kurt Tibbetts  
Hon. Edna M. Moyle  
Hon. Roy Bodden  
Hon. W. McKeeva Bush  
Mr. Rolston Anglin  
Capt. Eugene Ebanks  
Mr. Cline Glidden Jr.  
Mr. Arden McLean  
Mr. Gilbert A. McLean  
Mr. Anthony Eden  
Mrs. Julianna O'Connor-Connolly  
Mr. Lyndon Martin

**Noes: 0**

**Abstentions: 2**

Mr. Alden McLaughlin  
Dr. Frank S. McField

**Absent: 2**

Hon. James M. Ryan  
Hon. Linford A. Pierson

**The Speaker:** The result of the division, 14 Ayes, two Abstentions, two Absent. The Motion has passed.

**AGREED: PRIVATE MEMBER'S MOTION NO. 1/01 PASSED.**

**The Speaker:** In accordance with Standing Order 70(3) I appoint the Honourable Minister responsible for Education, Human Resources and Culture to be Chairman of the Select Committee.

Moving on with Private Members' Motions . . . the Honourable First Official Member has had to leave the Chamber on very official business. I would appreciate it if a motion would be made to move on to Private Member's Motion No. 7/01.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Yes, Mr. Speaker, due to the reasons you just explained, the Government would

seek your indulgence to allow us to move on to the next Motion and deal with that, and once through with that we can go back.

**The Speaker:** Thank you.

I shall put the question that we proceed with Private Member's Motion No. 7/01 in view of the absence of the Honourable First Official Member. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 7/01 TO TAKE PRECEDENCE OVER PRIVATE MEMBER'S MOTION NO. 2/01 IN THE ABSENCE OF THE HONOURABLE FIRST OFFICIAL MEMBER.**

**The Speaker:** Private Member's Motion No. 7/01, Amendment to Succession Law, to be moved by the Second Elected Member for George Town.

### PRIVATE MEMBER'S MOTION NO. 7/01

#### AMENDMENT TO SUCCESSION LAW

**Mr. Alden M. McLaughlin, Jr.:** I rise to move the following Motion.

**"WHEREAS section 35 of the Succession Law (Law 18 of 1975) (1995 Revision) ("the Succession Law,") provides that:**

- "1. Where the mother of an illegitimate child, such not being a legitimated person, dies intestate respects all or any of her property, the illegitimate child, or if he is dead, his issue, shall be entitled to take any interest therein to which he or such issue, would have been entitled if he been born legitimate;**
- "2. Where an illegitimate child, not being a legitimated person, dies intestate in respect of all any of his property, his mother, if surviving be entitled to any interest therein to which she would have been entitled if the child had been born legitimate and she had been the only, surviving parent;**
- "3. Where the father of an illegitimate child, not being a legitimated person, who has been adjudged as such by an affiliation order made under Affiliation Law, 1973 or any other law relating affiliation previously in force in the Islands, dies intestate as respects all or any of his property, the illegitimate child, or if he is dead, his issue shall be entitled to take any interest therein which he or such issue would have been entitle if he had been born legitimate;**
- "4. Where an Illegitimate child, not being a legiti-**

**mated person, whose mother has predeceased him, dies intestate in respect of any or all of his property, his father, if he has been adjudged such by an affiliation order made under the Affiliation Law, 1973 or any other law relating to affiliation previously in force in the Islands, and surviving, shall be entitled to any interest there to which he would have been entitled if he had been born legitimate and he had been the only surviving parent.'**

**"AND WHEREAS the above provisions of Succession Law discriminate unfairly against an illegitimate child whose father acknowledged paternity and supported that child voluntarily, as well against the natural father of such a child;**

**"BE IT THEREFORE RESOLVED that section 35 of the Succession Law be amended to extend to illegitimate children, and to the natural fathers, such children, the same rights to succession on intestacy enjoyed by legitimate children and the fathers of legitimate children;**

**"AND BE IT FURTHER RESOLVED that the Succession Law also be amended to provide for an appropriate method of establishing paternity prior as well as following either the death of the man alleged to be the natural father of an illegitimate child who had not, prior to his death, been adjudged to the putative father of the said illegitimate child under the provisions of the Affiliation Law (1995 Revision), or the death of the illegitimate child."**

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 7/01, having been duly moved and seconded is now open for debate. The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I wish to record my thanks to the Elected Member for East End for seconding this 'Motion.

This Motion seeks to remove the discrimination presently inherent in section 35 of the Succession Law, which currently operates unfairly against an illegitimate child where that child's father has acknowledged paternity and voluntarily supported that child. It also discriminates unfairly against the father of such a child. That discrimination is part of our English Common Law legacy as it relates to succession rights. While the law of the United Kingdom has long since removed that discrimination, the law of the Cayman Islands lags behind in this regard.

It would probably be helpful if I were to give some background to the position at Common Law, hence the position our law is currently in.

At Common Law succession was based on the supremacy of the man, the express purpose being to

produce children of undisputed paternity. The reason for that was that these children would ultimately inherit their father's property as natural heirs. The primacy of succession can be seen reflected in the view of Sir William Blackstone, in his Commentaries on the Laws of England. in 1765, and I quote from that text, "The incapacity of the illegitimate child consists principally in this: he cannot be heir to anyone, neither can he have heirs but of his own body for being *nullius filius*. He is therefore of kin to nobody and has no ancestor from whom any inheritable blood can be derived."

In both the United Kingdom and in the Cayman Islands, significant legislative inroads have been made into the position at Common Law which created that absolute bar that Sir William Blackstone referred to. But in Cayman, further changes are necessary to our legislation to remove the remaining discriminatory features from our law.

The changes this Motion seeks are not novel. Such changes were made years ago to the legislation in the United Kingdom and to other jurisdictions within the Caribbean. In fact, some 30 years ago, the UK Parliament passed the Family Law Reform Act of 1969 which gave effect to a similar provision to the one which this Motion proposes.

Also by way of background, I propose to refer to the Law Commission's working paper on illegitimacy published in the United Kingdom back in 1979. Among the various things that working group did was to survey the basic question of discrimination for the purposes of succession between illegitimate and legitimate children. They had a look at the underlying philosophy often used as a basis for continuing such discrimination,

The Commission put it this way: **"It is not now easy to put convincing arguments in favour of discrimination, because such arguments would logically justify a return to the strict common law position, and it is difficult to believe that there would be any substantive support for turning the clock back in this way. Nevertheless, arguments in favour of preserving the principle of discrimination may still be used by those who are prepared reluctantly to accept as an accomplished fact, the changes which have already been made toward improving the legal status of the illegitimate child but think that no further reforms should be made. We therefore briefly summarise the arguments in favour of discrimination. There are three in number though they are perhaps not altogether distinct.**

**"First, it is said that the legal distinction between 'legitimacy' and 'illegitimacy' reflects social realities. This was certainly true at one time. The birth of an illegitimate child was regarded as bringing disgrace not only on the mother but also on the immediate family. The child could no more expect to be recognised as a member of the family and be received into the family home than he could expect to inherit family property. He was not**

a real member of the family group. However, although there may still be cases where the illegitimate child is in this position, the evidence suggests that a significant and increasing proportion of all illegitimate children born each year are recognised by both parents, at least the parents have a relationship of some stability...

"Secondly, it is said that the distinction serves to uphold moral standards and also to support the institution of marriage. In relation to the preservation of moral standards, it is difficult to say how far the fear of producing illegitimate children influenced sexual behaviour in the past; since the risk of an unwanted pregnancy can now usually be avoided by contraceptive measures it seems improbable the such fears still influence sexual behaviour to any substantial extent. Support for the institution of marriage is of course of great importance, especially the present context, because a married relationship between parents should in principle be more stable than an unmarried one, so creating a better environment for the child's upbringing. However, many marriages are not stable, and statistically it seems that marriages that are entered into primarily for the pose of ensuring that an expected child is not born illegitimate are especially at risk. In a large proportion of marriages where the girl is under 20 she also pregnant; and the failure rate of marriage where the girl married young is statistically high. We therefore find it difficult to accept that the institution of marriage is truly supported by a state of the law which the conception of a child may encourage young couples to enter precipitately into marriages which may have little chance of success.

"The third argument in favour of preserving discriminatory treatment asserts that the legal relationship between the child's parents should be relevant in determining the child's legal status: that as the legal relationship of marriage results in legitimate status for the child, so a relationship which does not accord with the norm should not result in normal status for the child. On this view it is regarded as significant not only that a legitimate child is the issue of a legally recognised union, the incidents of which are fixed by law and which can only be dissolved by formal proceedings but also that marriage, at least in its inception, is intended to be permanent. The relationship of an illegitimate child's parents, on the other hand, is not in; general legally recognised and may never have been intended to be more than transient. However this argument is based on the premise that a child's status ought to be affected by that of his parents. This is the proposition which we do not accept; it is, after all, the child's status, and the nature of the relationship between his parents need not and should not affect this.

"In general, where a child is involved, the

law is that his welfare is the first and paramount consideration; transcending even the consideration of doing justice between his parents or between his parents and outsiders. We do not think that the arguments mentioned above in favour of discrimination are sufficiently strong to justify a refusal, as a matter of law, to apply the same welfare principle to children simply on the ground that they have been born out of wedlock, In particular, we see no justification for preserving the status quo . . ."

Mr. Speaker, I adopt those words as mine and believe that the state of the law in Cayman as it was in the UK some 30 years ago is in need of reform in the way this Motion seeks.

With that background, I will now move on to deal with the current state of the law in Cayman and the social context in which it operates.

On average there are 548 births per annum, in the Cayman Islands. And between 1990 and 1999, an average of 43% of these births was outside of wedlock. Taking into account the relatively small number of children who are adopted or legitimated, it is obvious that illegitimacy is a notable feature of Caymanian society, however much we may prefer otherwise. Consequently, a significant percentage of our community are or may be affected by the current state of the law.

Quite recently the Grand Court had cause to comment on section 35 of The Succession Law, in a case in 1999 referred to as RE: The Estate of "B." This case involved the question of what circumstance an illegitimate child could claim an inheritance where the natural father died without leaving a will. The particular facts of that case were that "B" died intestate, a married man having one legitimate child and two illegitimate children whose mother was not his wife or widow.

His estate was quite small and his outside children (as we call them) claimed an interest in his estate. It was accepted that his widow and his illegitimate children could share in his estate and claim an interest therein.

The Court noted that under the Common Law the illegitimate children could not claim any interest in the estate of the deceased. Therefore order for them to be able to successfully assert any such claim, they would need statutory assistance. That assistance was to be derived from the provisions of section 35 of the Succession Law.

Subsections (3) and (4) of section 35 relate specifically to fathers and their illegitimate children. Essentially, those two subsections required proof of paternity. But under their provisions, proof of paternity can only take the form of an affiliation order made under the Affiliation Law (1995) or any other Law relating to Affiliation which had previously been in force in Cayman.

In the case of RE: The Estate of "B.", since "B" had never been the subject of an affiliation order his

illegitimate children were denied an inheritance. It is noteworthy that in this case the Court found as a fact that the deceased was the natural father of the illegitimate children. Nevertheless, because of the statutory provision, the Court was forced to come to the conclusion that they could not share in his estate. The Court commented at some length at the apparent unfairness of a situation that allowed an illegitimate child to claim an inheritance where an affiliation order was in place, but not where a natural father had acknowledged paternity and supported his outside children voluntarily.

It is precisely that statutory discrimination which this Motion seeks to redress. In its current state the Law creates the disgraceful irony that children born out of wedlock whose fathers voluntarily supported them as deprived of an inheritance from their fathers, whereas children similarly born who had deadbeat dads for fathers, are entitled to inherit from their fathers. That cannot be right.

The shortcoming in section 35 is not in my view that it requires proof of paternity; but rather that it limits such proof to the existence of an order adjudging the natural father of an illegitimate child to be the child's putative father. Under our law, the only procedure by which a man can be so adjudged is the Affiliation Law. When an affiliation order is made, it simultaneously adjudges a man to be the putative father of an illegitimate child and orders him to make a weekly payment by way of maintenance of that child. Historically, the affiliation order had its genesis out of social concern that all children should be maintained by someone.

Legislation placed time limits on when applications or complaints under the Affiliation law could be made (and this was dependent upon a finding of paternity). It was thought that proceedings should be barred in cases where the evidence might become stale. That was the justification for imposing time limits.

One of the unfortunate consequences of using the affiliation order as the sole basis for inheritance is that paternity must be proven before the child reaches majority, or before the father dies. Once one of those events intervenes, there is no longer any focus in the mother or anyone else for that matter, to bring the matter before the Court. It should be apparent for obvious reasons that this restriction is both unsatisfactory and unfair. It is not a good enough basis by itself for establishing paternity.

To demonstrate why proof of paternity should not be restricted in such a manner, I wish to refer this Honourable House to certain statistics to demonstrate the problems inherent in limiting proof of paternity in the way section 35 currently does. In 1990, there were 167 children born out of wedlock in the Cayman Islands; there were 45 affiliation orders granted. In 1999, there were 190 children born out of wedlock in the Cayman Islands; there were 72 affiliation orders granted.

So, Mr. Speaker, if Section 35 of the Succession Law is not amended in the manner which this Motion proposes, this gap between actual and potential orders is certain to have negative repercussions insofar as succession rights are concerned.

Perhaps I should explain some of the reasons why more applications for affiliation orders are not made. That may well be because most mothers do not associate the existence of an affiliation order with the children's right to inherit from their natural fathers. Additionally, the whole process of obtaining an affiliation order and commencing affiliation proceedings deters many mothers from initiating those steps. Affiliation proceedings can be embarrassing and unpleasant. If mothers can raise their children without dragging the fathers before the Court to obtain affiliation orders, most mothers will opt for that route.

It is my submission that it is critical that section 35 of the Succession Law be amended to provide other means of establishing paternity both before and after the death of the natural father of an illegitimate child. These changes will bring our Law in line with the Succession Law in most developed countries, certainly in line with that of the UK, Jamaica and Barbados, to name a few relevant jurisdictions.

Reforms in the UK and elsewhere in the Caribbean have sought to provide other means of establishing paternity. They have used blood tests, registration of births, a procedure which allows the Court to declare paternity without there being any other substantive proceedings afoot, an acknowledgement by the father that he is the natural father of the child. The second resolve section of the motion asks this Honourable House to amend the current legislation, section 35 of the Succession Law, so that provision is made for other means of establishing paternity.

I think I have demonstrated that our Law is plainly inadequate. The circumstances which I have highlighted in RE: The Estate of "B" serve to demonstrate that the provisions of section 35 affect real people. It is clear that the affiliation order alone is insufficient to allow for adequate adjudication of paternity with respect to inheritance.

Furthermore, future reliance upon it as the sole arbiter of paternity will continue to work injustice. There are alternatives. These alternatives that I have proposed allow for someone other than the mother to assume responsibility for establishing paternity and for the determination of paternity to be made after the death of the natural father.

In my respectful submission, there is no longer any justification for visiting the sins of the father upon his children who were born out of wedlock. I will wind up with referring this Honourable House to the judgment in RE: The Estate of "B" and the closing words of the judge, Justice Murphy, formerly of the Grand Court, who said, conclude that in this jurisdiction illegitimate children do not share on the intestacy of the natural father except the narrow circumstances set forth in section 35 (3) of the Succession Law, that is,

where the father has been the subject of affiliation proceedings in his lifetime.

That result may not be fair. It may point out a lacuna in our law. It may not accord with the values and mores of our society in the 21<sup>st</sup> Century. It may even be perceived by some as contrary to modern morality. Those are not my direct concerns as a judge. I may have my own views on what is proper and they may not accord with what I have decided. That is irrelevant. My function is to apply what I perceive the Law to be, and I have done that. My function is not the social engineer, or to impose my own values by creative judicial interpretation. If the law is to be reformed in this area, that is for the legislature to do for me."

Mr. Speaker, it is a matter for the legislature. It is a matter for all Honourable Members of this House. I commend the Motion to all Honourable Members and ask for their support.

**The Speaker:** Does any other Member wish to speak? The Honourable Acting Temporary Second Official Member.

**Hon. Samuel Bulgin:** Thank you, Mr. Speaker. I rise on behalf of the Government to respond to Private Member's Motion No. 7/01.

The Second Elected Member for George Town (and in another forum I would refer to him as my learned friend), has in fact correctly identified certain defects in the Succession Law, defects which in their current form translate into unfair discrimination against certain children and where relevant, the father who quite honourably acknowledges his responsibilities as it relates to child born from a common-law relationship.

Indeed the tenor of the law as it now stands is that unless the father has the benefit of what is sometimes described as a very unpleasant experience, that is, affiliation order, then the child and/or the father is automatically disinherited in certain circumstances.

It is Government's position that no one wishes to encourage common-law unions, but where they exist and give rise to a child, the father should be encouraged to voluntarily accept paternity instead of being coerced by the Court. In its current form, one could argue that the Succession Law in fact discourages such voluntary affirmation, and it therefore creates an anomaly.

In other jurisdictions there is legislation (as the Member quite rightly pointed out) that recognises certain realities. In Barbados, for example, there is legislation recognising a common-law relationship if it remains intact for five years. The effect of such recognition is that children born as a result of that union enjoy the same right as those born out of wedlock.

The Government is aware of the lacuna in the law. They have been ably articulated by the Member and also by Justice Murphy in his judgment referred to by the Member. The current Succession Law I think was enacted in 1975. And it is the secret that the society

then was far more conservative and at the time, quite properly, would not wish to encourage anything other than recognised traditional and cohesive family unit. However, the society has evolved over the years and so too has the relevant legislation.

The evolution of the legislation is evidenced by the various amendments in 1976, 1983, 1986, and 1989. Notwithstanding this evolution, there are still some areas that need to be addressed in order to prevent any disadvantage to a particular group of individuals. The law ought to be a medium of social engineering. It is with such recognition in mind that the Government readily accepts Private Member's Motion No. 7/01.

The proposed amendment will bring the Succession Law in line with already existing provisions in the Adoption of Children Law, the Maintenance Law, and the Guardianship and Custody of Children Law, and with relevant UK legislation all of which makes no distinction between children born in wedlock and those born from a common-law relationship.

The Member referred to the existence of legislation in other jurisdictions. I can recall from experience in the 1970s a particular piece of legislation was promulgated in Jamaica with great fanfare. The buzzword then was "*no more bastards.*" It was part of a set of social legislation enacted at the time to bring in line what was then perceived to be certain social injustice depending on the structure of the family unit.

As I said, the Government recognises that it is a balancing exercise. It has the duty to encourage strong traditional family values, but there is also a reality, which is staring us in the face and has to be addressed. Accordingly, Government undertakes to do what is necessary to address the injustices and weaknesses correctly identified by the Second Elected Member for George Town and Justice Murphy in his judgment.

**The Speaker:** The floor is open to debate. Does any other Member wish to speak? The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I would like to compliment the Second Elected Member from George Town for bringing this timely piece of legislation. And when I say timely, I mean within his time, not that it should not have come before. I can say that I understand the intent better now since he gave us the social and philosophical framework within which to understand the genesis of the law and the purpose of discriminating in this particular law.

As someone who is interested in trying to balance my concept of fairness with other social concerns—because a lot of times when we talk about human rights or citizens' rights, or the rights of any defined entity, we have to also realise that in assuming a right, somehow we appear to also be offending someone, or taking something away from someone.

My reason for saying this is because there are



those who feel that the traditional nuclear family is an ideal transcends social considerations and finds itself at more religious stage. There are those who see the family as an institution that is part of a Christian heritage and to somehow say that other ways of producing and raising Children—for that to have the same status in law would be contrary to what we are supposed to believe from the point of view of the Bible and our tradition.

Just to perhaps console some of those persons that might be strongly of this opinion, and to say that illegitimate children should have the same rights in law as children born in wedlock; that the law in saying so does not necessarily attack the nuclear family. Not from my perspective, in any case. Persons reared in a particular manner will always see the sense (economically and socially) of having a nuclear family rather than having family where the children are separated from the father

The whole idea that someone born out of wedlock would inherit a status that would more or less make him an untouchable—almost like a caste system! In other words we caste this one in a nuclear family and that one outside; this one legitimate, the other illegitimate; this one moral, that one immoral. Not only do we serve visit upon persons who were not responsible (the children) unpleasant circumstances in their lives at school, the congregation's Sunday School. . . they go through their lives being referred to as illegitimate or bastards as we heard the term used before. We place them in situations where they do not feel loved and cared for, and where they are not as important to society.

The reality is that as the Second Elected Member for George Town stated, in 1999 there were 190 children born outside of wedlock in the Cayman Islands. These figures are not recent figures because when he went back to 1990 there was still a significant number.

If we were to look at the tradition of the Caribbean (not just the Cayman Islands), we would see that a large number of persons were always born outside of wedlock. So, for us to pretend somehow that there is not sufficient evidence to show that some persons have resorted these practices and although condemned in law, over period of time it has not stopped children being born outside of wedlock. It would be unreasonable for us to continue to hope that legislation such as that we now have that discriminates would mend the problem for us. Since the legislation we have is not going to mend the problem, and might even make the problem worse, it is reasonable for us to now contemplate changing that legislation in such a way as to give children born outside of wedlock similar rights, in artier words, we deal with children not different categories of children.

Even as a result of the Affiliation Law... that almost creates another category, or subcategory of legitimate and illegitimate, depending upon how the parents are willing to pursue the process of gaining recognition for their children through the court system.

But there are those who do not necessarily want to take up this type of procedure and as a result, we find that they lose the possibility of any benefits.

Two weeks ago, someone said to me that she had a child and asked how she would be able to prove that the child belonged to the parson she claimed it belonged to, because the person is dead. The person they referred to (and I was kind of shocked) is a member of my family, a first cousin. I said that the way to prove paternity is really by way of a genetic test. I did not know if it would be possible to do that at this time. But the child was registered to the father; he had given the child that degree of commitment at the time of birth. But, in relationship to the Immigration Department, that is not considered to be sufficient proof of paternity.

There we are. We have situations where many people are born outside of wedlock. We are losing them simply because a lot of them are not able to inherit the nationality of their fathers, whereas in the case of a mother, the child is able to inherit the nationality. So, there is discrimination here against men. I think this is a very important point—that we have the law balanced in such a way that it protects all the genders. A woman is able to have a child, and the child is not illegitimate from the point of view regarding the mother, simply because maternity can be proven. So the concept of illegitimacy does not really come about as a result of whether or not the person is born in wedlock, it seems to exist as a question of whether or not it is possible to prove ownership.

If the father can prove that the child belongs to him, like the mother can prove that the child belongs to her, if that were possible naturally, then we would not be discussing this issue. But it is more difficult for the father to establish ownership. And who does the father have to establish ownership to, or the child has to establish paternity to? In other words, who do they have to prove this to? It is usually to one department of government or another. And these are the people who for some reason or another want to maintain some degree of control—in the case of immigration where people are not willing to allow other persons to be status holders and they go to the point of making it difficult (if not impossible) for children to prove that they have that one Caymanian parent, the father.

A lot of persons have also said that they are not interested in proving that a child belongs to them by taking a DNA test. He says the child belongs to him, he registers the child, and that should be enough proof to anyone. I am glad that the Second Elected Member George Town has addressed this question in his Motion. He understands the importance of this issue—the question of how paternity is proven.

So, I thank him and wish to say also that the Minister for Social Services, the Honourable Edna Moyle, has obviously expressed a long awaited interest in this Motion. I am happy that it has come here. It will coincide brilliantly with my Motion on immigration that also deals with the question of illegitimacy. I am hop-

ing that get as much support for that Motion as I have given this one.

Thank you.

**The Speaker:** The floor is open to debate. Does Member wish to speak? The Elected Member for End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker, I wish to briefly speak on this Motion before the legislature. I will not do what I did yesterday and speak until 4.30; I will give the First Elected Member for Cayman Brac Little Cayman an opportunity to speak.

I have supported this Motion and seconded it because I see the need for us to recognise all children this country as children, not as illegitimate or bastards some people call them. I think that is a very dirty word. In the old days, Caymanians took on their responsibilities. Yes, they had children out of wedlock, but they recognised those children. At the end of the day, if the father died without leaving a will, the other children recognised the so-called illegitimate children and they all shared that father's estate, in most instances that was true.

Here we are in the 21<sup>st</sup> Century and times have changed. It is unfortunate that there are instances where illegitimate children are not being recognised by the legitimate children. We are talking about modernising o Constitution, and then we are going to leave some of o children out of the 21<sup>st</sup> Century and the future of country to some extent if we de not make some arrangement in the Succession Law.

I agree with the Third Elected Member of George Town in regard to the immigration issue in this country. I suspect that any amendment to section 35 of the Succession Law will certainly affect other areas in the country where it comes to illegitimate children. As far as I know, there are provisions in the Immigration Law right now where any Caymanian man who has a child out wedlock can prove paternity through the DNA test, the child will be recognised as a Caymanian. Therefore, provisions are in place there to ensure that any child in this country gets his rightful entitlement as a Caymanian be it by virtue of having been born in or out of wedlock.

When we talk about common law, I am not encouraging children of common law unions. This is a fact life. I do not think anyone wants to see 100 or 200 of these children, but the fact is that we cannot just leave them and let them be called bastards and illegitimate and be alienated from the rest of society. The amendment to the Succession Law will make these children feel a sense of belonging.

I am aware of at least one instance now where three or four children were born to a common law union and the father died many years ago intestate. Today those children are not entitled to anything from the family's estate. That estate is much bigger than the one that Justice Murphy had to rule on. That estate owns much property. Unfortunately, that has to be shared amongst the father's brothers and sisters. That

is what the lack of recognising and amendment to the Succession Law has brought to people in this country.

One of those kids has a young child (the grandchild of that man's estate) who is extremely sick. And that son does not have the means to take care of his child. Nevertheless, he cannot share in the big estate that his father has left behind. Certainly, those kids were not proven through an affiliation order. There was no proof in court, but everybody knows that they grew up in the common law union home.

I wholly support this Motion. I think it is time we recognise, our illegitimate children. I think it is time that they have the right to claim on their fathers' estates, particularly if the father was supporting those children and through circumstances which may have been irresponsible on the father's part, he dies without leaving a will and naming those children.

I look forward to the passage of this Motion so that the Government may move ahead and make the necessary amendments. I also wish to congratulate the Second Elected Member for George Town for bringing this such Motion to the House.

Thank you.

**The Speaker:** The floor is open to debate. Does any Member wish to speak? The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I rise to give my support to Private Member's Motion No. 7/01 brought by my friend, the Second Elected Member for George Town. I am also happy to see that it has been readily accepted by my friend the Honourable Acting Temporary Second Official Member.

I believe that the ideal situation would be where the child/children are born in wedlock. I have always endorsed that position. Nonetheless, I am fully cognisant of the fact that through no fault of the illegitimate children they have found themselves in such a situation.

When one looks at the history of section 35 in the its entire genesis, we will see that back in the 1970s (Law 18 of 1975) when this law was initially engineered, the engineers at that time saw fit to merely include section 1(2) as it stands in the latest provision where only the mother of the illegitimate child would have an entitlement on intestacy to the illegitimate child's estate. Vice versa, the illegitimate child would have a right to the mother's estate.

Years later the Parliament deemed it necessary in accordance with the social ambience at that time to add two farther sections, the insertion of subsections (3) and (4) of section 35 which then went on to add the possibility of the father to the illegitimate child. But there was a caveat proviso and/or restriction whereby they had to bring themselves within the ambit of section 3 of the Affiliation Law, 1973. That has many restrictions. Having practised family law I know that it creates quite a bit of embarrassment, undue financial hardship and indeed social and other negative conse-

quences, not only on the illegitimate child, but on the mother.

So, Mr. Speaker, even with the addition of these two additional subsections, it is my respective view that the engineers at that time did not take it as far as the now Second Elected Member of George Town would seek to take it; whereby that gate would be opened up, with the amendment of the law being assented to by His Excellency the Governor, and being put into force. I hope that would come in a most expeditious fashion.

From representation that I have received not only in my own constituency, but from calls here, there is a concern (and perhaps genuine) that the illegitimate child would now have access to the estate of the legitimate children, meaning the pie would become smaller. But we have to look at the reality of the situation in that these children are minors. Even if the state attempted to look after them as is done under the social system we have in the Cayman Islands, it is not sufficient for these children. With the imposition of having to go through the method of the Affiliation Law, the interpretation section limits the meaning of a child (for obvious reasons) to a child born out of wedlock. As I understand it, in the same section a single woman who will be delivered with a child may in three circumstances make a complaint upon oath or affirmation before a JP alleging some man to be the father of the child. She can only do this (as I understand it) either before, or 12 months after the birth of such child, or at any time thereafter upon proof that the father maintained or supported the child. There is also a provision in the event the father is outside the Cayman Islands jurisdiction: there is another 12-month period in which a claim can be lodged in such a case.

I can remember some years ago when such an application was being made before our courts that the mother had to resort to the father giving one box of pampers as her only means of trying to prove that the man was the punitive father because of being outside of the 12 month period. I think that in the age we now live we really have to move away (albeit in a cautious manner) from things that we hold very dear and look at the children. I am not in any way endorsing the actions of the father or the mother, because of my own personal religious views, but I do feel sympathy for the children who are a result of these unions—as Miss Annie Hulda [Bodden] said back when she debated it “these love children”.

We will also see as we look at the Motion that it will give the ability for paternity to be determined by DNA testing and this is good as far as this scientific technology is available. But it is also an expensive exercise. We are a small community. It is rare when the mother would want to be put in a situation where she has to attend a clinic and there is lots of speculation that brings more psychological hardship on the mother and child. This is often not done on a voluntary basis by the father, but an order has to be sought from the courts which again add to the expense of this

whole procedure.

I believe that the law should—as the mover intends, I believe—make provision for the voluntary acknowledgement, and in cases of illegitimate children by their fathers, so that they too on intestacy can have a claim. Of course, the perfect situation would be for the father to make provisions in a will so that the child would not have to resort to the intestacy proceedings. But we all know that we do not live in a perfect world. And although this should be done, we will still find deadbeat fathers, or mothers who are intimidated by statutory or financial restrictions and having children growing up with the stigma of not having appropriate financial provisions for their general maintenance and well being, so that they too can enjoy the progress and the success in our Cayman society, and have a right to the very fundamental and necessary human rights in our community.

I believe that even with this we will perhaps find those who may be tempted to draft a will referring to specific children and attempt to leave out the illegitimate children. I hope they will resist such temptation and refer merely to “children” unless there are specific legacies to be contained in the will.

At the end of the day, parents must take the responsibility and not only provide for children financially but also try to create an atmosphere within our community so that they too can have a future. I am glad to see the many Motions coming up that will go a long way to ensure that this will happen in years to come. The Good Book tells us that the father who does not provide for his children worse than an infidel—there are other colourful adjectives in there too!

I believe that although there is a responsibility for the father to provide, that we must be fair in this movement of gender equality. We must ensure that the father coupled with the responsibility, will also have access to the child's estate on intestacy as is given in the law to the mother. And I believe that in moving towards a fairer gender policy we can create a society whereby we would have less risk of children feeling unwanted and becoming deviants within our society. I believe we should now move into a reconciliation period where we can work together, Caymanians and residents alike, as human beings meeting each other's needs as best we can see fit, sharing and caring. It is only then that we can really achieve success.

Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) If not, does the mover wish to exercise his right of reply? The Second Elected Member for George Town

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

I wish to thank the Honourable Members who have spoken, for their support. I wish to thank those

who did not speak, for their silent support.

I believe that we are at a point where the use of the pejorative term "illegitimate" should fall away from all legislation in these Islands. Children are children. That is an issue and a debate for another day. Such provisions appear in legislation in the UK and in most Caribbean jurisdictions. The distinction between illegitimate and legitimate children has disappeared for all purposes in other jurisdictions. That has implications which go beyond succession rights and affect things like immigration rights. It is something we will have to deal with carefully. But I believe that we are at a time that that too should be addressed.

Again, I thank Honourable Members for their support. I wish also to record my grateful thanks to Mrs. Terrence Caudeiron, my fellow graduate of the Cayman Islands Law School, for the assistance I have derived from her learned and insightful article entitled "The Legal Status of the illegitimate Child in Matters of Intestate and Testate Succession in the Cayman Islands—The case for Reform." That article appears in The Cayman Islands Law School Bulletin.

Thank you, Mr. Speaker.

**The Speaker:** I shall now put the question on Private Member's Motion No. 7/01, Amendment to the Succession Law. The Resolve section reads as follows:

**"BE IT THEREFORE RESOLVED that section 35 of the Succession Law be amended to extend to all illegitimate children, and to the natural fathers of such children, the same rights to succession on intestacy enjoyed by legitimate children and the fathers of legitimate children;**

**"AND BE IT FURTHER RESOLVED that the Succession Law also be amended to provide for an appropriate method of establishing paternity prior to, as well as following either the death of the man alleged to be the natural father of an illegitimate child, who had not, prior to his death, been adjudged to be the putative father of the said illegitimate child under the provisions of the Affiliation Law (1995 Revision, or the death of the illegitimate child."**

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

**AYES.**

**The Speaker:** The Ayes have it,

**AGREED: PRIVATE MEMBER'S MOTION NO. 7/01 PASSED.**

**The Speaker:** Is it the wish of this Honourable House that we now adjourn, or should we continue with the next Private Member's Motion?

**Hon. D. Kurt Tibbetts:** I do not think anybody was prepared to do any of the other Motions this afternoon. Seeing that the Honourable First Official Member has not returned, I would suggest we adjourn until

tomorrow morning.

**The Speaker:** Please move the adjournment.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10.00 p.m. tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10.00 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES**

**The Speaker:** The Ayes have it.

**AT 4.10 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 16 MARCH 2001.**

**Appendix to Question No. 13  
15 March 2001**

**PARLIAMENTARY QUESTION ASKED BY MR. V. ARDEN McLEAN, MLA FROM THE ELECTORAL DISTRICT OF EAST END TO THE HONOURABLE MINISTER FOR PLANING, COMMUNICATIONS & WORKS:**

**QUESTION:** STATE THE NUMBER OF MILES OF ROAD AND/OR PUBLIC HIGHWAYS THAT HAVE BEEN (A) CONTRACTED (B) COMPLETED WITH THE "ASPHALTIC CONCRETE" SURFACING AND AT WHAT COST PER MILE.

**ANSWER:** Mr. Speaker, PWD commenced a Resurfacing Programme in 1999, to extend the pavement life on Main Roads and secondary roads that are heavily trafficked. The attached sheet shows a summary of the areas that were resurfaced in 1999 and 2000.

West Bay Road

The total cost of resurfacing 4.2 miles of West Bay Road -from Sleep Inn to the Fire Station was \$2,945,444. The average cost per mile for this project was \$ 701,296.

Other areas

The total cost of resurfacing a total of 29.6 miles in all other areas (as listed on the summary sheet) was \$8,495,254, at an average cost of approximately \$287,000 per mile.

BP 5 (41)

| <b>Road Name</b>                                                                              | <b>Approximate Length (miles)</b> |
|-----------------------------------------------------------------------------------------------|-----------------------------------|
| <b>West Bay Area</b>                                                                          |                                   |
| West Bay Road - Sleep Inn to West Bay Fire Station                                            | 4.2                               |
| Willie Farrington Dr                                                                          | 0.5                               |
| Mr. Pleasant Rd                                                                               | 1.2                               |
| Reverend Blackmon Rd                                                                          | 0.4                               |
| West Church St                                                                                | 0.7                               |
| Northwest Point Rd                                                                            | 2.8                               |
| <b>George Town Area</b>                                                                       |                                   |
| Fairbanks Road                                                                                | 0.4                               |
| South Sound Road - Memorial Ave to Crewe Road                                                 | 4.2                               |
| Hospital Road                                                                                 | 0.1                               |
| Mary St                                                                                       | 0.3                               |
| Elgin Ave - Shedden Rd to Thomas Russell Roundabout                                           | 0.5                               |
| Walkers Rd - Hospital 4 way stop to John Gray High School                                     | 0.9                               |
| Dorcy Drive - Home & Office City to North Sound Rd Intersection                               | 0.2                               |
| North Sound Rd - Nixon Roundabout to Dorcy Drive Intersection                                 | 0.2                               |
| <b>George Town / Bodden Town Area</b>                                                         |                                   |
| Shamrock Road - Selkirk Dr to Will T Drive                                                    | 4.6                               |
| <b>Bodden Town Area</b>                                                                       |                                   |
| Bodden Town Rd - Moon Bay Condominiums to Frank Sound Intersection                            | 1.0                               |
| Hirst Road                                                                                    | 1.1                               |
| Northward Road                                                                                | 1.0                               |
| <b>North Side Area</b>                                                                        |                                   |
| Frank Sound Rd - from Bodden Town Rd Intersection to Old Man Bay Seventh Day Adventist Church | 4.3                               |
| <b>East End Area</b>                                                                          |                                   |
| Seaview Drive - from Frank Sound Intersection to Skipwith Link                                | 5.2                               |
| <b>TOTAL MILES COMPLETED</b>                                                                  | <b>33.8</b>                       |
| <b>BODDEN TOWN AREA - IN PROGRESS</b>                                                         |                                   |
| Bodden Town Rd - Will T Drive to Moon Bay Condominiums                                        | 3.0                               |

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**16 MARCH 2001**  
**10.12 AM**  
*Fourth Sitting*

*[Prayers read by the Second Elected Member for West Bay]*

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item number 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for late attendance from the Honourable Third Official Member, and for the absence of the Honourable Minister for Health and Information Technology who is sick and off the Island.

**QUESTIONS TO HONOURABLE  
MINISTERS/MEMBERS**

**QUESTION NO.16**

**No. 16: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Community Development, Women's Affairs, Youth and Sports (a) what is the criteria for persons to be eligible for a Seaman's Grant; and (b) will persons who have not lived on the Islands for 10 years or more and who are still living overseas be eligible.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I request of this Honourable House that this question be deferred until a later date. I will advise the Business Committee of the new date for answering. I know this question is very important to Members of this Parliament, and I would like to have Members of this Legislative Assembly involved in the new criteria that the Ministry is now drafting for the Seamen's Ex gratia Grant.

**The Speaker:** Would you then move a motion please?

**Hon. Edna M. Moyle:** I move that Question 16 be deferred to a later sitting.

**The Speaker:** I shall put the question that Question 16 be deferred to a later sitting. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it

**AGREED: QUESTION NO.16 DEFERRED TO A LATER SITTING.**

**The Speaker:** Question No. 17 stands in the name of the Elected Member for East End.

**QUESTION NO. 17**

**No. 17: Mr. V. Arden McLean** asked the Honourable Minister responsible for Planning, Communications and Works, to say whether or not there is an official Master Ground Transportation Plan for these Islands and, if so, when was it officially approved.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** At present there is no officially approved Master Ground Transportation Plan for the Cayman Islands.

In 1987-1988, a Master Ground Transportation Plan was prepared for the Government by the team of consultants led by Wilbur Smith Associates. The Plan is now outdated as it addressed a ten-year time period to 1997. And may I interject that even though the Plan is outdated it was not approved in the first instance.

For the past two to three years, the Public Works Department has proposed to carry out an in-house exercise to prepare a National Roads Plan. Included in the Plan would be a prospective programme and schedule of road projects for a ten to twenty-year period, as well as recommendations for the improvement of operation, planning and management of the road transport sector.

It has not been possible to carry out this exercise in-house due to the heavy workload of a small staff complement within the Public Works Road Division.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Minister say whether or not it is a priority of his Ministry to develop a National Roads Plan during the course of this year?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Since taking over the Ministry in November, there have been many pressing issues. I have begun working with relevant agencies and staff in trying to address these various situations. Human resources have been limited, and because of this, I have been trying to prioritise as I go along.

One of the things already entrain is to re-examine all of the main proposed road corridors to develop costings for gazettal and acquisition, which I believe is most important — beyond everything else — because once that is done, the rest of the work can begin.

To say that there is a plan afoot to network the whole operation would not be factual at this point in time. As soon as the department, in liaison with the Lands & Survey Department, establishes those main road corridors that are proposed, and as soon as the Government accepts that this is the way forward, then certainly the next move when we establish costings and go to the gazettal procedure would be to deal with it on a national level. At that point in time, I will bring whatever is ready to the Legislative Assembly to take input and to move forward.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The choices are very simple: decide that we stop importing cars, or we build roads. I am sure not too many people want to stop importing cars. Nevertheless, would the Minister give this House an undertaking, since it appears that the old Master Ground Transportation Plan which he says is outdated seems to be working fairly well with the two bypasses that were put in, that he will (1) increase the complement of staff at PWD, or (2) engage the services of consultants such as the Wilbur & Smith Associates to conduct yet another study?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I certainly do not wish to sound negative, and I understand what the Member wishes to achieve, so I will try to address the question in a positive manner, however, it may not seem to answer the question as he has put it.

Even though the Master Ground Transportation Plan that we speak to is outdated (because it was done for a ten-year period), it does not mean that the whole concept is thrown away. What has been done during that interim—between then and now—is that various bits and pieces of that Plan have been taken and adapted to the changing times and used as he

mentioned, with the bypass roads. So, I do not believe that we have to start from scratch. I believe that we have the expertise in House to develop a plan of our own. I do not think we have to hire consultants.

The Member spoke about increasing the staff complement at PWD and I understand his reasoning. But at this point in time that cannot be considered: simply because the global picture tells us that the size of the Civil Service complement is a worrisome factor in the whole equation of Government and its revenue, and the cost to operate Government with the services it provides.

Matters like these, which are very important for medium and long range planning, are matters where we have to look to the resource people we have available in house, and they are there, and simply collate those minds together to work in tandem to develop such a plan. And that is my intention.

So, while I am not able to give the undertaking requested by the Member, I am saying to him that I do intend to achieve what he is looking for. However, because of all the factors involved, and the climate we are in at present, I have to go about it in a different manner from what he suggested.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I appreciate the Minister's answer, but sometime ago there was some discussion regarding the back road around Bodden Town to alleviate some of the eastern traffic, getting the traffic away from the front road. I wonder if the Minister can say if that was a fact, and if so, what type of priority is being placed on that road?

**The Speaker:** I do not believe that comes out of the answer to the substantive question, but if the Minister wishes to answer he may. The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you for your kind help, Mr. Speaker, but so that the Member for East End does not feel that he has me on the run, I am going to attempt to answer his question.

The fact is that some base work has already been done on that road. I am not 100 per cent sure at present about the gazettal process. I am assuming that has already been taken care of, and I will check to ensure that it has. Once that is done, the plans are—withstanding the budget constraints . . . Perhaps the Member will be aware because of his previous occupation that we have been having dialogue with Caribbean Utilities Company. Because it is suitable to them for that road to be built, they have given verbal undertaking that they will assist financially with the construction of the road. We are now in the process of finding out how far we can negotiate with them. The better that position gets, the quicker we will be able to complete it. But there will be more work done on it this year. At least we will get to the point where

we can begin doing the final asphalt covering on that road. So, all things being equal, and with nothing unforeseen happening, by year-end we should have the road very close to finishing, or perhaps, finished.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Mr. Speaker. Can the Honourable Minister give us an update on the current status of the extension to the Harquail Bypass? I recall hearing in the Throne Speech about some plans. Can we get an update on the land acquisition and the gazetting, and what stages we expect to be completed and what time frame?

**The Speaker:** Again, this is outside the answer. Supplementaries are supposed to come out of the answer to the substantive question. We are taking a wide latitude this morning. But if the Minister wishes to elaborate, he may. The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I am heartened to see the youngsters training the seasoned people, because we all need refresher courses from time to time. So I am happy to deal with it, Sir.

**Hon. Roy Bodden:** We are paying for his old sins!

*[Members' laughter]*

**Hon. D. Kurt Tibbetts:** Regarding the Harquail Bypass which, by the way, very shortly will be called the Esterly Tibbetts Highway—

**Hon. Roy Bodden:** Hear, hear!

**Hon. D. Kurt Tibbetts:** There are bits and pieces that are already in place. The road reserve is already taken care of. Funding for the continuation of the Harquail Bypass is not in place for any continuation this year. Just so we can understand the ties we are talking about: if we go through the SafeHaven project, the road is in place already. I understand that a signing will go on next week with the Ritz Carlton project, allowing the project to start. Part of the agreement with that development is that a certain amount of road spanning through that development will be built by them, or they will provide the necessary funds for it to be built. Government has the option to deal with that when it sees fit. We must have continuity so it does not make sense for them to do that right now, if it is going to take another three years for us to connect from where we are now to them. That is the situation, but the call is the Government's.

Where the biggest gap is to put everything up to the SafeHaven area is the gap between the existing Harquail Bypass and coming down to where the Ritz Carlton project will start. That is going to be the prior-

ity as to Government's onus to deal with. I have to say that unfortunately that cannot be addressed this year.

There's another section in between that (I cannot remember the name of the project), and there was also a commitment from that project extending beyond where the road now finishes that they too will build that part of it. I do not remember all the exact figures and arrangements, but that is the way we are going forward with it. While people would love to see it completed much earlier, we have to prioritise based on the resources and juggle the act.

**The Speaker:** Two additional supplementaries.  
The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker. Can the Honourable Minister say how they propose to go through or around the Hyatt parking lot?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, you came to my defence earlier, but this time you did not, and this is the time I needed it!

**The Speaker:** You were so anxious to answer!

**Hon. D. Kurt Tibbetts:** I say that in jest, Sir. I do not have the facts with me to answer that question. I do remember from years back (and the Second Elected Member for George Town and the Elected Member for East End will probably remember too when we all served on the Central Planning Authority) that there was a problem and there were several proposals. I have had a cursory look at it and there are some proposals at present to do a short causeway. But the decisions have not been made.

I can assure the Member that if I am still around when that time comes, a decision will be made. So it is not that we are trying to shift from what we have to do; it is just that we are not quite there yet. When we get to that point we will deal with it, look at the options available and choose the best one.

**The Speaker:** Are there any further supplementaries?

If not, we move on to Question No.18, standing in the name of the Elected Member for East End.

#### QUESTION NO. 18

**No. 18: Mr. Arden McLean** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture how many teachers' aides are currently employed at the East End Primary School.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.



**Hon. Roy Bodden:** There are no teachers' aides currently employed at the East End Primary School. There is currently one support assistant employed at the East End Primary School.

### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say (1) What is the policy regarding teachers' aides? (2) How many teachers' aides on average are employed at other primary schools?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. It is my information that teachers' aides are usually high school graduates who have expressed an interest in pursuing a teaching career. Over the last year, numbers were not of such a complement to allow for the platooning of these aides in every school. As a result, decisions of exigency had to be taken to place them in schools with the largest class sizes and the highest pupil/teacher ratios.

I crave your indulgence to give this information to Honourable Members: Teachers' aides are, as I said reserved for recent high school graduates who plan to pursue a teaching career. Support assistants are more mature persons who are placed in a classroom to assist the teacher, but who may not necessarily be interested in pursuing a teaching career. It is hoped that at the end of this school year numbers will be more forthcoming and that we can be more generous in the allocation of teachers' aides.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, the Honourable Minister did not really answer my question. I asked for the average per school. Nevertheless, he said that support assistants are older and they are put there to assist [teachers in] the classrooms. And that they may not necessarily have a desire to become teachers. But I wonder if it is normal to only have one support staff in the absence of teachers' aides at the primary schools.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** In the small primary schools, that is quite a normal procedure. To the best of my information, for example, North Side Primary has none.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether or not Creek Primary School has any teachers' aides at present?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** As of this time, there is one at Creek Primary School.

**The Speaker:** The Elected Member for East End.

**Mr. Arden McLean:** I believe that teachers' aides and support assistants are good for the teachers in our schools, particularly when teachers have to go on continuing education courses which takes them away from the classroom.

**The Speaker:** Please turn it into a question.

**Mr. V. Arden McLean:** I will, Mr. Speaker. Can the Honourable Minister give this House an undertaking to try to put more assistants or teachers' aides in the schools around the island, in particular at East End?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, I most assuredly will give the House that undertaking. I think that Honourable Members are well advised to be interested in education, particularly as it is the belief and philosophy of most of us that education and training is the way forward for the Cayman Islands in the 21<sup>st</sup> Century. I will also take this opportunity to say that Honourable Members can expect a refreshingly different approach and more empathy and concern with education matters because I am a trained teacher, and an educator.

I want to make one distinction that I think is of paramount importance. Teachers' aides and support assistants are in no way expected to replace the classroom teachers who are regularly assigned to those classrooms. Neither the teachers' aides, nor the support assistants, are trained and qualified teachers. Their role is limited to bolstering the presence of the teacher, allowing the teacher greater flexibility in terms of moving around to individual children, and greater scope for individualised instruction. But no teacher is expected to leave his or her classroom with a teacher's aide or support assistant in charge.

**The Speaker:** Are there any further supplementaries?

If not, we will move on to Question No.19, standing in the name of the Second Elected Member for West Bay.

**QUESTION NO. 19**

**No. 19: Mr. Rolston Anglin** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture how many pre-schools receive Government funding; have there been regular inspections (by the Education, Planning and Health Departments); have there been any complaints against these institutions – if the answer is in the affirmative, which ones.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

<sup>1</sup>**Hon. Roy Bodden:** [Ordered by the House that names be expunged from the record.]

**Mr. Gilbert A. McLean:** On a point of order, Mr. Speaker.

**The Speaker:** Let me hear your point of order.

**POINT OF ORDER**

**Mr. Gilbert A. McLean:** In good faith the Minister is giving the complete answer to this question, but the part he is now reading has not been circulated to Members.

**The Speaker:** That is a point of order, and that is why I just called the Serjeant-at-Arms. Maybe we do not have the complete answer. The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I offer my apologies to Members. There seems to have been a mix up. I can make the answer available to Honourable Members and would crave your indulgence to have the answer photocopied and circulated to Members.

**The Speaker:** Would Members care to pause, or let the Minister go on with the answer?

**Hon. Roy Bodden:** Mr. Speaker, I think it would be in the interest of fairness and democracy to take a pause so that Members can peruse the answers and be completely informed so that they can better ask their questions, Sir. .

**The Speaker:** We shall await the circulation of the complete answer in writing.

**Hon. Roy Bodden:** Mr. Speaker, because I have given some specific information, I think the matter has to be handled gingerly and diplomatically. When Honourable Members receive the information, I am asking them if they could protect the identities of the schools

when asking questions. We have been taking corrective measures and I do not want the schools to be penalised by being named in the Legislative Assembly. People may think they are not doing a good job.

**The Speaker:** That is a reasonable request, and I ask Members to comply. The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I fully concur with the Honourable Minister. Perhaps it may be deemed prudent, subject to his consent, to have the names already mentioned struck from the record.

**Hon. Roy Bodden:** Certainly, Mr. Speaker.

**The Speaker:** Would you care to move a motion that they be expunged from the record?

**MOTION TO EXPUNGE WORDS FROM RECORD**

**Hon. Roy Bodden:** I rise to request that the information recently given by me in an answer which identifies a particular pre-school and its Principal, be struck from the records as a gesture of protecting and preserving the school and the Principal's ability to carry out duties in a fair and uncompromising way which is free from intimidation or repercussions which may be generated unnecessarily. Thank you.

**The Speaker:** I should inject that that answer is going to be circulated. I suggest that the answer be corrected.

**Hon. Roy Bodden:** No, Mr. Speaker, in the interest of openness and democracy I want the Members to have access to all that information. What I do not want them to do is to engage in a debate and questioning, revealing the names, Sir.

**The Speaker:** I fully understand what the Honourable Minister is saying, but in protecting openness, this will be circulated to the press and to the public. If the answer is corrected . . .

**Hon. Roy Bodden:** I cannot overrule the Chair. Members are responsible. I think they should know everything. I do not wish to hold anything back from them. It is my responsibility to provide them with the information. I have every confidence that they will handle it in a responsible manner, so I leave it at that. If you wish to overrule it, that is the Chair's prerogative. Similarly, I would ask that the press refrain from any specific references regarding this matter.

**The Speaker:** Your last statement covers what I was trying to get across. We will await the answer. Do you still wish that information expunged from the record?

<sup>1</sup> See answer to Question No. 19 on page 108.

**Hon. Roy Bodden:** Yes Sir.

**The Speaker:** I shall put the question that the identifying names be expunged from the record of this Honourable House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: IDENTIFYING NAMES TO BE EXPUNGED FROM THE RECORD.**

**The Speaker:** Honourable Members, I think we should take a brief suspension while we have a discussion. Proceedings will be suspended for 10 minutes.

**PROCEEDINGS SUSPENDED AT 10.58 AM**

**PROCEEDINGS RESUMED AT 11.25 AM**

**The Speaker:** Proceedings are resumed. Please be seated. Moving on to Question No. 19, standing in the name of the Second Elected Member for West Bay.

#### **QUESTION NO. 19**

**No. 19: Mr. Rolston Anglin** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture how many pre-schools receive Government funding; have there been regular inspections by the Education, Planning and Health Departments; have there been any complaints against these institutions? If the answer is in the affirmative, which ones?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

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

**Hon. Roy Bodden:** I respectfully beg to move the suspension of Standing Order 23(7) & (8) to allow Question Time to continue beyond 11 am.

**The Speaker:** The question is that we suspend Standing Order 23(7) & (8) to allow Question Time to continue beyond the hour of 11 o'clock. Those in favour please say Aye, those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time will continue.

**AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

#### **QUESTION NO. 19 (continuation)**

**Hon. Roy Bodden:** At present there are no pre-schools receiving Government funding, however, there are 19 pre-schools which receive funds in regards to the Pre-schools Assistance Programme on behalf of parents who are experiencing difficulty in paying pre-school fees.

Yes, there have been inspections of all pre-schools and day care centres. These inspections are done twice per year and take two months to complete. The inspections are performed by the inspection team comprised of representatives from the Fire, Environmental Health, Public Health and Education Departments. The Education Officer for pre-schools makes spot checks on the centres.

Occasional complaints have been received from parents about a few centres, but these have all been investigated and resolved accordingly.

#### **SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say if there is a standardised curriculum and testing as these years obviously are the foundation years for children?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. There is a standardised curriculum and there are tests administered during the first year of entry into primary school by students coming from these pre-schools and day care centres.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say if there are any pre-schools charging more than the \$300 maximum that Government provides by way of funding?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Yes, Mr. Speaker, there are pre-schools that charge more than that amount.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say what the family income requirements are, in order to be eligible for assistance?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** A means test is administered. Unfortunately, I do not have that information here. If the Honourable Member wishes, I would have to give an undertaking to provide it at a later date with the caveat that the information, if required, is personal and should be treated with the greatest discretion and confidentiality.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I would like the information and I can assure the Minister that it will be treated accordingly.

Can the Honourable Minister say whether or not there will be any move toward ensuring that the amount people say they earn is actually true? I note that in the description of the programme there is reference to the fact that the Education Department has no way of ensuring that the people are telling the truth. But when one applies for a bank loan, one normally has to provide an employment letter. I think it would be only fair that people who are receiving grants from Government truly are the ones deserving these grants.

My question is, will there be a move to receive letters from employers verifying people's salaries?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The practice is to elicit as much information as the Education authorities deem necessary. I take the Member's point that the procedure can be reviewed with the objective of ensuring that the information given is more accurate and reflective of the actual situations.

I want to add that these arrangements are predicated on trust and confidence. We, the Education establishment would like to believe that the answers forthcoming from applicants are truthful and can stand scrutiny. We are not prepared – the bureaucracy, that is – to go into minute examination of every applicant; nor do we think it necessary at this time. I am sure that we can arrive at a situation where we make random checks. But we would like to believe that we have the kind of society where persons making the applications can trust us to look after their best interests and the Education establishment can reciprocate that trust by believing that they have given us honest and accurate information.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Could the Honourable Minister say what income bracket Government provides pre-school assistance for? A ballpark figure.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, I have to apologise for the fact that I do not have this information readily at hand. I will give the House an undertaking to provide it at a subsequent date in writing. I think it would be dangerous for me to try to hazard a guess. My tenure is still new and I do not want to colour my future by providing inaccurate information at this point.

**The Speaker:** Are there any further supplementaries?  
The Third Elected Member for West Bay.

**Capt. Eugene Ebanks:** Could the Honourable Minister say what, if any, is the cut-off amount as far as assistance goes? How far will Government go by way of providing uniforms, school fees, or lunch fees?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I have to remark that I am getting paid for my old transgressions! In all honesty, I was not prepared for these kinds of supplementaries. I will have to ask Honourable Members to bear with me. I will give them complete and comprehensive information in written form. I will arrange for the Chief Education Officer to prepare and mail out the answer to Members at the address of the Legislative Assembly.

**The Speaker:** Are there any further supplementaries? If not, we will move on to Question No. 20, standing in the name of the Second Elected Member for West Bay.

#### QUESTION NO. 20

**No. 20: Mr. Rolston M. Anglin** asked the Honourable Third Official Member responsible for Finance and Economic Development if there are any external sources of financial assistance available to assist funding the necessary staffing expansion at the Cayman Islands Monetary Authority.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Mr. Speaker, the planned expansion of the staff resources of the Cayman Islands Monetary Authority is being financed entirely from fees from the financial services' industry.

## SUPPLEMENTARIES

**The Speaker:** Supplementaries? The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Third Official Member say if fees to the financial industry are being increased to accommodate that since more staff are required at the Monetary Authority? Or can it be funded under the present fee structure?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** A review of existing fees is being undertaken at this time as a part of the budget process. Therefore, the general view is that the additional cost to the Monetary Authority will be funded by additional or incremental fees from increasing the level of fees currently in place.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. Can the Honourable Third Official Member give this House an indication as to the number of employees that will be at the Monetary Authority after this expansion and the estimated cost of personal emoluments for the full complement once the expansion is completed?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Mr. Speaker, this plan is being implemented over a three-year period, and the staff complement will be increased to 129 persons. At the end of three years (October 2004) the estimated cost of personal emoluments will be \$10.4 million. In addition to the operational costs this will bring the overall cost of the Monetary Authority to \$13.5 million.

The progression as at December 31, 2001, it is estimated that the operational costs for the Monetary Authority will be \$8.5 million (for the year 2001). This will mean that the staff complement will be increased from the present number of 65 persons to 103.

As at December 31, 2002, the cost goes up to \$10.6 million, and at that time it is estimated that there will be 119 persons in posts.

As at December 31, 2003, the number goes up to 129, and the cost at that time will be \$13.4 million.

So it is a progression. Discussions commenced yesterday with the financial industry and will be continuing. They will be apprised of these progressive costs and it is expected that the full operational cost, or the increase, will come from additional fees imposed upon regulatory services to the financial industry.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. Can the Honourable Third Official Member say whether or not the Cayman Islands Monetary Authority is self-financing, or is it currently being subsidised by the Cayman Islands Government?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The way the operations of the Monetary Authority are structured at this time is that the Government provides a subsidy. The operational cost for the year 2000 was \$5.2 million, but the fees generated for that year were approximately \$16 million.

When the Monetary Authority moves to the position of operational independence, that structure will have to be rearranged. This is a matter that will be decided upon whereby based on the amount of money it is estimated it will cost to run the Monetary Authority, the fees will have to be apportioned. This is a matter that will have to be agreed upon by the Legislative Assembly, whereby a certain percentage of the fees will be allocated to the Monetary Authority while a certain percentage flows to Government in order to keep the revenue stream going.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Third Official Member say whether under the present arrangement the revenue generated as a result of the fees from the financial services industry are paid into central Government's general revenue, or is there a separate account into which these funds are paid?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Fees collected are paid into general revenue.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. Would the Honourable Member give an undertaking when looking into this necessary group for the Monetary Authority, if there would be any back office work that could be out-sourced to Cayman Brac?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Mr. Speaker, that undertaking will be given.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. Can the Honourable Third Official Member say if all efforts will be made to hire Caymanians in the positions that are becoming available? And will he give an undertaking that efforts will also be made to utilise young Caymanians currently in the public sector, moving them into the Monetary Authority, if possible?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Mr. Speaker, in the recruitment drive to fill all of the positions that will become vacant within the Monetary Authority, every attempt will be made to recruit from within the Cayman Islands community. We are having good success with what is now taking place. For example, a new section has been created under the designation of fiduciary services, and we have been successful in recruiting a senior Caymanian from the financial community to head that division. Every attempt will be made to fill all of the posts with Caymanians and if necessary secure resource personnel from elsewhere to provide training. That is going to be the first option before going overseas.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Mr. Speaker, can the Honourable Third Official Member explain why these changes are necessary for this significant expansion?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Mr. Speaker, the Honourable Third Elected Member would have seen the Report of the Financial Action Task Force where suggestions have been made that there are certain areas where the regulatory oversight needed to be strengthened. We have taken a look at the operational structure of the Monetary Authority and what has emerged is a plan looking at the resource personnel that will be required within the various sections. It is on that basis that the staffing structure has been arrived at. This has been done on the basis of a risk analysis profile. This is a matter that the technical personnel in the Monetary Authority have used to look in terms of the level of risk within the different sectors, and on this basis the staffing complement has been developed.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, I wonder if the Honourable Third Official Member would make a commitment that the people he alluded to in our special

sitting several weeks ago (who are coming back on Government scholarships and have to be released), that the possibility of funnelling them into the Monetary Authority will be investigated.

Could the Honourable Third Official Member also give the rationale behind what he described as the Monetary Authority being operationally independent, yet receiving a contribution from central government in order to operate; versus having the Monetary Authority collect the fees but having a contribution arrangement where all excess funds would be sent back to central Government.

It seems odd to profess that it would be operationally independent, yet have it subject to contributions from central government.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** I can easily give a commitment to the Honourable Elected Member from West Bay. In fact, the Monetary Authority has been drawing on Caymanians coming back from overseas who are not being taken on board within the central Government. This has been the first call for the Monetary Authority, so there is an understanding in place.

His interpretation as to how the Monetary Authority should be operating as an independent entity is the method by which it will operate by way of how financing will be available to the Monetary Authority. This is that the Monetary Authority will continue to collect the fees. But instead of remitting the fees in full to central Government, for example if 30% of the fees are kept by the Monetary Authority on a monthly basis, then for every dollar 30 cents would be retained by the Monetary Authority, while 70 cents would be remitted to central Government.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** In relation to the Honourable Member's last answer, can he explain what criteria will be used in determining the portion to be allocated to the Monetary Authority versus government? And would a system where the full amount goes directly to the Monetary Authority and the operational surplus at the end of the year be handed over as a contribution from the Monetary Authority back to central government not be more operationally feasible?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** In the first instance, the yardstick that will be used to apportion the revenue at the point of the Monetary Authority becoming operationally independent will be the budget. An examination will be made to determine what level of revenue will be generated by the Monetary Authority. Then we

will look in terms of the operational cost based on the budget. If it is that the budget represents 35% of the revenue to be generated by the Monetary Authority, for example, then this would be a safe yardstick to use to arrive at the allocation.

I should say that the allocation will have to be allowed for by way of provision in the Law in the first instance. It is anticipated that if it is to be varied it will have to be done by the Legislative Assembly, not necessarily administratively. The point that the Member made in terms of waiting until the end of the year, it will have to be borne in mind that the sources of revenue are somewhat limited. If the Government waits until the end of the year to receive the money it should be getting from the Monetary Authority on a monthly basis, it would have to make interim arrangements. That interim arrangement would have to be in terms of looking at means of financing that gap that would come about by not having that revenue flow from the Monetary Authority. So, it will be more expedient to arrive at an arrangement whereby this is done on a monthly basis and a final adjustment can be made at the end of the year.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, I would like the Honourable Third Official Member to clarify the very last part of his answer. I would agree that having that funding available could save the Government finance charges. When he said that there would be a final adjustment at the end of the year, am I to understand then that we will not be put in a situation where, for the sake of argument, 40 per cent was given to the Monetary Authority on a monthly basis, that we would not have an excess amount of cash being built up in the Monetary Authority and having the situation as it currently is with other statutory authorities whereby central Government has a fistfight with them because there was no clearly defined contribution rate? So the question is: Will that final adjustment be excess funds being remitted to central Government?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Yes, Mr. Speaker, it will be on excess funds being remitted. But it could also be the other way around, which I should point out, as the Honourable Member has alluded to. What we have to do in the first instance – because of the fact that the allocation will be based on the Budget, and although the Budget will be looked at carefully – arriving at a percentage allocation it could be possible that if Government agrees with Monetary Authority that 40% should be retained and it is covered by way of legislative requirement, the Government will not have the discretion if it finds out that the Monetary Authority only requires 30% to operate, to adjust that 40% to

30%. So there would have to be an end-of-year adjustment, or periodic adjustment, agreed upon by a process to be established in law through this Honourable Legislative Assembly.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time.

Before calling upon the mover of the Motion, I feel it my duty to make a few remarks. Standing Order 78 reads as follows:

**“There shall be a standing select committee, to be styled the Standing Orders Committee, to consider, from time to time, generally what changes to Standing Orders are necessary and desirable and particularly to consider any proposed amendments to Standing Orders which are referred to it under paragraph (3) of Standing Order 87.**

**“(2) The Standing Orders Committee shall consist of the whole House with the Chief Secretary as chairman.**

**“(3) The quorum of the Standing Orders Committee shall be seven Members including the chairman.”**

I would further like to state that I have accepted this Motion and shall allow it to be debated in view of the fact that at the conclusion of debate, if this Motion is accepted by the House, it will be referred to the Standing Orders Committee as in accordance with Standing Order 87(3).

I now call upon the Mover, the Second Elected Member for Bodden Town.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 8/01

##### REVIEW OF STANDING ORDERS

**Mr. Gilbert A. McLean:** I beg to move Private Member's Motion No. 8/01, Review of Standing Orders, which reads:

**“BE IT RESOLVED THAT, notwithstanding Standing Order 87, the Standing Orders Committee convene to review and consider what changes to the Legislative Assembly Standing Order are necessary and desirable;**

**“AND BE IT FURTHER RESOLVED THAT the Government considers engaging the service of a resource person versed in parliamentary practice and procedure and Standing Orders to assist and advise the Committee.”**

**The Speaker:** Is there a seconder? The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 8/01 has been duly moved and seconded. Does the Mover wish to speak on it?

**Mr. Gilbert A. McLean:** Thank you. We know that the Standing Orders under which the Parliament exists and follows have been in existence for a very long time. Indeed, there have been amendments made now and then to the Standing Orders to allow certain situations to come about. I think the last time the Standing Orders were reviewed was as far back as 1983 or thereabouts. This Motion really envisages a sit-down with the Standing Orders Committee to look at the Standing Orders in totality.

I was particularly interested in hearing the resource speakers at the most recent Commonwealth Parliamentary Seminar held here a few weeks back, examine and expound on our Standing Orders. I certainly learned much from what was said during those sessions, particularly when it came down to the discussion of our Standing Orders. There were many points raised by these resource persons which showed that the way we do business here could be improved with certain amendments to the Standing Orders.

Indeed, it seemed that our Standing Orders could use some updating, perhaps by inserting new procedures here and there, more in line with the trends taking place within the Commonwealth at this time. There was at least one instance where one of the resource speakers pointed out that our Standing Orders were not in accord with certain sections of the Constitution — at least it could be made clearer if some amendments were made.

These are some of the reasons why I thought this Motion would be a worthwhile one, that we could set about the task as a new government early in its term to review the Standing Orders. By having a select committee it allows all Members of the House to have a say in any changes, amendment, whatever, are made in the ff. Of course, our Standing Orders are not exceptionally long, nor are they exceptionally short. So, it could take us quite a while to set times and occasions to meet and go through them clause by clause, page by page, which I think to do a proper review would be necessary.

In the second Resolve, I have included a section asking Government to consider engaging someone to assist us in this regard. There was one person in particular who greatly impressed me with his knowledge, particularly of our Standing Orders. That was Mr. George Brancker, who I understand is advisor to the Senate of Barbados, and who I think you and your predecessor know quite well. From time-to-time, consultations are held between the two of you. I was most impressed with his knowledge of the history of our Standing Orders, with the changes that have been made in the past. He seemed to have gone the extra mile to study them for this occasion where he could point out things to us that many of us had not taken

note of, or had not thought about. I would suggest if the Government so wishes to consider seeking some expertise in that field, it might consider Mr. George Brancker as a suitable person.

In fact, one of the things I recall from that seminar was that the various sections could be better refined. For example, the section dealing with Motions would be easier if all the [related] clauses were sectionalized. There might be the case where we are dealing with a matter in section 20 and you have to refer back to section 40, whereas it could all be within that particular section. I really think that is one area that needs to be looked at.

Indeed, should a person the level of Mr. Brancker be engaged, it would be well to ask that individual to take our Standing Orders, go through them, come up with a draft of what he thinks could be good for us, modernise what we have and take into consideration amendments we feel necessary, then give us that draft and at that point we, the legislators, get down to the dotting of the "i"s and crossing of the "t"s.

I cannot add much more to this proposition than to say that I believe the time has come for the Standing Orders to be reviewed and modernised changes made where necessary. I recommend the Motion to all Honourable Members..

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I rise on behalf of the Government to respond to Private Member's Motion No. 8/01 entitled, Review of Standing Orders.

I would like to turn back the pages of time to 19 June 1997 when Government Motion No. 9/97 was moved. That Motion was entitled "The Legislative Assembly Standing Orders (1997 Revision)." That Motion sought to establish the Select Committee called the Standing Orders Committee appointed to carry out a review of the Standing Orders.

That Government Motion passed and you appointed me Chairman of the Standing Orders Committee in accordance with Standing Orders 78(2). The Standing Orders Committee held three meetings between 1997 and 1999 with one interim report made to this Honourable House and a second interim report that was not acted upon. Attempts were made to hold other meetings, but unfortunately the attempts were unsuccessful because of a lack of a quorum, non-attendance of Members of this Honourable House and it is regrettable that we did not complete the work that had been started.

This leads me to remind Members of this Honourable House of the saying that *a camel was a horse designed by a committee*; I hope it was not a select committee! On a more serious note, I would like to sound a caution to Honourable Members that unless we are all fully committed to attending committee meetings we can spend a lot of time and not accomplish anything. We attempted on that occasion fairly



early in the life of that Parliament to review the Standing Orders and I think it is widely known that with the passage of time they desperately need to be reviewed and revised. So, I would re-emphasise the need not only for this Committee, but for all select committees for Members to attend.

I have seen many times in the past where some Members have turned up, sat here for one hour and then had to disperse because of the lack of a quorum. So, that is important. I believe with the number of young energetic legislators in our midst we can see a lot done and committee work is as important as any other aspect of our duties here.

I would like to comment briefly on the second *Resolve* section that invites Government to consider engaging the services of a resource person, only to say that it is a good idea. But it comes at a time when it is a little too late for me to get funds included in the budgetary provision. I may have to rely on you, my Elected Colleagues to remember this in Finance Committee because if we are going to choose a resource person it is going to have a financial cost to it. I will therefore rely on you for that if we are going to use a person this year, as I think we should.

I do not think I need to speak very long on this because the Mover ably pointed out the dire need for having the Standing Orders reviewed. So, notwithstanding the mild reservations that I have stated, I accept on behalf of Government this private Member's Motion and I look forward to the Committee getting on with the job and getting our Standing Orders in line with the times.

**The Speaker:** Does any other Member wish to speak? There appears to be no other Member wishing to speak, and I do not want to deprive anyone of his or her rights, but if no one wishes to speak, would the Mover care to exercise his right of reply? The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I thank the Honourable First Official Member for accepting the Motion on behalf of Government. I get the feeling that all Members of the House agree that there is need for a review of our Standing Orders. I look forward to the first meeting and any other meetings that may follow.

I take the Honourable Member's point that to recruit a resource person will cost money. Indeed, we know the Government is in a budget process now, so if there is no money for such an exercise, I would believe that in Finance Committee Members would provide funds once a figure is identified. I would certainly give it my full support.

Once again, I thank the Government for accepting the Motion.

**The Speaker:** I shall now put the question on Private Member's Motion No. 8/01 entitled, Review of Standing Orders. The *Resolve* section reads as follows:

**“BE IT RESOLVED THAT, notwithstanding Standing Order 87, the Standing Orders Committee convene to review and consider what changes to the Legislative Assembly Standing Orders are necessary and desirable;**

**“AND BE IT FURTHER RESOLVED THAT the Government considers engaging the service of a resource person versed in parliamentary practice and procedure and Standing Orders to assist and advise the Committee.”**

And further, under Standing Order 87(3), that this Motion be referred to the Standing Orders Committee. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 8/01 PASSED AND REFERRED TO THE STANDING ORDERS COMMITTEE.**

**The Speaker:** The Second Elected Member for West Bay.

## **PRIVATE MEMBER'S MOTION NO. 11/01**

### **ELECTRONIC FORM OF LAWS, REGULATIONS, DIRECTIVES AND HANSARDS**

**Mr. Rolston M. Anglin:** I beg to move Private Member's Motion No. 11/01, Electronic Forms of Laws, Regulations, Directives and Hansards, which reads:

**“BE IT RESOLVED THAT Government examine the feasibility of making all Laws, Regulations, Directives and Hansards available in electronic form to bring Cayman in line with the rest of the world in this, the digital millennium, and report its findings to this Legislative Assembly.”**

**The Speaker:** Do we have a seconder? The Elected Member for East End.

**Mr. V. Arden McLean:** I wish to second the Motion.

**The Speaker:** Private Member's Motion No. 11/01 has been duly moved and seconded. Does the Mover wish to speak to it? The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. It gives me, a relatively young elected member, great privilege in bringing this Motion to this House. I feel that it is timely and greatly needed.

When the Motion refers to electronic form, let me state that I am simply referring to making laws, directives, regulations and *Hansard* available in their original typed form, as opposed to their current form,

which is hard copy paper format. This exercise should not necessarily involve a lot of additional manpower because laws, directives, and regulations should all currently be in electronic form. Also, the *Hansards* are all currently typed. So, we are not talking about having to hire new people to put everything into the form I am speaking of, we are simply speaking of finding ways to get these materials to the public and users of these materials in such a format.

When the Motion refers to *Hansards*, we are talking about making the *Hansards* available on a website. In regard to laws, directives and regulations, we are referring to having them available on a website, or on CD ROM format, or disk format, but obviously to be for sale as they are currently sold by the Cayman Islands Government. This Motion seeks to enhance government's ability to sell laws. Currently, people are forced to come by the Legislative Assembly and buy the laws through a little window. This Motion seeks to make available to users of Cayman Islands laws access on the world-wide web.

In this age when we speak of diversifying our economy and getting into the e-commerce or e-business field, it would be fitting for the Cayman Islands Government to also be a player in this field, albeit in a small sense. When I speak about putting laws on the Website, I am not talking about people being able to log onto a website and read the laws. Like any other e-commerce site there would be a listing of the laws; there would be a brief description to ensure that users are purchasing the correct law. The user would then have to provide a mode of payment, a credit card number, and effect the sale.

In regard to laws, there would usually be two modes of obtaining the final product. One option would be to download the particular law, or to purchase it by way of CD ROM. And connected to the Website would be a cyberspace order centre. Any orders for laws in the CD ROM format would come to the current administrative staff here at this Legislative Assembly, attached to it would be the address of the purchaser, it would then be a matter of mailing that out to the purchaser.

We are not talking about rocket science here: it is a relatively easy exercise in today's digital world. Obviously, when we are talking about pricing I feel it would be prudent for the Government to charge a premium for those customers seeking the CD ROM version. I say that because we would have to pay for a CD ROM and postage to the purchaser, versus the alternative which is to download the law at the site. Users will have different preferences. Obviously, downloading would be a bit cheaper, but that takes time. Many times people do not want to dedicate their computer resources to downloaded information.

I realise that certain matters would have to be addressed before we take this bold step. Firstly, the Government will have to ensure that all the laws, regulations and directives are copyrighted. Secondly, the office of the Treasury would have to establish a

credit card paying facility for the Legislative Assembly. But again, Mr. Speaker, I dare not even call those hurdles; those are minor first steps paving the way for much needed service.

In my former life, I only had to go into my office, or go to various clients, and see shelf after shelf filled with laws and regulations. I only have to speak to colleagues in other professions, especially the legal profession, to find out the pain they have to go through when doing research. The type of technology, especially in the compact disk arena, would allow users to do searches, to save the results for future reference; it would allow people to carry out their duties much more efficiently and effectively. After all, we brag of being a major player in the international financial arena in the global economy. We must enable the local practitioner to be as efficient and productive as possible.

It is my humble opinion that this Motion, once accepted and passed so that we could have this type of technology available, would serve our practitioners well. It will allow them to be efficient, productive, not lagging behind their contemporaries in other jurisdictions. One thing none of us in this Honourable House, or in our community, must take for granted is Cayman's position as a leader in the financial industry. When you are a leader, that means there is a big "X" on your back, and a lot of people seek to dethrone you. So, the business we have here does not have to stay here and we must do everything in our power to ensure that Cayman is able to be as efficient and productive as other jurisdictions. We must seek to be leaders and more efficient and more productive. We must provide the practitioners within Cayman with the tools necessary to do this. Also, we must make our laws readily available to all those who desire to require them.

I have had more than one occasion to be here in the Legislative Assembly in the area of the support staff and see them on the telephone with calls from overseas, from people wanting to obtain our laws. But not having any website to go to, they have to call the Legislative Assembly only to be told that we do not accept credit cards and that they would have to seek other ways to procure the laws. Surely, in this day and age we must not leave that impression on people who look to obtain our laws.

We must ensure that Cayman is a leader. Right now we are lagging behind in this area. At this point in time, this Motion seeks to get us caught up! Obviously, the comments I just made are no reflection on the staff here in the Legislative Assembly. They can only play the hand that has been dealt them.

In the interim the Government should, at a minimum, consider having a credit card acceptance machine here in the Legislative Assembly to bridge the gap until we get a proper website up and running. If people do call to purchase laws, or indeed, if they come by the Legislative Assembly, we would then be capable of accepting credit cards. What if a tourist

seeks to purchase a law and does not want to go through the hassle of going to an ATM, but has his credit card? Once again, we would not be able to transact the business. If we had a credit card acceptance machine, people could use a credit card to purchase our laws.

Yes, there is a small charge attached to credit card transactions that the merchant (in this case, the Government) has to bear. But we would be reaching people that we ordinarily would not reach anyway. At the end of the day the Cayman Islands Government would obtain revenue it ordinarily would not obtain. So, this Motion seeks to broaden our customer base for Cayman Islands laws.

Last year we had 57 candidates up for election. We now have 15 representatives in this Honourable House. Every candidate campaigned on the basis of transparency, openness and accountability. This Motion asking to have the *Hansard* available on electronic form and on websites, seeks to increase that transparency. In fact, we should be proud to vote for such a Motion that would allow our constituents with Internet access (and that number grows daily) to have access to the business of this Honourable House in that format.

We all talk about "Generation D," the digital generation. We hear of primary schools having computer labs, something completely unheard of when most of us went to school. And primary school children have access to the Internet.

This is the mode of the future, so we must be there. We must provide for our constituents the ability to see the affairs of this country on line. There is a group that will listen to our proceedings on the radio. But most younger people do not accept that as a mode of keeping up with what is going on in this Honourable House. What do we do to bridge that gap? We make available our *Hansards* on a website. We allow our constituents to efficiently keep up with the business of this House.

If we are going to have openness then the halls of this Honourable House must be as open as possible. We have two Motions seeking to address that, and this is one. If we are going to deliver on our campaign promises of openness and accountability, then we must ensure that our actions, all our debates, all of our questions, are at the fingertips of our constituents.

What is particularly heartening in bringing this Motion is that I know for a fact that there are numerous Caymanians capable of building these Websites. So, we are not talking about having to procure expertise from overseas. I am confident that we have those resources here on the Island, not only in the private sector, but also in the public service in the computer services department.

Technology comes out, it is relatively expensive, and then as time passes it becomes relatively cheap. There was a time when a computer was cost prohibitive. That is not so any more. The same thing I can

report to this House for CD ROM technology. The production of CD ROMs would not be cost prohibitive. I feel that this Motion would move us forward as a government and as players in the global community and it would also seek to make our business and our affairs here in this Honourable House more open and more transparent.

I look forward to my colleagues supporting this timely Motion. Thank you, Mr. Speaker.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** I rise on behalf of Government to accept Private Member's Motion No. 11/01, moved by the Second Elected Member for West Bay, and seconded by the Elected Member for East End.

The Mover of this Motion very eloquently took this House through the proposal for the introduction of the selling of laws, regulations and directives, electronically, and making available the *Hansard* of this House to the rest of the world.

We are in the age of e-business and I believe that the Cayman Islands Government must be in line with the times in this regard if it does not want to be left behind. I know the current means of purchasing laws, regulations, directives, et cetera, by having to physically visit the Legislative Assembly and make the purchases is a rather onerous task, bearing in mind that parking is always a problem in this area, and that we are limited to the local clientele to make purchases. As the Mover ably pointed out, if by going to a website someone in South Africa can determine a particular law or regulation he wishes to have and by simply following through with a credit card he can make his purchase and be authorised to download it, or make a request for it to be physically mailed out, then it would widen the clientele for the selling of our products here in the Legislative Assembly immensely.

I know that the legal practitioners in this country in particular would appreciate this. It would save time by not having to send someone over here to collect the specific law or regulation. Time is money.

I think the Motion is an excellent one, it is timely, and I commend the Mover and the seconder on it. While the Motion resolves that we examine the feasibility of making this happen, I hope that as a government we can move forward with all haste to have this done and I will certainly give it my full support as the Member responsible for the Legislative department. We look forward in the not-too-distant future to seeing this become a reality.

I thank you, Mr. Speaker.

**The Speaker:** Does any other Member have a short presentation? The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. I wish to commend the Second Elected Member for West Bay for moving what he has de-

scribed as a very timely Motion. I would also like to commend Government for having the will and good sense to accept this Motion. My contribution will be very short. I just wish to touch on a few areas that were not dealt with specifically.

We are living in the much touted Information Age where knowledge and access to information are *king!* The prospect of having readily available on the Internet, Legislation, Regulations, and *Hansards*, is one that is filled with excitement and promise. It is something that has been carried on in other jurisdictions for quite some time. The UK Parliament has its own Website and its *Hansards* are readily available to be viewed or downloaded. I hope we can extend the terms of this Motion not just to *Hansard*, Regulations, Directives, but also that we take it outside the scope of the Legislative Department and extend it to items such as the *Cayman Gazette*, and Cayman Islands Law Reports.

We are moving closer and closer to a paperless world. As the Second Elected Member for West Bay said, we pride ourselves in being on the cutting edge in many respects in Cayman. As information technology is one of the principal drivers of this new age, it is imperative that Cayman takes the lead in e-business.

It has been of great assistance to me, and I am sure many of my fellow practitioners in recent years, to be able to access various English and other Commonwealth jurisdiction Law reports via the Internet. And as Cayman's reputation as a leading player continues to grow, I am sure that practitioners in other jurisdictions will find it useful to avail themselves of access to our Law reports, our Legislation, and the *Hansards* of this Honourable House.

So, Mr. Speaker, with those few words, I support this Motion.

**The Speaker:** I think this would be a convenient time to take the lunch break. We shall suspend proceedings until 2.30 pm.

#### PROCEEDINGS SUSPENDED AT 12.53 PM

#### PROCEEDINGS RESUMED AT 2.29 PM

**The Speaker:** Please be seated. Debate continues on Private Member's Motion No. 11/01. Does any other Member wish to speak? The Fourth Elected Member for West Bay

**Mr. Cline A. Glidden Jr.:** I rise in support of Private Member's Motion No. 11/01, brought by my colleague, the Second Elected Member for West Bay.

I agree that in this age of digital modernisation the Motion is very timely. I think that this is a sign of good things to come for the young, dynamic new Government and Members of Parliament. In light of what was said yesterday by the Elected Member for East End, the seconder of this Motion, regarding promises made during the election campaign, I am

happy to say that this is the second promise made by the Better Balance Team from West Bay, and the second Motion brought forward. If that is a sign of things to come, then I think the promises made during this election campaign may be honoured a bit more than they have been in the past.

Those of us who surf the Web regularly, know and appreciate the value of having a vast amount of information made available through the Internet and electronic highway. As a young parliamentarian, it has been very helpful to be able to log on to other countries' Legislative Websites and have access to their *Hansards* and different laws.

In the digital millennium that we are in, it gives me great pleasure to support this Motion, and I look forward to, as quickly as possible, having this electronic format available for the general public of the Cayman Islands, and for the rest of the World. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I think it is only prudent that since I seconded the Motion, I should speak briefly on it.

We heard about information technology for the future of Cayman in the Governor's Throne Speech. He went on at the Commonwealth Parliamentary Association's AGM dinner (where he was a guest speaker) and again spoke of information technology and the new millennium.

I welcome new technology in Government and Government's willingness to accept this Motion says that Government is going to move ahead to have it implemented. As I have said before in this Honourable House, I operate on the basis of efficiency and effectiveness. Already, I can envisage the effectiveness and efficiency it will bring to the Legislative Department. I look around that building with all the laws in printed form and it seems to be choking! There is very little space for the staff to operate. I think moving to the electronic form will assist in that. I hope it removes the majority of the printed matter so that the staff can have a little breathing space. I also believe that it will be much easier for them to operate and sell the Laws of this Country.

I am sure that the many law firms and businesses in the country will welcome laws in the electronic format, particularly when they have to maintain a library of many, many laws in printed form. It will also reduce the amount of times they have to walk over to the Legislative Assembly building to obtain these laws. More than that, it is my understanding that the Legislative Department receives many overseas requests and it takes an inordinate amount of time to process these requests because the funds have to first of all reach the Legislative Department before the laws can be forwarded.

I support the Mover in calling for a credit card payment process. That certainly will speed things up and increase the amount of sales, particularly from overseas. Like the Fourth Elected Member for West Bay, I was pleased to go on the Internet and find websites from other countries where much information is available and research is made so much easier through that process. Much information can be obtained on the Internet from England and many of our neighbouring countries. Maybe we are catching up, but it is never too late. Let us spread our wings and let the World know that we are here also.

I support the Motion and look forward to Government implementing the process to get all of the Laws, Regulations, Directives and *Hansard* in electronic form.

Thank you.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, in rising to give my contribution to Private Member's Motion No. 11/01, I would like to call to Members' attention that the *Resolve* part of the Motion is asking that Government "examine the feasibility of making Laws, Regulations, Directives and *Hansard* available in electronic form, and that the Government report its findings to the Legislative Assembly."

Most Members seem to be already concluding that these findings will be positive and that it is feasible, and within the cost that the Members of Government would want to pay. But, having this information available is a good thing. The question is whether or not the cost will be one that Members will be willing to meet, especially in these times.

The *Hansards* are a particular concern. It has not been said whether or not the Movers of the Motion would like the *Hansards* from now on to be available in electronic form, or the *Hansards* of previous parliaments as well. Of course, if we have to go back and have all the *Hansards* available, I know that probably some of the *Hansards* have not been printed because of a lack of support and finances to hire the necessary staff. It is one reason that I think perhaps this Motion needs to be extremely well co-ordinated with the House Committee that would most definitely agree that as much information as possible be made available to the general public in electronic or other forms.

I do not know a whole lot about electronic forms like some younger Members, but I believe in order to get to that point, we have to get those documents in some type of printed form to begin with. For instance, dealing with the *Hansard*, it is necessary for them to be typed, proofread and edited. It takes a while to get the *Hansards* to the stage where they can be made public. So, they are asking that Government examine the feasibility. And for some reason there seems to be a feeling that the answer to the feasibility study would be that Government could find that this is a possibility.

Mr. Speaker, I just wanted to bring some of these issues to the attention of the House to suggest that the House Committee be as involved as possible with whatever study is being done, and that the House Committee be responsible if possible for doing the reporting back to the Legislative Assembly. That is my contribution since I do in principle agree with this Motion.

**The Speaker:** Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, it is certainly heartening to know that this Motion has wide support and that we as legislators recognise the need for moving the country and the legislative arm of Government forward. I understand that Government, itself, is in the process of having a website developed, so I understand that a lot of what this Motion is asking for will soon have a backbone on which to exist.

I would like to thank the Second Elected Member for George Town for bringing up two other items, namely the Gazettes and Law Reviews that also need to be put into electronic form. I am confident that once the Government has done its review, which I imagine would be in conjunction with the Computer Services Department, they would find that such a proposition is not cost prohibitive. Also, we obviously do not have any empirical evidence as to how much Government revenue would be increased by having the Laws more readily available around the World, but one would assume that we would get some increase in the sale of laws. And in our fiscal condition every bit of money Government can make will obviously help.

In regard to the *Hansards*, I am told that they are up to date and that only one year needs to be finalised. However, even if all prior *Hansards* were not necessarily in electronic form, if they were typed, once the type is legible, with the advances in scanning technology these days much information can be scanned relatively easy, leaving a good product.

So, I implore the Government to recognise that even though some may feel that this Motion is not of paramount importance, I would like to remind everyone that it is, and it is very important that Government moves forward as quickly as possible. I am sure the work in this area would not take very long. I am confident that the Computer Services department has the resources to give guidance and direction and I look forward to a speedy response from the Government. Whether or not it is via the House Committee is at their discretion. That would be fine with me, and with the other Members too, I am sure.

I would like to thank all Members who made contributions and also those who did not. I take their silence to mean that they support the Motion. I would like to thank the Government Bench for accepting this Motion and I again implore them to move on it as quickly

as possible once we are through the Budget process. Thank you, Mr. Speaker.

**The Speaker:** The question is Private Member's Motion No. 11/01 entitled, Electronic Forms of Laws, Regulations, Directives and *Hansards*. The Resolve section reads as follows:

**"BE IT RESOLVED THAT Government examine the feasibility of making all Laws, Regulations, Directives and Hansards available in electronic form to bring Cayman in line with the rest of the world in this, the digital millennium, and report its findings to this Legislative Assembly."**

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

**AYES.**

**The Speaker:** The Ayes have it. The Motion is passed.

**AGREED: PRIVATE MEMBER'S MOTION NO. 11/01 PASSED.**

**The Speaker:** Moving on to Private Member's Motion No. 10/01, Television Broadcasting of Legislative Proceedings to be moved by the Elected Member for East End.

### **PRIVATE MEMBER'S MOTION NO. 10/01**

#### **TELEVISION BROADCASTING OF LEGISLATIVE PROCEEDINGS**

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I beg to move Private Member's Motion No. 10/01, Television Broadcasting of Legislative Proceedings, which reads:

**"WHEREAS the Government has pledged transparency and openness in all its public dealing;**

**"AND WHEREAS the electronic media, especially television, has become increasingly important as a means of communication;**

**"AND WHEREAS most households in Cayman have access to television through cable and/or other means;**

**"AND WHEREAS proceedings of the Legislative Assembly have been broadcast on Radio Cayman since 1983;**

**"BE IT RESOLVED THAT this Honourable Legislative Assembly authorises the television broadcasting of its proceedings;**

**"AND BE IT FURTHER RESOLVED THAT the Government considers developing a public television channel of its own or, alternatively, make arrangements with the present television licenses for the use of a dedicated channel."**

**The Speaker:** Do we have a seconder? The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 10/01, having been duly moved and seconded, is now open for debate.

The Elected Member for East End.

**Mr. V. Arden McLean:** Before I speak to the Motion and debate begins, I beg to move an amendment to this same Private Member's Motion No. 10/01.

*(Members' laughter)*

**Mr. Gilbert A. McLean:** Mr. Speaker, I was robbed of seconding the first part, but I have pleasure in seconding the amendment!

**The Speaker:** The Elected Member for East End.

#### **AMENDMENT TO PRIVATE MEMBER'S MOTION NO. 10/01**

**Mr. Arden McLean:** An amendment to Private Member's Motion No. 10/01 reads:

**"In accordance with the provisions of Standing Order 25(1), (2) and (3), I, the Elected Member for East End, give notice of an amendment to Private Member's Motion No. 10/01 by adding the following *Resolve* at the end thereof: 'AND BE IT FURTHER RESOLVED that all future matters pertaining to the broadcasting of the proceedings of the Legislative Assembly be coordinated through the Standing House Committee.'"**

**The Speaker:** The floor is open to debate on the amendment to Private Member's Motion No. 10/01.

Does any Member wish to speak to it?

If there is no debate, I shall put the question that Private Member's Motion No. 10/01 [be amended]. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: AMENDMENT TO PRIVATE MEMBER'S MOTION NO. 10/01 PASSED.**

**The Speaker:** Private Member's Motion No. 10/01, as amended, is open for debate.

The Elected Member for East End.

**PRIVATE MEMBER'S MOTION NO. 10/01****TELEVISION BROADCASTING OF  
LEGISLATIVE PROCEEDINGS  
[AS AMENDED]**

**Mr. V. Arden McLean:** I want to thank my good friend the Second Elected Member for George Town who, in his haste to go on record as supporting, I trust, this Motion, rose to second it. I also thank the Second Elected Member for Bodden Town who although scheduled to be the Secunder of the Motion, including the amendment, appears to enjoy the sharing, and that is good.

Mr. Speaker, while addressing the Youth Parliament, the Minister of Tourism spoke of the speedy manner in which Youth Parliament had dispatched its business. It appears that this Legislative Assembly is following suit.

**The Speaker:** Amen!

**Mr. V. Arden McLean:** This Motion is very straightforward and one I suspect will receive little debate. Maybe that is wishful thinking, but we shall see. The intent of this Motion is to have all the proceedings of this Honourable House broadcast on local television be it live or pre-recorded.

Over the years, proceedings of the House, Finance Committee and to a lesser extent, the Public Accounts Committee, have been broadcast on Radio Cayman. While conducting research for this Motion, I learned that there had been many debates and Motions on the broadcasting of proceedings during the 1980s (starting in 1983 up to 1985) when the former First Official Member, the Hon. Dennis Foster, brought a Government Motion listing the many different things that could be broadcast on radio.

I am not here to say why that was. It may have been that some Members had fears of what broadcasting of proceedings would do to them. I suspect there are Members in here today who would have some concerns also, and rightly so, because television is a visual means of communication and exposes conduct and behaviour. But I say to Members of this House that in my short tenure here I have not seen any conduct that warrants embarrassment. Anyone comparing the conduct of the Members of this Honourable House with that of the Mother of Parliaments—the English Parliament (which, incidentally, is broadcast worldwide on C-Span), we would all be choirboys and girls. The conduct there is less becoming of good conduct than it is here—much less! Members here have nothing to fear.

This Motion is an attempt to bring our Parliament in line with the 21<sup>st</sup> Century. Today most homes have access to television, which has become one of the most popular means of communication for Caymanians. I recall (maybe ten years ago) when local broad-

casting through television was introduced to this country, there was a lot of fear and a lot of anticipation.

This country has seen three elections since the advent of local television in this country. I know it makes people extremely nervous because in 1992 it had only just begun and many of the people going on television for the first time were extremely nervous. I do not think that has changed much, because I know I still am. But, most people enjoy watching television at home with their families.

This is not an attempt to make Radio Cayman cease broadcasting proceedings of this House. Rather, it is to give the populace a choice. The only time people of this country hear the proceedings of this Honourable House is while driving home in their cars. Very few people actually sit and listen to the radio late into the night. I believe that if the proceedings of this Honourable House were broadcast on television more people would see and hear it.

The ratings on the Legislative Assembly would increase. The knowledge of Legislative Assembly proceedings would increase dramatically. Very importantly, we would be fulfilling our promise to the people of this country on transparency. I believe that the people of this country would enjoy sitting and watching the proceedings in this Honourable House.

At one time or another most of us have watched C-Span or PBS out of America. These are educational channels, politically and otherwise. I would venture to say that 99.9% of this country waited and watched patiently for the result of the vote on the impeachment of President Clinton. I am not saying that that is what we are looking for, but this is the kind of information these channels broadcast. They also broadcast debates. We in Cayman are no less gullible than the rest of the world; we enjoy watching a good television show, be it educational or otherwise.

This Motion calls for Government to develop a public television channel or, alternatively, make arrangements with the present television licensees for use of a dedicated television channel. I envisage this channel serving the same purpose as those I mentioned earlier, such as C-Span, PBS in America, and many others. However, I would like to spread it a little farther than the Legislative Assembly.

The Legislative Assembly will not be in session year round. But the country will be watching television year round. I know the country currently has channel 9 from the local television broadcasting company where we have tourist-related information. Then, Government Information Services (GIS) has a programme called GIS Journal, which is broadcast on channel 27, the local free channel. And we have other local stations, such as the religious channels.

One might say we have a lot of local channels now. But I contend that if there were a channel dedicated just to Government there are many things it could disseminate to the people—workings of government, press conferences . . . and you know the new Government enjoys press conferences, Mr.

Speaker, particularly my good friend the Leader of Government Business!

**Hon. D. Kurt Tibbetts:** You just lost the Motion! (jokingly)

*[Members' laughter]*

**Mr. V. Arden McLean:** And rightly so, because the Government needs to let the people know the state of affairs in their own country. America has something called the State of the Union Address; that is another event that can be broadcast through the Government channel.

Another thing that needs publicity in this Country is the Constitutional Review. A television channel is the perfect place to have debate on this. I am not saying that the companies who currently have the license to operate a television station will not cover it. But we all know that news flashes last 30 seconds only and certainly the Country is grateful for that. But when it comes to the details needed, particularly with the Constitutional Review, it takes hours to debate in order for the populace to understand the process. We can do that with local television, but, of course, we have to pay for that.

Mr. Speaker, let us look at the younger generation of this country. I sat here when the Youth Parliament was conducted and I was pleasantly surprised to hear the amount of knowledge our young people have about their own country. I think that can go much further with Government having its own television channel. We can let these young people have their say on the Government's television channel as well.

So there are many reasons for Government to have its own dedicated channel. We can call it PBS, GIS, or whatever we choose to call it, and it will be for the education of the people in this country. This country is rich with history, but only a select few of us know it, because it sits in the archives and not many of us reach the archives. We need a public broadcasting channel that can be part of the responsibility of GIS and the Education Department, to get a lot of this information out.

The cost will be negligible when compared to the benefits to Government and the Country. It is my understanding also that GIS currently has some equipment to do the job. I think that was as a result of starting the programme GIS Journal. So we are not starting from rock bottom. We have very competent communications people in GIS.

Before I conclude to allow other Members to have their say, I know that the Elected Members for Cayman Brac and Little Cayman are waiting to hear my proposal on how it will reach Cayman Brac and Little Cayman. I understand that currently Cayman Brac does not even get the news until 24 hours later.

**The Speaker:** 36-40 over!

**Mr. V. Arden McLean:** Sometimes 48 hours.

We just passed the Motion on the electronic technology . . . the New Millennium—Cayman Brac is some 60-odd miles away and we cannot get a picture across there immediately. Mr. Speaker, that needs to be changed. It is relatively easy to change it.

Cable & Wireless currently has a fibre optic line linking Grand Cayman and Cayman Brac. The equipment it will require is relatively inexpensive. I am calling for the Government as part of this exercise (I trust the Leader of Government Business is listening to me) to spend a few hundred thousand dollars, put the equipment in place and both Cayman Brac and Grand Cayman can share in the same mass media . It takes a couple of weeks to install. That is it!

Cayman Brac and Little Cayman are no less than Grand Cayman and I do not understand why the licensees were not required to put it in place. Certainly, if it is not cost effective for them, then Government must put it in place and then make the licensees pay them back in the form of advertisements on the television. Cable & Wireless could do the same thing. A corporate responsibility in this country is a simple way to do it. The equipment is relatively inexpensive and the time has come. The advent of local television in this country came about some ten years ago—Cayman Brac and Little Cayman have not received it yet.

I am sure that in Government's response to this they will speak on that. I hope I am in good stead now with my colleagues from Cayman Brac and Little Cayman.

I understand some of the fears about broadcasting the proceedings from this Honourable House, but I also understand the benefits of doing so. This country needs to know that if this becomes a reality, whenever they see a chair vacant on television it does not necessarily mean that Member is not within the building; it does not necessarily mean that Member is not attending Parliament. Like any other human being, we too have to go to the bathroom and what have you.

*[Members' inaudible comments by the Third Elected Member for George Town]*

**Mr. V. Arden McLean:** The last person who should speak about being on television is the Third Elected Member for George Town, because he loves that!

Nevertheless, I believe there must be conditions placed on how the recording or live broadcast is conducted. I submit that the camera should be focused on the person speaking, and when a vote is taken, maybe the camera could go to wide-angle view. But it should be concentrated on the person speaking: it should not be scanning to and fro. I also believe that this is a good thing to do particularly for younger people in this country. It will give them an opportunity to learn and make some decisions in life as well. Many of them have never heard the proceedings. But when they are flipping through the channels on TV, perhaps



they will see something that will spark their interest and get them involved in politics.

Since local television came to Cayman there have been broadcasts of proceedings of this Honourable House, particularly since the last general election. The swearing in on 15 November and the recent Throne Speech were both live broadcasts. The precedent has been set – the wheels have already been set – so there is nothing new in my Motion.

I look forward to the support of those who are enjoying the transparency we are now showing. I understand that it is a good means of politicking—it is free advertisement for politicians. But, if we keep within the promises I heard during the recent parliamentary seminar, where we promised to reduce the amount of time we stand on our feet in this Honourable House, I do not think we will get too much political time out of it.

Regarding the *Amendment*, I realised after doing the Motion that it is the responsibility of the Standing House Committee to have a say in whether or not proceedings of this House are broadcast and under what conditions it should be done. That was my reason for bringing it to the Motion. Mr. Speaker, I had no intention of embarrassing any Honourable Member of this House when I brought this Motion. It is merely to maintain transparency and to assist this Country in gaining a little more knowledge of the proceedings here in the Legislative Assembly.

I look forward to the debate and I commend this Motion to this Honourable House.

**The Speaker:** The floor is open to debate. Does any Member wish to speak? The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I rise to give my full support to Private Member's Motion No. 10/01, dealing with the television broadcasting of Legislative proceedings and to make a very brief contribution.

I wish to compliment the Mover on his contribution and also for taking cognizance of the needs of the Sister Islands. I know that many of my constituents take much delight in listening to the proceedings on the radio—those who can receive it—especially the elderly folks. That's how they are able to keep up with current affairs of the Country. And now with the advent of television in more modern technological advancements that we have seen, including, but not limited to that of the Internet, I believe we would be moving in the right direction by using this advancement to provide information to our people. I also believe the Motion is timely. I realise that with transparency comes accountability. But that in itself is not bad, as I am also a full advocate of that.

Mr. Speaker, I realise that Cable & Wireless has fibre optics already, but I would ask that the Government, hopefully in accepting this Motion, will look at the various possibilities of going into a partnership either with the licensees or with Cable & Wireless to

provide this to the Sister Islands. Perhaps in the interim we could go back to the temporary measures we had whereby CITN was providing tapes, albeit one day later, but Cayman Brac and Little Cayman were still able to get fairly current reports from Grand Cayman.

With the Legislative Assembly situated in George Town, unless Parliament takes it upon itself (as has been done on one or two occasions before) where we physically sit on Cayman Brac, they do not have the privilege of seeing the procedures. I realise the limitations, financial and otherwise, of taking the entire parliament up to Cayman Brac for a sitting. But as we watched the performance of the Youth Parliament, and those from the Brac, we realised that the young ones are becoming more interested in the workings of government. And, with the new direction in education and the possibility of civics and government being taught in our schools, it would assist my constituents if we were able to have this extended to them.

I am sure the Leader of Government Business will do everything within his power, and will so confirm in his contribution to have this extended. I would say, however, that the fibre optic system has been there for some time and only God perhaps knows why it has not been extended before. Rather than arguing or crying over spilled milk, now that the Motion is before this Honourable House, I ask that all reasonable steps be taken to ensure that not only Grand Cayman is covered, but indeed Cayman Brac and Little Cayman as well.

I believe that will also go a long way in the expectations that the constituents have with their representatives if they can see, for example, a motion or a bill going through all of the phases—debates, et cetera—they do in passing through Parliament. Oft times the fallacy is there that representatives do very little, especially when they come to Executive Council and they are not seen as often. But when they are able to see firsthand (through the process of transparency) all that is entailed in the day-to-day activities and running of Government, they will be more fully informed and in a better position to make conclusions as to their expectations of their representatives.

I concur with the Elected Member for East End in his assessment that there may be a degree of concern as to having the camera in here. Already we had a test with that during the Throne Speech. Most members are now quite familiar with television and I believe it could only enhance the performance of the entire Parliament. I look forward to the timely implementation of this Motion.

I thank you, Sir.

**The Speaker:** Does any other Member wish to speak? The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. I join my colleague, the First Elected Member for Cayman

Brac and Little Cayman, in thanking the Elected Member for East End for including the Cayman Brac and Little Cayman in his debate, making it a central point in his contribution. I am not sure if it was a political tactic to secure two votes, however, I think the First Elected Member for Cayman Brac and Little Cayman and I are both inclined to support this Motion as it enhances transparency and accountability.

I urge Members of this Honourable House not to allow the presence of television, once introduced, to make our presentations more dramatic. I believe that the presence of television and the recording of proceedings will force each Member of this Honourable House to improve upon the manner in which we conduct the business of this Country and will ensure that our absence is minimised as it will be visible. I refer to the last *Resolve* of the Motion that presents two alternatives: (1) that Government considers the development of a devoted public television channel of its own, or (2) make arrangements with the present television licensee for the use of a dedicated channel.

My concern with Government developing its own channel is that I feel it is a great undertaking for us to do internally, and would probably involve recruiting outside assistance in the form of a consultant to develop. That could have negative impacts on our budget situation. I am more inclined to go with the dedicated channel provided by the current licensee providing television services in the Cayman Islands. I agree with the Mover that it is keeping in line with technological advancements and modernisation of our Parliament. And, as a member of the House Committee, I make the point that this is one of the areas we have discussed and have included in our report which will be tabled at a later date during this session of the Legislative Assembly. I conclude by once again expressing my gratitude to the Mover of this Motion, and undertake to give my support.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Not everything that the Elected Member for East End says is correct when he refers to my love of TV. I do not really love TV; what I love is the possibility to influence my constituents so that I do not have to come in here and talk nonsense. They understand me a little better because I attempt to communicate with them as often as possible. I would have taken radio if government had been interested in allowing private members to use Government radio in order to broadcast some of their ideas.

I think there is nothing wrong in improving the way in which we disseminate information to the general public. But we seem to be a new parliament with everyone having ideas, everyone wanting to prove to society that we have ideas. But ideas cost. Ideas really do lead to the materialisation, meaning goods and services, and that means money.

I am not necessarily saying that I am looking at Private Member's Motion No. 10/01 as something that is going to cost government a tremendous amount of money because that would depend upon what kind of approach is taken in regard to the final *Resolve* . . . well, not the final *Resolve* because he moved an amendment, but the second to the final *Resolve* asking that Government consider developing a public television channel of its own.

Now if Government were to consider that, we might find it to be an expensive exercise, as the First Second Member for Cayman Brac and Little Cayman said, and therefore prohibitive because at this particular moment Government has undertaken so many things that it may have *hung its hat higher than it can reach*. When I say *government*, I do not mean the persons who are sitting in the positions at the moment. I mean that this has been the continuous habit where we come in here ordering and ordering things only to find out at the end of the day that we have to pay for all these things.

If the catchword is always "transparency" why is it that Government is not willing to issue radio licences? I know that persons have applied to Government for permission to establish radio stations. We know that right now people are making tremendous use of talk shows, like ICCI, Radio Cayman and maybe there will be other talk shows. And what people will be talking about without Government control or intervention are issues that affect them.

Ideas and issues do not begin and end with Parliament. Therefore, the mere fact that parliamentarians may have more possibilities to influence their constituents by way of having more radio broadcasts or television channels, specifically for the broadcasting of parliamentary procedures, does not necessarily mean that the entire populace will be enriched. Perhaps we also need to encourage people to take their own initiative to be a part of the political system because Parliament is only part of the political process. The constituents and how they are able to organise and communicate and make decisions is also an important part of the democratic process. The democratic process can be extended and improved and there would be greater political maturity in the Cayman Islands if we encourage the participation of our constituents in the decision-making process rather than merely relying on us being able to further project ourselves into their sphere.

In regard to the question of transparency and openness, which the Mover says Government has pledged, I believe that becomes possible when we allow more commercial television and radio stations to operate in the Cayman Islands. These stations will seek to find a way of broadcasting the sittings of the Legislative Assembly. But when we say that we pledge transparency and openness in public dealings yet we do not want to give any more television or radio licences, and at the same time we the Government would like to set one up and because we are the

Government of course we can get a licence . . . All I am saying is that there is interest in the private sector for persons to broadcast the sittings of the Legislative Assembly. So, if we decide it can be done, there is no problem finding the appropriate company to do this.

I believe this might be the best way to go if it is what we resolve to do—the reason being that we would be able to broadcast to our constituents. Some persons might think that those constituents might be at a disadvantage who might want to run against us since we already have the radio and newspaper going for us making news when we sit in the Legislative Assembly: and now we have government TV going for us. Now how does that allow for the weaker persons to compete when we have very few political groupings in the Cayman Islands? We put those persons at a tremendous disadvantage.

If, in fact, we are saying that TV or radio gets our messages into the homes of people, then we would be able to get our message across twice as strongly. That means that persons who might want to challenge us will be at a disadvantage. The challenging of our positions and our ideas is a good thing because democracy cannot function without a certain amount of competition.

There is also the point where I feel that when we are dealing with a government-owned station where the Government, not the Legislative Assembly (that would fall under the Chief Secretary), would make the decisions. And I do not want to start a fight in here, but I remember what happened recently with Radio Cayman and the Chief Secretary. If something like that happened with the TV station, where the Government—not even the elected Government, but the nominated Government—would have that kind of power over mass communication in this country . . . I do not think that is a desirable thing. I believe we would be better off, if Government decided to do this, that it did not decide to begin its own TV station.

I know there are a lot of good things a TV station could do, and there are a lot of useful things Government could go with a TV station, like educational things. But there are a lot of negative things that could be done as well. We have to look at them, because experience teaches us that when one group or one person has the power, the others who have no power are going to be at a tremendous disadvantage. We cannot call that democracy because there is no equality and no fair play.

I think that this Motion can be accepted by me because I see the merits. I am only trying to point out some of the possible disadvantages. But I would prefer that if the Motion is accepted by other Members that at least the movement would be towards making arrangements with the present television licensees rather than Government trying to establish its own TV station.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

So that it is very clear why I am the one responding to this Motion, it is simply because while the Motion speaks to certain specific situations, it is going to require certain policy decisions. In speaking to the Honourable First Official Member, it was decided that since he had to reply to two consecutive Motions prior to this, that we would split them up so it would not seem quite so unfair.

It is not difficult to address the Motion on behalf of the Government in regard to its intent. There are a few areas I think we need to address. Before I start to do that let me say that based on the intention of the Motion and the way the three *Resolve* sections are worded, Government is quite willing to accept the Motion.

In accepting the Motion, I think we need to go through the three *Resolve* sections. The first one says, “**BE IT RESOLVED THAT this Honourable Legislative Assembly authorises the television broadcasting of its proceedings . . .**” that is a matter for the membership who will decide via this Motion.

The second *Resolve* section states, “**AND BE IT FURTHER RESOLVED THAT the Government considers developing a public television channel of its own or, alternatively, make arrangements with the present television licensees for the use of a dedicated channel.**”

In the last *Resolve* section, which is the amendment brought to the Motion, it says, “**AND BE IT FURTHER RESOLVED that all future matters pertaining to the broadcasting of the proceedings of the Legislative Assembly be coordinated through the Standing House Committee.**”

That amendment makes it much more palatable for the Government to accept the Motion because it is Government’s view that this is exactly how the matter should proceed after looking at the area it needs to look at. It is also proper when the last *Resolve* section speaks to “all future matters pertaining to the broadcasting of proceedings of the Legislative Assembly because that encompasses whatever media is used.

The second *Resolve* section has two alternatives. As some Members said, it might be a difficult challenge to look to the first alternative—that is for Government at this point in time to consider developing a public television channel of its own—simply because there might be some difficulty with prohibitive costs. One could say that the Government could look at it from the point of view of providing its own public television channel and try to support the cost of that channel through private enterprise advertising.

The only difficulty is that while you may have some corporate giants or ordinary entities conducive to such a proposition and willing to advertise to help offset the cost, I have personal doubts we would be able to sell the situation to the level where it would be self-supporting. I am just giving my personal view, but it does not change the Government’s position.

In regard to making arrangements with the present television licensees for the use of a dedicated channel, that may well be an easier first approach. If we get that situation going with dedicated sales staff, the mix-and-match of other programming on a television station and advertisers willing to offload certain portions of their advertising budget to that area, with all of that, enough revenue might be generated to support the present licensees in broadcasting the proceedings of the Legislative Assembly.

One of the difficulties in filling the time with other types of Government programmes is the fact that the length of time the Legislative Assembly meets during the course of a year, determines how much air time on a daily basis is used up on a dedicated channel. There may not be enough hours to have a broadcast going on a daily basis to justify operating in that manner. There is the GIS Journal that operates now, and we might be able to extend that. There are educational programmes. Perhaps one could put down a real nice-looking wish-list for a situation of that nature. But we have to examine the costs on an ongoing basis.

I am only making these points, throwing a new twist on the line of discussion to say that I think no one has all of the real answers to the proposal at this point in time. We look to simply agree on the objective. Then, after getting all of the facts together, perhaps we will be able to make a decision on the best route to take. I think that may well have been the intention of the Mover and Seconder—the real Seconder!

The amendment to the Motion allows for continuity of the whole exercise. While Government is not able to articulate exactly the course of action or direction to go to accomplish what the Motion is seeking, the Government is saying that if we all are headed in the right direction we can use the right methodology to accomplish what we are looking for once we know all the facts.

Regarding the Motion, the Government is content to accept it as it is worded. Before I close, however, there are a couple of issues that were brought as sideliners, some of which asked for a reply from Government.

When the First and Second Elected Members for Cayman Brac and Little Cayman, and also the Mover, spoke to the fact that it would be desirable to have the two islands included in the process, they recognised that at present those islands are not able to access either channel 27 or 24, CITN, on a regular basis. I do not have all of the information collated, but I think there needs to be some agreement between Cable & Wireless and the providers, that is CITN, because Cable & Wireless seems to have the fibre optic infrastructure. I think the question is how to get access through the existing infrastructure to be able to provide the service and whether it is cost effective or not.

One of the problems we face with that . . . and I am not quite sure what the terms and conditions of

the licence are. Perhaps someone will speak to that in more detail. But I know that a condition on a previous licence was the fact that Cayman Brac and Little Cayman had to have access to whatever television service was provided. That is not the situation that obtains with the present licensee. I do not know what the arrangements are; I do not know how committed they are. I do not wish to make judgement at this time. The Government intends to look into this situation. It will be brought to the forefront to ensure that access is granted to the Sister Islands, not just because of this Motion and what it seeks to have happen, but as a general rule regarding all television service provided locally. It should not lend itself only to Grand Cayman.

Although I am not the Minister responsible, as a general commitment the Government willingly says it will examine the situation and as far as possible, and as quickly as possible, make sure that situation obtains in Cayman Brac and Little Cayman.

The Third Elected Member for George Town spoke to transparency making some points regarding the fact that more television stations and/or radio stations should be allowed, and competition in its natural state would allow for more exposure. I understood him to say that the Government has taken a position that no more television or radio licences should be issued. I wish to make it categorically clear that that is not a fact!

The situation might seem to obtain as a spill-over from applications made months or years ago. But the fact of the matter is that there has been no policy established within this Government's framework that there shall be no more TV or radio licences. There are a few problems because time has not allowed for a satisfactory policy to be developed.

And in case anyone — and I wish to say this publicly because it is important to me — in case anyone believes that any existing radio or TV licensee has the ability to put any pressure on this Government to agree not to issue any more licences — whoever thinks that, is totally sadly mistaken. I want to make that very clear and I wish to go on record making that statement.

Mr. Speaker, the Government accepts this Motion and I trust that as we move forward and work together with the standing House Committee, in time to come we will see the performance of the Legislators on television on a regular basis.

**The Speaker:** Does any other Member wish to speak? The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker. I, myself, would like to speak and I think there is another Member also. But it is almost 4.30 pm and I am wondering if the House would be inclined to adjourn at this time.

**The Speaker:** I was thinking the same thing. The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

### **ADJOURNMENT**

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until Monday, 10 am.

**The Speaker:** The question is that this Honourable House do now adjourn until Monday, 10 am. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.19 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM MONDAY, 19 MARCH 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**19 MARCH 2001**  
**10.15 AM**  
*Fifth Sitting*

*[Prayers read by the Honourable First Official Member responsible for Internal and External Affairs.]*

**The Speaker:** Please be seated. The Legislative Assembly is in session.

Item 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies from the Honourable Second Official Member who is absent carrying out other official duties, and also from the Honourable Minister for Health and Information Technology who is recuperating from surgery.

Next, Item 3: Questions to Honourable Ministers/Members of Government. Question 21 standing in the name of the Third Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS/MEMBERS  
OF GOVERNMENT**

Standing Order 23(5)  
Motion to Defer Questions Nos. 21 and 22

**Hon. James M. Ryan:** Mr. Speaker, in accordance with Standing Order 23(5), I seek leave of the House on behalf of the Honourable Second Official Member to defer Question No. 21, and I seek leave of the House on my own behalf to defer Question No. 22.

**The Speaker:** The question is that Questions Nos. 21 and 22 be deferred to a later sitting. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED THAT QUESTIONS NOS. 21 AND 22 BE DEFERRED UNTIL A LATER SITTING.**

**The Speaker:** Question No. 23 stands in the name of the Second Elected Member for West Bay.

**QUESTION NO. 23**

**No. 23: Mr. Rolston Anglin** asked the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports how many elderly residential care facilities are in the Country and who runs them (broken down by district).

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** There are five Residential Care Facilities for the elderly in the Cayman Islands:

- (a) The Sunrise Cottage in East End which is a five-bed facility.
- (b) Julie's House in George Town which houses three disabled clients.
- (c) The Golden Age Home in West Bay, which is a seven-bed facility.
- (d) The Kirkconnell Community Care Centre in Cayman Brac which accommodates fourteen persons.
- (e) The Pines Retirement Home which is a thirty-four bed facility.

The Sunrise Cottage, Julie's House, the Golden Age Home and Kirkconnell Community Care Centre are Government owned facilities and are all managed by the Department of Social Services. The Pines Retirement Home is owned and managed by the National Council of Voluntary Organizations. The Department of Social Services purchases services for around twenty elderly persons annually from the Pines Retirement Home.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say what plans there are for increasing such facilities given the rapid ageing of our population? With advances in medical technology people will be living longer over the next decade, so I just want to know the plans for expansion of such facilities.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** If we recall the Throne Speech by His Excellency the Governor, there are plans to

build such a facility in North Side and Bodden Town. As other facilities are needed in other districts, I am sure that government will be committed to providing those facilities for our elderly.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say if any thought has been given to having the elderly persons reside with members of the community and have them subsidised rather than seeking the institutional remedies for this problem?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The Government already assists the elderly with \$400 per month financial assistance and also sends community care workers to the homes of the elderly which can range from one or two hours per day, or 24 hours per day.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say if the assistance given to the residential care facilities for the elderly forms but a very small portion of the help and assistance given to the elderly?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The only answer I can give the Honourable Member is that this Government spends over \$6 million per annum on the elderly.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister give an undertaking that the Sunrise Cottage in East End will be reviewed with regard to repairs as it seems to be in a state of disrepair?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I have been informed by the Director of Social Services . . . and I hate to answer questions referring to the civil servant involved, but it is renovated every year. But because it is an old building . . . but I will give the commitment of the Government that in 2001 we will look at the needs of the East End Sunrise Cottage as far as repairs are concerned.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate that those districts listed with new recipients of senior care, such as North Side and Bodden Town, are selected on the basis that the current demand for services is greater in those locations?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I think it was the Family Study that indicated that the district of North Side has the largest number of elderly, which are mostly women. I think that the past government committed to doing something for the district of Bodden Town Senior Citizens' Centre through a motion accepted by this Honourable House.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Minister can say, based on that study, how many elderly people were in East End, and also what is the complement of the Sunrise Cottage in East End at present?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I am unable to give the Member a reply, but I will undertake to send it shortly in writing.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** The Golden Age Retirement Home in West Bay is in need of expansion because of demand. I am wondering if there are any pending plans for expansion of the Golden Age Retirement Home. Also, as I look across the floor I see the Director of the Prison here. I wonder if there is any plan to use prisoners to help build and repair such facilities.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I think the expansion of the Golden Age Home in West Bay was in the Budget last year and it is there again this year. So, hopefully we can achieve something with that facility.

The part of the question directed to the Director of Prisons, I think if the Honourable Chief Secretary would like to reply in writing to the Member from West Bay, seeing that it is not part of the original question before Parliament, he is entitled to do so.

**The Speaker:** Are there any further supplementaries?

If not, we move on to question 24, standing in the name of the Second Elected Member for George Town.

#### QUESTION NO. 24

**No. 24: Mr. Alden McLaughlin** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs to state the number of prisoners at Northward Prison who are currently serving (a) a term of life imprisonment; and (b) the number of those serving life imprisonment who have served a term in excess of 12 years.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** (a) Ten prisoners are currently serving sentences of life imprisonment at Northward Prison. (b) Four prisoners have served a term in excess of twelve years.

#### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Honourable First Official Member could state if there is a policy within Government regarding the release of persons imprisoned for life, and how long it has been there..

**The Speaker:** I think that falls under question 25, which follows this one.

**Mr. V. Arden McLean:** Oh yes, thank you, Mr. Speaker. I apologise for that.

**The Speaker:** Are there any further supplementaries?

If not, we move on to Question No. 25 standing in the name of the Second Elected Member for George Town.

#### QUESTION NO. 25

**No. 25: Mr. Alden McLaughlin** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs to state: (a) the criteria currently employed in determining the eligibility for release of prisoners sentenced to a term of life imprisonment; (b) the conditions imposed on such prisoners upon their release; and (c) the number released to date.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Currently there are no criteria in place to determine the eligibility for release of prisoners sentenced to a term of life imprisonment and, accordingly, no conditions have been imposed. No lifer has so far been released.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable First Official Member say whether a prisoner by the name of Phillip Glennon Ebanks was serving a term of life imprisonment and was released recently on licence?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The prisoner referred to by the Second Elected Member for George Town was released on licence, but was not serving a sentence of life imprisonment. He was in prison at what is known as the Governor's pleasure. He was released, but has now been recalled to resume serving that sentence.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Would the Honourable First Official Member say what conditions were imposed upon Mr. Ebanks upon his release?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** There is what I would term a standard licence when an inmate is released on parole. And while I do not actually have a copy of it here, it requires the parolee to adhere to a list of conditions which include getting a job, staying away from places that are liquor licensed premises (in all instances, I believe) and attending a church of his or her choice. The parolee also has to report at regular intervals to a probation officer and must not be involved in any crime. If these conditions are broken, then the parolee is recalled. This was the case with this particular individual.

I would add that if the Second Elected Member for George Town wishes a copy of the licence I could make it available to him.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, my question was the same as the Second Elected Member from George Town.



**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Honourable First Official Member can say what Government's intentions are regarding establishing criteria to determine the eligibility for release of lifers.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The issue of parole falls directly under His Excellency the Governor acting in his sole discretion under the Constitution, not the Governor in Executive Council. It is one of the areas that is the Governor's sole responsibility. And until such time as criteria are set for parole of lifers, the status quo as we know it today will remain.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable First Official Member say if this position he outlined in regard to lifers is consistent with the recommendations given to his portfolio?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I wonder if the Third Elected Member could elaborate a little bit more on that question.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I think that the Honourable First Official Member might recall that there were recommendations given to the Government regarding the conditions in the prison. Part of the submission dealt with lifers and a recommendation regarding the period of time that should be considered as life imprisonment before parole on licence was considered. And if this is in the recommendations, why is it that we have not developed any terms and conditions for the release of prisoners up until now?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I understand the Member's question. Sir Stephen Tumim did make a recommendation in respect of parole for persons serving a term of life imprisonment. The Member will appreciate that it was a recommendation; it has been given consideration but has not yet been acted upon.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** If the recommendation has been considered, who is responsible for considering the recommendation? Is it solely His Excellency the Governor? Or would this recommendation be by the Chief Secretary, the Director of Prison, or the entire Executive Council? Who considers the recommendations and decides what action should be taken or not taken?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The responsibility for parole is the direct responsibility of His Excellency the Governor, acting in his sole discretion. Until such time as he determines that criteria will be set down for parole of lifers, the matter will remain as it is today.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** We are quite willing to take this question to London. I want to know who should be approached regarding the responsibility for the implementation of the recommendations which were made to the Chief Secretary's office regarding the prison and since this . . . and Mr. Speaker, I think I am not forming this too well as a question. My question is really this: How important was the recommendation with regards to the parole of lifers?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The recommendations, which were in my view easy to adopt and implement, were implemented. But I have to stress that these were recommendations and until such time it is decided to implement that recommendation the status quo will remain.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** In his response to the substantive question the Honourable First Official Member stated that there are four prisoners who have currently served more than 12 years. Can the Honourable Member state the length of term each of the four has served?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Three of the four lifers mentioned earlier have now served 15 years each. The other one has served 14 years, seven months.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** While I understand the Honourable First Official Member's statement concerning the Governor, I would like to read from section 7 of our Constitution: "The Governor shall, subject to the following provisions in this section consult with Executive Council in the formulation of policy and in the exercise of all powers conferred upon him by this Constitution . . ."

Can the Honourable First Official Member say whether or not the Governor has consulted with Executive Council concerning any criteria about the release of lifers within the last few years?

**The Speaker:** I think we are getting far outside of the intent of the original question. If the Honourable First Official Member wishes to answer he may. But you are actually asking for what was discussed in Executive Council.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Then could the Honourable First Official Member say if any of the four prisoners who served terms in excess of 12 years have been told or led to believe that they would be eligible or considered for parole at some time in the very near future?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** As the Third Elected Member for George Town will know, I tabled the report of Sir Stephen Tumim in this Honourable House and it became a public document. I think all persons in this territory had an opportunity to read the document once it became a public document. And even persons incarcerated at Northward Prison would have heard the issues and recommendations made.

So, yes, I think it is true to say that they would be aware of this and there are no doubt certain expectations by those lifers in regard to parole.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Member say whether there are criteria set out for persons serving life sentences regarding visits outside the prison—that is formal/social visits?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Yes, we began a programme last Christmas after assessing those individuals and a programme of social visits outside the Prison has been put in place and we expect that this will continue on certain occasions in the future.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** Can the Honourable First Official Member say what security arrangements are made for lifers who are out on social visits in regard to safety for the residents of the area?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The lifers allowed out on social occasions are escorted by an officer and the usual security checks made, searches, et cetera. Those given this privilege – only three as I recall – are the ones allowed to work outside the Prison.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** The Honourable First Official Member said that the prisoners are escorted by an officer. I presume he would mean a prison officer. But can he say whether there would be any occasion where such prisoners are escorted by people in authority other than prison officers?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my understanding that the lifer has to be escorted by someone from the Prison.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Honourable First Official Member said that there was a programme started to get some of the prisoners, like the lifers, out on social visits. Can he say the reason this programme was started? Was it the beginning of something to come?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** This programme has been introduced by the current director of Northward Prison. It has been introduced because of the exemplary behaviour within the prison of these three lifers. It is sort of a little reward for their good behaviour and the hard work they perform as part of work parties.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** This is obviously an area that a lot of our newcomers in this House will have to dig into and come to grips with. I am not sure that is what people on this Island call punishment. Anyway, how often are prisoners allowed social visits? Is there any

cap put on this new programme we are hearing about today? Can they visit daily?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The programme has been confined to the three lifers I mentioned earlier. They have been risk assessed. It was started at Christmas and it went well from the standpoint of the prison authorities. We expect that we will continue this in the future.

**The Speaker:** The Second Elected Member for West Bay. Three additional supplementaries.

**Mr. Rolston M. Anglin:** The Honourable First Official Member said the prison authorities stated that it went well. Can he state whether the prison authorities have polled the people in the direct area where prisoners visit, in formulating the conclusion that it went well?

Also, in an earlier answer, the Honourable First Official Member stated that part of the licence for release would be that the person had to get a job. How will these persons be assisted in getting a job?

He also stated that the person is monitored. Can he say who monitors the person, and in what form the monitoring is, and whether the person is randomly tested for drugs?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The Second Elected Member for West Bay has not asked one, he has asked four supplementaries! Anyway, I will do my best.

On the first answer to, *How do we know the visits went well?* I thought I had said *from the prison authority's point of view*, but if I did not, that is where the assessment took place. There were no complaints from any member of the public in respect of the visits. The Member can rest assured that if something does not go well, complaints pour in.

On the matter of random drug testing – I think the Member is speaking in terms of the licence – yes, random drug testing is a part of the licence. Who does the parolee report to? There is a probation officer and the licence requires the parolee to report in certain intervals, and the time is very specific. I think it is on a weekly basis. Supervision of parolees works well as far as I am concerned.

Finally, the matter of jobs: There is a programme called "Programme Prepare" and the person responsible for that assists in finding jobs. Then quite often we find relatives of the person coming up for parole, assisting in finding jobs. So, there are a number of ways jobs are found, and the prison authorities are always informed of this well in advance.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** I listened to the response from the Honourable First Official Member. I would just like to say that as a part of this new incentive used for the release of prisoners, I happened to speak to one who had been released and I think he was recalled. He seemed to have had a real difficult time finding a job after coming back into society. So there seems to be a breakdown in the preparation.

In the assessment done on the prisoner who was released (he was not a lifer, he had been held at the Governor's pleasure), it appears that there was some breakdown because very shortly after, he had to be recalled. I wonder if the same people will be doing the assessment on the lifers when they are released. If there is the same breakdown in that assessment then we have a potential for problems.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The recall of a parolee does not happen because of his not having a job. He would be recalled if he commits another offence. I can assure the Fourth Elected Member for West Bay that that is when the recall takes place.

On the matter of the individual who was released who was serving at the Governor's pleasure, one can never be 100% sure that these things will work. We can only take the information . . . in this case His Excellency took the information given to him. Incidentally, a recommendation had been made years ago as to a possible length of time the person should serve. The person served beyond that time even though serving it at the Governor's pleasure, and the parolee committed offences and got recalled.

In dealing with human beings we can never be sure – the exercise did not succeed; it failed; the individual got recalled. It is unfortunate, but that is something that will happen. The individual was released with the best of intentions.

I would say to the Fourth Elected Member for West Bay that the number of instances where parolees are recalled is relatively small. I do not have the statistics with me today, but the majority of cases of parole are successful. So, the case that does not succeed . . . it is just one of those things that has to be put down to experience. But the Parole Commissioner's Board made up of a number of persons from the community will go through reports very carefully and make recommendations to His Excellency the Governor for paroling individuals. The system may not be perfect, but it is the best we have and I think it works in the vast majority of cases.

**The Speaker:** I would appreciate a motion for the suspension of Standing Order 23(7) and (8) in order for Question Time to continue beyond 11 am.

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

**Hon. James M. Ryan:** I move the suspension of Standing Order 23(7) and (8) to allow Question Time to continue beyond 11 am.

**The Speaker:** The question is that we suspend Standing Order 23(7) and (8) to allow Question Time to continue beyond the hour of 11 o'clock. Those in favour, please say Aye; those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time will continue.

### AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** In returning to one of the answers to the substantive question, I believe that the absence of any policy as to whether or not prisoners serving a term of life imprisonment should be released, is unhelpful. It creates much dissatisfaction as I have heard voiced recently.

My question to the Honourable First Official Member is, Has any decision been taken as to whether or not criteria will be developed for the release of prisoners serving a term of life imprisonment? Or must such prisoners expect to live out the balance of their natural lives in incarceration?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe I mentioned earlier that the recommendation for parole of lifers has been discussed. His Excellency and I, along with others, have discussed it. The criteria for paroling lifers has not been decided upon and while the criteria can be agreed, until such time it happens the lifers will remain incarcerated.

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

#### APOLOGIES

**The Speaker:** That concludes Question Time for this morning. Before moving on to other business I had received apologies from the Honourable Third Official Member who is on other very important business and will be arriving later today.

Moving on to item 4, Other Business, Private Members' Motions. Out of an abundance of caution, I would like a motion for the suspension of Standing Order 14(2) noting that there is no Government Business to follow.

The Honourable First Official Member responsible for Internal and External Affairs.

### SUSPENSION OF STANDING ORDER 14(2)

**Hon. James M. Ryan:** I move the suspension of Standing Order 14(2) to allow Private Members' Motions to be taken today.

**The Speaker:** The question is that Standing Order 14(2) which allows for Private Members' Motions to be taken on days other than Thursday be suspended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 14(2) suspended.

### AGREED: STANDING ORDER 14(2) SUSPENDED.

**The Speaker:** Private Member's Motion No. 10/01, as amended. Continuation of debate thereon.

The Second Elected Member for Bodden Town.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### AMENDED PRIVATE MEMBER'S MOTION NO. 10/01

#### TELEVISION BROADCASTING OF LEGISLATIVE PROCEEDINGS

Continuation of debate on Motion as amended:

**Mr. Gilbert A. McLean:** Mr. Speaker, I rise to offer my views on the Motion before the House, that is, Private Member's Motion No. 10/01, Television Broadcasting of Legislative Assembly Proceedings.

I think the Mover of the Motion has established that the idea of allowing television broadcasting of the proceedings of the House would be one further step in what seems to me generally accepted now by both sides of the House—that creating greater transparency is good for Government.

What happens in the Legislative Assembly, I need not say, but will anyway. We know it affects all of the people of this Country. If a law is made here, if a law is amended, it affects all persons in the Country. I think it was the idea that it would be best for the public at large to hear what their elected representa-

tives were saying that the Chief Secretary, the First Official Member, as far back as 1983 brought a Motion which allowed radio broadcasting of the debates of the Legislative Assembly.

Mr. Speaker from the research I did on this matter, each time the Legislative Assembly convened from 1983 up to 1985, a motion was moved for the broadcasting of the debates in Committee and so on. For the first time the public could sit in their homes or in their cars at the particular time that the broadcast was going on and hear exactly what their representatives were saying about whatever subject they were discussing. Since 1985 it was adopted to broadcast the Legislative Assembly proceedings on radio.

Mr. Speaker, I think the public is better informed since that time about what is happening in the Legislative Assembly including times when there were quarrels and serious disagreements. I do not find anything wrong with that because this is the place chosen especially for the elected representatives of the people to disagree, to quarrel, and to take opposing views. From the discussions, disagreements, and differing views emerge what is a majority decision. So, I personally think it is good for the public to know what is happening in that regard.

Of course, radio can offer coverage to a wider spectrum of people in their cars, where we would not necessarily want them watching television while they are driving, although such is possible in this day and age. But television is a more defined audience. I see television being a very useful tool.

Very recently there was a Youth Parliament held here for the first time (to my knowledge), where young people played the role of the Government Bench, the Opposition Bench, the Speaker, the Clerk, the Serjeant-at-Arms—all the persons involved in the legislative process. I thought, as I watched, that the young people did extremely well despite not having occasion to practise as many times as they would have liked, I dare say. But I thought it went extremely well.

My compliments certainly go to all those persons who assisted them in their work. However, Mr. Speaker, I believe if there was the equivalent of a public broadcasting television station or the equivalent of C-Span, as we see it from American television and so on, they could actually sit in their homes and learn the practices and procedures in here.

Certainly, the television screen would show the Chamber: it would show how persons are seated in this Legislative Assembly. It would also show what happens when the Speaker calls for a particular action to be taken; the duties of the Clerk; the movement of the Serjeant-at-Arms, and they would be able to see the faces and hear the voices of the people who represent this Country. Television is one great education media.

Of course, Mr. Speaker, I believe a part of our social problem is the type of education that young people get from seeing crime movies and that sort of situation which leads them to emulate some of the

things they see. But if television were in this Legislative Assembly it would give an opportunity of a visual education which is not now available.

In Motion No. 2/85 (to which I referred earlier), seven proceedings were set down to be broadcast from the Legislative Assembly and it was limited to those. I believe that should television be included in the Legislative Assembly, we could consider using the particular media to cover select committees—the Public Accounts Committee, for example, or any select committees that might be appointed—to see and hear the Elected Members deliberate on matters before them. It would give a visual picture of what is happening in here.

Mr. Speaker, some people have said that there is certain fear that the way people behave would be seen by the public on TV, and you really cannot see that on radio. Then it might also help to create better behaviour because one is on television.

I have heard others say, *'Well, you know, after lunch some people just simply catch a snooze.'* Well, that's all part of it. I have been to the House of Commons and the House of Lords in the UK, and I have seen some folks come in there around 2.30 in the evening and you could see that they had some 'liquid' lunch prior to that and they were not the most steady on their feet as they walked through the door. So, it is not something so strange or unique to ourselves; and in the House of Lords, I saw people there so old that their greatest contribution was simply shaking and trembling. So, I do not think we really need to take those things to heart and believe that would be something so awful and so shocking that we could not deal with it.

Mr. Speaker, television is watched in the Cayman Islands daily, and if we had it here in the Legislative Assembly it would be like four times a year when the House is in session. But there could also be fillings as I have said during the time of select committees. Thus, it would give a greater overall presentation of the work in this Legislative Assembly.

The Motion asks for Government to consider having a public television channel that would broadcast the business of the House. I believe that Radio Cayman deserves the highest praise for the work that they have done for close to 30 years. I know that at least one person there has also worked on television. I think it is possible to have a combination of Radio Cayman and a television service. If they are given the opportunity to do this, I believe that the manpower resources already exist to a considerable extent. It is my understanding that the Government Information Service also has a camera crew and someone who has knowledge of being an anchorperson. So, it is not impossible for the Government to look into this and develop this particular exercise. I believe it is necessary, Mr. Speaker.

As part of good governance, one needs good public relations. And if ever there was a time in our history that Government needed good public rela-

tions, I think it is right now. On the local scene, and certainly on the international scene where the OECD countries are playing psychological warfare with us, we need to get smart real soon and realise that we have to have some kind of counter-measures as to what they portray us to be.

It would be a good starting point, I think, for us to be able to develop our own television clips, which we would get to the outside media. I know, for example, that CNN has broadcast clips from different countries on certain occasions. I do know that the first television venture here in the Cayman Islands produced clips, namely, Mr. Desmond Seales, and some were played on CNN. I cannot say that I have seen any since those times, so I would not want to say that we are *retrogressing*. Maybe there is another word for it or maybe the same amount of effort is not being put forth as in those times.

This brings me to a point, Mr. Speaker: I can see no reason why this Government should require less of the present licensees than was required 10 to 12 years ago. I know at the time that Mr. Desmond Seales was doing the television broadcasting in the Cayman Islands he was required to produce television in Cayman Brac—and he did. It was part of the licence requirements. He actually did that with less electronic capabilities than is now the case. In fact, I understand that there are three licensees in these Islands and I believe they should be required to provide television broadcast for Cayman Brac, at least, channels 24 and 27.

There is no excuse why that should not be done. Again I say that if it could be done more than a decade ago, surely now it should be a requirement. Cayman Brac and Little Cayman have the same rights . . . we are all citizens of these three Islands and we should have the same opportunity of viewing television which has been the privilege for one licensee up until now.

I did have concerns from the very beginning that three licences were allegedly granted, but an individual was supposedly able to create one company that managed the affairs of all three licensees. I find something seriously wrong with that. I think in the United States it would be called 'restraint of trade' and it would be an act where competition is being suppressed. It is not likely that we would find ABC, CBS and NBC run by the same company because it would take away the competitiveness of the whole situation.

I think the opportunity now presents itself at this time when the Government should take a serious look at what is happening with local broadcasting. This is amplified, I think, when one looks at how much local content there is, which is almost zero—one hour in the morning—and if we take out the advertising time it is much less than an hour.

There are so many things that should be portrayed within the society via television that is worthwhile to providing information and knowledge to the population. So, I believe that it makes sense for Gov-

ernment to seriously take this opportunity to look at producing information to the public starting with broadcasting of the proceedings of the Legislative Assembly and develop it from there.

If the alternative is taken, as the Motion suggests that Government seek to make an arrangement with one of the licensees to have a dedicated channel to use, I certainly hope that the Government would seek to make some money by taking advertisements in which it would collect for, or would share part of the profits which may come from that, should they go the route of giving this opportunity to the present licensees of channel 27 or CITN.

Mr. Speaker, while it might be a money-maker for the company which operates in these Islands now to simply collect and rebroadcast American stations, which anyone can get on a satellite dish, we need to move to a point where we are creating more of our own local information to broadcast on television.

Of course, it really could not hurt any of us to have some television time, and I guess all of us might turn actors in one way or the other to put on the best show for our constituents, but it would be a grand opportunity to show how well we can do, how well informed we can be, and how well we can argue the point that we are putting forth.

We do have someone who is quite a television personality, and now that he knows the many tricks of the trade, we would no doubt have to be in competition with him. But I am sure we could get around that. We would have to see to it that he does not outmanoeuvre us and get all the limelight!

Mr. Speaker, I think that this Motion truly gives the Legislative Assembly a good opportunity to step into modern times. It gives the opportunity for the Government to look at this particular aspect of communication and start the development process in the right direction, with the idea of helping the widest part of the population to inform and to educate them—not only just of the Legislative Assembly proceedings in the normal run of the day, but also in its Committee works and otherwise.

Mr. Speaker, I can mention that the House Committee has recently looked at this particular matter and how it could best be accommodated in the Legislative Assembly. There will be a report forthcoming during this meeting of the House, and of course, it will be more detailed then.

The general idea is for us to have the Legislative Assembly wired for television broadcasts, so that one, two, three, four, however many, might be able to capture the picture and it would not be limited to any one particular station. This is something that is very current all around and, of course, more recently in the CPA Seminar we discussed the idea of broadcasting the proceedings of the Legislative Assembly via television.

Mr. Speaker, I support this Motion because I think it is something that can have a very positive effect on the society. It can help the Legislative Assem-

bly and its Members and is something that will fit within modern times. Having said that, Mr. Speaker, once again I lend the Motion my support.

**The Speaker:** The floor is open to debate, does any Member wish to speak? *(Pause)* The floor is open to debate. Does any Member wish to speak? *(Pause)* The floor is open to debate, does any Member wish to speak? *(Pause)* If not, does the Mover wish to exercise his right of reply? The Elected Member for East End.

**Mr. V. Arden McLean:** I will not be long for fear of losing the support of the Second Elected Member for Cayman Brac and Little Cayman, but there were a few things mentioned that I would like to touch on briefly.

I understand the Third Elected Member for George Town when he spoke about the cost to Government to implement such television broadcasting of the Legislative Assembly and possibly further developing what I term a public broadcasting station. But I believe in today's technological age the cost is much less than it was many, many years ago when we were dealing with analogue equipment. Today it is all digital. The electronic world is upon us, and technology changes daily. We can see this with computers; as soon as you get a computer home, within a few weeks it is outdated. The computer technology has brought us into a millennium far exceeding the one that we currently live in. Therefore, I do not believe the cost will be that extraordinary.

There was also mention of the lack of willingness on the part of the Government to issue more licences to applicants, that is radio or otherwise. The Leader of Government Business replied to that and made it abundantly clear that no one is going to influence this current Government. Well, I am glad to hear that. But, by the same token, I would like to say the more competition the better; the more radio stations, the more television stations we get, the more information will get out to the populace and to the world. We constantly talk about monopolies in this country anyway. We have enough of those already. Therefore, the more television stations and radio stations we have, the better it is going to be for the people. Certainly, competition may very well lose some of those stations, but if someone wants to go into the free market, so be it.

I heard mention of the unfair advantage to our political competitors outside as well. I believe, and I submit that it is not altogether so. I think they are the ones who would have the edge on us, particularly if we stay in this Honourable House and conduct ourselves in such a manner that is unbecoming and it is televised. They will have something to talk about in the upcoming election.

Mr. Speaker, there is more than one reason for having the proceedings of this Honourable House televised. One reason that came to my mind over the

weekend was the interest that the populace showed during the general elections. All the candidates used the television media to get the word out to their people and communicate with their constituents. In particular, the night of the General Election. Compared with 1992, this election did not see as many people at the counting polls because people were at home watching it on television. So, the country is interested in the see and hear—the visual and the audio communication. The Country is very interested in that, as is the whole world. Television is the preferred way of communication.

I was a bit surprised to hear that the licence granted to television did not include Cayman Brac and Little Cayman. I challenge the new government to include Cayman Brac and Little Cayman in their discussions with whichever one of those three licensees they will discuss this matter with. I can appreciate the Leader of Government Business mentioning that at this time finances do not allow Government to develop its own station. But I will accept Government negotiating with the licensees to get a dedicated channel.

Over the weekend, on further researching the cost to connect Cayman Brac and Little Cayman with the television service we currently enjoy here in Grand Cayman, I was pleasantly surprised to learn that it would even cost less than I originally mentioned, of a couple hundred thousand dollars. Much less! I am sure that even though we are going through some financial difficulties in this country that can be arranged.

It appears to me that the further east you go, the less you are remembered. That was in the past. I trust this new government will not let that continue!

Mr. Speaker, the best person to tell his own story is the person himself. If he leaves it to someone else, it is always twisted to the other person's liking. I believe that if the Government of this country sets up its own station, or channel, and it is properly televised, the information coming out of Government and this Honourable House can get to the people the way we want our story told.

I am glad to hear that the House Committee is looking at wiring this Honourable House (the building), to accommodate the television broadcast of the proceedings. That says that even before I thought of this Motion other Members were also thinking along these lines. Certainly, it will prevent having so many wires running along the floors. I welcome that. I think it is a very good move on the part of the House Committee.

The First Elected Member for Cayman Brac and Little Cayman said that with transparency comes accountability. That is true. But I can also say that with accountability we must have some transparency. That is what television is going to bring to this Honourable House. Television and televising and broadcasting the proceedings of this Honourable House is good for this country, and also good for the Members of this

Honourable House. Depending on how it is used or abused, it can be good or it can be bad. Mr. Speaker, I leave it entirely up to all Members of this Honourable House how they choose to use the televising of proceedings.

**The Speaker:** I shall now put the question on Private Member's Motion No. 10/01, as amended. The *Resolve* section reads:

**"BE IT RESOLVED THAT this Honourable Legislative Assembly authorises the television broadcasting of its proceedings;**

**"AND BE IT FURTHER RESOLVED THAT the Government considers developing a public television channel of its own or, alternatively, make arrangements with the present television licensees for the use of a dedicated channel.**

**"AND BE IT FURTHER RESOLVED that all future matters pertaining to the broadcasting of the proceedings of the Legislative Assembly be coordinated through the Standing House Committee."**

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 10/01 AS AMENDED PASSED.**

**The Speaker:** At this time I call upon the Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** As the House knows by now, the Honourable Second Official Member is unavailable today and he was to respond to the next Motion on the Order Paper. We also have arranged and agreed to a presentation from the Chief Veterinary Officer, Dr Alfred Benjamin, regarding Foot and Mouth disease. We think it is very important and Members appreciate how serious the situation is, meaning the global effects and what we have to do here to protect ourselves.

So based on the circumstances that prevail at this time, and all Members that we have spoken to, the vast majority agrees that it would be best for the House to adjourn until Wednesday morning.

## **ADJOURNMENT**

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Wednesday..

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday. Let us also bear in mind that the Budget Address will be delivered then.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AT 11.50 AM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 21 MARCH 2001.**





**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**21 MARCH 2001**  
**12.33 PM**  
*Sixth Sitting*

*[Prayers read by the Second Elected Member for George Town]*

**The Speaker:** Please be seated. Proceedings are resumed.

Item no. 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Minister for Health and Information Technology who is recuperating from surgery in the United States.

I would like to apologise for the late start today. It was totally unavoidable.

Moving on to item no. 3 on today's Order Paper, Presentation of Papers and Reports. The Draft Estimates of Revenue and Expenditure of the Cayman Islands' Government for the Year 2001 to be laid on the Table by the Honourable Third Official Member responsible for Finance and Economic Development.

The Honourable Third Official Member.

**PRESENTATION OF  
PAPERS AND REPORTS**

**THE DRAFT ESTIMATES OF REVENUE AND  
EXPENDITURE OF THE CAYMAN ISLANDS'  
GOVERNMENT FOR THE YEAR 2001**

**Hon. George A. McCarthy:** Thank you, Mr. Speaker. Thank you also for your indulgence and that of Honourable Members in dealing with the delay. Finally we are on the way.

I beg to lay upon the Table of this Honourable House the Draft Estimates of Revenue and Expenditure of the Cayman Islands' Government for the Year 2001.

**The Speaker:** So ordered.  
Moving on to item no. 4 on Today's Order Paper, Government Business, Bills. First Reading.

**GOVERNMENT BUSINESS**

**BILLS**

**FIRST READING**

**THE APPROPRIATION BILL 2001**

**The Clerk:** The Appropriation Bill 2001.

**The Speaker:** The Bill has accordingly been given a first reading and is set down for second reading.  
Second Reading.

**SECOND READING**

**THE APPROPRIATION BILL 2001**

**The Clerk:** The Appropriation Bill 2001.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Mr. Speaker, I beg to move the second reading of the Appropriation Bill, 2001.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**THE BUDGET ADDRESS  
DELIVERED BY THE HONOURABLE  
THIRD OFFICIAL MEMBER**

**Hon. George A. McCarthy:** Mr. Speaker, the year 2000 was a very challenging but rewarding one for the Cayman Islands. During the year, the Government spent a considerable amount of time dealing with the Organization for Economic Co-operation and Development (OECD) 'harmful tax competition' issue and the concerns of the Financial Action Task Force (FATF). I am pleased to say that substantial progress has been made in these two areas.

The future success of the financial industry is of utmost importance to the Cayman Islands and the Government will continue to defend and maintain the integrity of this key industry.

In May 2000, after discussions on the OECD initiative that spanned approximately 18 months, the Cayman Islands committed to addressing specific concerns of the OECD. These related to issues of

transparency, exchange of information and absence of substantial activity, which is now referred to as non-discrimination. As a result, the Cayman Islands became one of six jurisdictions that did not appear on the OECD list of harmful tax havens, which was published in June 2000. The key commitment given to the OECD was the introduction of a mechanism for international cooperation on tax matters. This commitment was defined in specific terms in the annex to our commitment letter, which is a public document.

There has been much discussion about the process leading to our commitment and about the commitment itself. The decision to provide information assistance on tax matters is as significant as our initial move in 1984 on narcotics-related offences, including money laundering. You will recall that the Cayman Islands was one of the first jurisdictions at that time to enter into such an agreement. This has now developed into a global standard. Our financial services industry absorbed the change and has continued to flourish.

Our Caribbean neighbours have quite rightly focused on the economic competition aspects of the OECD initiative. We agree fully with the principles of transparency, non-discrimination, and effective information exchange on tax matters. Further, the so-called 'non-committed' jurisdictions have indicated a willingness to adhere to the original deadline of 2005 for the full implementation of effective information exchange. Three countries—the Isle of Man, Netherlands Antilles and Seychelles—have recently committed to the OECD initiative.

The positive impact of our early decision was that it provided reassurance to our international industry partners. The Cayman Islands has also put itself in a position of influence in respect of the OECD process itself. Our interests have been significantly advanced. The exchange of information that now exists among and between non-OECD and OECD countries will help to ensure that no one is held to any higher (or lower) standard than anyone else.

Mr. Speaker, I assure this Honourable House that the Cayman Islands is keeping fully abreast of developments in the OECD initiative. In its address to the Commonwealth Secretariat meeting in Barbados earlier this year, the Government stressed fundamental presumptions and principles for arriving at fair and consistent outcomes in the OECD process. These included inclusive dialogue, the rule of law, and the right to privacy and due process. There are positive signs that the final shape of the OECD initiative will respect these principles and the mutually agreed objectives of transparency, non-discrimination, and effective information exchange.

Mr. Speaker, I now turn to the FATF initiative. At the FATF plenary in January, the Cayman Islands was publicly acknowledged as one of seven jurisdictions that enacted most, if not all legislation, to strengthen its counter-money laundering regime. The FATF president also congratulated the Cayman Is-

lands on the 'substantial progress' made. The significant concerns raised by the FATF were addressed last year and Cayman is now dealing with some remaining issues that will allow it to cease to be listed amongst the 'non cooperative' countries.

Mr. Speaker, during the course of this meeting a number of Bills for amending legislation will be brought to this Honourable House. These are in respect of various undertakings given to the FATF. Some of these were also recommended in the KPMG review. They include issues such as explicit 'fit and proper' criteria for financial services applicants and licencees; immobilisation of bearer shares; and appropriate regulation of company formation and registered office services. These features do not appear in the regimes of our FATF colleagues. But we must be like Caesar's wife: above suspicion. At the same time, we will exercise our own judgement in these matters. The legislative measures being proposed by the Government are proportionate, business-sensitive and sensible.

The FATF plans to make its first on-site visit to the Cayman Islands in early May. This visit is expected to inform the FATF June plenary. All relevant branches of the Government, the Executive Council and members of the financial services sector have been working very hard to ensure the completion of all necessary work. I look forward to full support from this Honourable House when the relevant legislative Bills are discussed.

## **THE WORLD ECONOMY**

Mr. Speaker, world economic growth in 2000 is estimated at 4.7%, compared to 3.4% in 1999. A strong US economy during the first half of 2000, robust expansion in Europe, and a promising, although fragile, recovery in Japan have contributed to this positive growth.

The major industrial countries are estimated to grow by 3.9%, compared to 2.9% in 1999. Positive growth is also expected in other regions of the world. During the year, economic fundamentals strengthened in most of the emerging market economies. This was aided by consolidation of the recovery in Asia where growth is expected to be 6.7% compared to 5.9% in 1999. The Latin American and the Middle Eastern economies are on the rebound and economic activity has improved in Africa.

In recent months, developments in the US economy have been of great concern internationally. Whereas US growth for the whole of 2000 amounted to 5.1%, growth slowed to 1.4% in the last quarter of 2000. Rising unemployment and the likely impact of higher oil prices are sources of great concern. The unemployment rate is expected to edge upwards to 4.4% in 2001 compared to 4% in 2000.

For the year ahead, US growth is forecasted at just 2.4%. In fact, since January 2001 the Federal Reserve has taken steps to speed up the economy by

lowering the Federal Funds Rate. This rate, which now stands at 5.5%, has been lowered twice during 2001 by a one-half percentage point on each occasion. Further interest rate cuts are expected in the months ahead in an attempt to accelerate the economy.

Overall, global growth for 2001 is projected at 4.2%. This projection assumes that a prolonged US recession or financial crisis can be avoided and hence a global recession is unlikely. Other key assumptions include continued growth in the Euro region and a gradual rise in the yen against the US dollar over the medium term.

### **THE DOMESTIC ECONOMY**

Economic growth has been fairly strong in recent years but the economy is now beginning to show signs of slowing in some sectors. Estimates suggest that real GDP growth in 2000 slowed to between 4.4% and 4.6%, down from the five-year average of 5%. In addition, unemployment seems to have stabilised at a rate of 4%.

At year-end 2000, inflation dipped to 2.3%, down from a high of 6.2% in 1999. This low level of inflation resulted despite large increases in gas prices and higher interest rates.

In terms of sectoral developments, the financial and business services sector continued to show resilient growth, but real estate, construction and tourism seem to be flattening out.

### **FINANCIAL AND BUSINESS SERVICES**

Significant legislative changes in regard to the Monetary Authority were made during the year, which have strengthened its supervisory and regulatory ambit. This enhanced supervisory capacity will no doubt assist in the further development of the financial services industry.

Performance of the financial and business services sector remained strong in 2000. The Cayman Islands Stock Exchange continued to experience strong growth, with an increase in listings by 83.3% and market capitalisation by 66.2%. At the end of 2000, the number of listings was 385 and market capitalisation stood at US\$34.9 billion.

In the banking sector, the number of bank and trust licences increased from 570 in 1999 to 580 in 2000. In addition, both the mutual funds and insurance industries remained robust. The former recorded a 32.7% increase in the number of registered funds, the largest annual increase in its history. The number of these funds rose from 2,271 in 1999 to 3,014 registered funds in 2000.

Growth in insurance licences was more modest, increasing from 529 in 1999 to 545 in 2000 or by 3%. However, gross assets increased significantly from US\$12 billion to US\$14.9 billion or by 24.2%.

In regard to company registration, the total number of companies shown on the register at the end of 2000 was 59,922—an increase of 17.6% over 1999. This included a 35% increase in new company registration. The growth in new company registration has been due partly to the global growth in e-commerce. In the area of shipping, gross tonnage increased during the year by 37.8%, with new vessel registration at 215,174 gross tons.

### **TOURISM**

As initially reported, overall growth in the tourism sector improved in 2000, reflecting a 3.1% increase in air arrivals—from 394,500 to 406,600. This represents a higher growth rate than 1999 when air arrivals grew by 2.4%.

However, the new Government commissioned a survey that found that approximately 60,000 persons were incorrectly classified as tourists during 2000. As this occurrence is likely to also have occurred during 1999, further work needs to be done to correct any discrepancies.

Regarding cruise ship arrivals, there was a small decline in 2000 by 0.4%—or from 1,035,500 to 1,030,900 arrivals. This was due largely to the effect of bad weather, which diverted several ships from the Cayman Islands.

### **AGRICULTURE**

Agriculture gained momentum in 2000 as a campaign launched last year helped to affirm the safe and healthy quality of local products sold at the Farmer's Market. The supply of local produce continues to be merited for the absence of artificial chemicals, hormones, or steroids. Turtle meat is among the items sold at the Farmer's Market and over the past year turtle production increased favourably allowing prices to remain stationary for consumers. Additionally, there was self-sufficiency in seasonal and non-seasonal crops such as mangoes and green bananas and substantial improvements have been made in the production of pork and beef.

A Motion calling for the commercial viability of the Farmer's Market was passed in 2000. This came as a result of requests from farmers for expanded facilities to market their products. The new Government is confident that the Farmer's Market with proper re-organisation will assist in reducing the dependence on imported food by providing high quality produce and meats for local consumption.

In terms of domestic agriculture production, the value of goods produced in 2000 was \$1.8m (at farm gate prices), an increase of 13.4% over 1999. The largest increases were in meat and livestock produce (26%), juice (18%) and fruit (11%).

## REAL ESTATE

The value of land transfers in 2000 increased by 12.1%—from \$229.9m to \$257.8m. This was mainly due to increases in the transfer of freehold real estate. The value of leasehold real estate, however, declined significantly from \$7.4m to \$0.6m.

Overall, stamp duty revenue for the year was down 11.9%—from \$29.4m to \$25.9m.

## CONSTRUCTION

Activity in the construction sector showed a significant decline in 2000, with the total value of planning approvals falling by 20.9%—from \$407.7m to \$322.5m. This was caused mainly by a decline in planning applications in the “residential and apartment/condo” category. A decline in this category reflected, not only a return to the average level during the previous five years, but also a slight deterioration on account of slowing demand and rising interest rates.

Rising interest rates also had a negative impact on commercial property approvals, which fell to their lowest level in the past five years. The “hotel” category, however, benefited from roughly \$75m in actual and planned investments. This includes the new Holiday Inn, Comfort Suites, Sunshine Suites, and Morrill's Grand Hotel.

## DOMESTIC ECONOMIC OUTLOOK

Future domestic economic growth will depend to a large extent on what happens in the US economy over the next few months. Based on present projections, a slower rate of growth is expected in 2001 of around 3%. This compares to an estimated growth rate of 4% in 2000.

## FISCAL MANAGEMENT REFORM

Mr. Speaker, since the early 1990s the Portfolio of Finance and Economic Development has worked assiduously to implement financial management reforms to support more open and accountable governance. At the initial stages of these reforms, our efforts were focused primarily on three new but interrelated initiatives:

- The development and introduction of a new on-line computerised budget information system that allowed for decentralised input by controlling officers, and the reform of the then budget preparation and implementation procedures to incorporate, among other things, departmental plans; 3-year budgeting, and performance measures.
- The introduction of standard project preparation and implementation procedures and the establishment of the Public Sector Investment Committee.

- The introduction of a computerised debt recording and management information system developed by the Commonwealth Secretariat.

Mr. Speaker, these initiatives were all supported by several years of broad-based training and were introduced primarily to underpin the planned transition from one-year financial management within an annual budgeting context to multi-year fiscal planning within a broader macroeconomic framework.

The Budget Office was retooled to become the Budget and Management Unit, and both the Economic Development Unit and the Public Sector Investment Committee were established. These efforts culminated in the production of a draft multi-year fiscal plan for the Cayman Islands entitled the “Medium Term Financial Strategy and Public Sector Investment Programme, 1994-1996.” In this regard, the following are excerpts from the 1994 Budget Speech as delivered on November 5, 1993:

**“Recently, the Government has put forward a ‘Draft Medium Term Development Plan’ for 1994 through 1996 for discussion and possible adoption in early 1994. It is this type of forward looking, multi-year revolving plan that is necessary if we are to continue to improve our fiscal performance.”**

The 1994 Speech went on to say, and I quote: **“Prioritising projects on the Public Sector Investment Programme; using more profitable capital investment projects to fund non-revenue generating projects; introducing more revenue enhancement measures; further improving revenue collection methods; and further reductions in government spending have all been considered as valid ways of improving public sector financial performance.”**

Mr. Speaker, unfortunately the 1994-1996 document was not presented to this Honourable House.

Mr. Speaker, the experience gained in the development and introduction of the on-line computerised budget preparation and implementation system highlighted the need for all of government's major resource management information systems to be integrated. The “Integrated Resource Information System” (IRIS project) was then initiated in 1996 to address this need.

By necessity, the IRIS project also later took on a Y2K readiness face. The IRIS project met the Y2K challenge and is now in its final stages of implementation. However, it is recognised that given the implementation of these new integrated information systems, on-going work will be required to ensure that the systems keep pace with the needs of our organisation.

Mr. Speaker, after having gained the reform experience of the earlier years, by the late-1990s it became more apparent that the financial management reform effort had to be moved to the next level. In order to respond to this need the new Financial Man-

agement Initiative (FMI) was introduced in 1998. In broad terms, FMI provides for a financial management system that has a more strategic focus and one that strengthens linkages between Government's priorities and resource allocation decisions. FMI will bring about greater role clarity and accountability and give more control to managers. The focus will now be on outputs and performance rather than on inputs such as personal emoluments and supplies.

Mr. Speaker, the reporting requirements that form part of the initiative will provide additional tools to promote greater openness and accountability in public sector affairs and involves three interrelated phases. These are:

- The introduction of output-based budgeting and a new Public Management and Finance Bill by 2002 that will support the new financial management framework and set out principles for responsible financial management such as borrowing limits and cash reserves.
- The introduction of accrual accounting by 2002.
- The decentralisation of financial and human resource controls within the Cayman Islands Public Service, by 2003 and beyond.

Fortuitously, the Vision 2008 document came later on and it too echoed FMI's call for greater levels of openness and accountability in Government's resource management matters. It provided FMI with a sound footing within Vision's much broader context.

#### **FISCAL PERFORMANCE 1991-2000: A SUMMARY**

Mr. Speaker, it is my view that it is through our personal experience that we learn most as individuals, and I do believe that this perspective also holds true in national affairs. As Cayman enters the new millennium, it is important for us to review our recent performance, take stock of the fiscal situation that is now before us and aim to provide attainable targets for the future.

Mr. Speaker, I turn first to the recent past. In a nutshell, the 1990s produced a mixed performance for Cayman's finances. We entered the decade at a time of slower economic growth and ended it with evidence of slowing growth in some sectors but after having experienced good growth in the middle years. The Government's finances has somewhat tracked this cycle but the situation today I would suggest remains more challenging because of a number of other factors which I will now discuss.

#### **RECURRENT REVENUE AND RECURRENT AND STATUTORY EXPENDITURE, 1991-2000**

Mr Speaker, I start with a review of the operational side of public finance.

During the period 1991-2000, recurrent revenue grew by an average annual rate of 10.5%. By comparison, recurrent and statutory expenditure grew by

10.9%. Further, recurrent revenue average annual growth during the first half of the decade (1991-1995) was 11.4% which was greater than during the second half of the decade (1996-2000), during which time it grew at 9.4%. By comparison, recurrent and statutory expenditure average annual growth during the first half of the 1990s was 9.2% which was less than the growth rate of 13.4% experienced during the second half of the decade.

In summary then, Mr. Speaker, not only did the growth in recurrent and statutory expenditure outpace the growth in recurrent revenue for the period 1991-2000, but more importantly this divergence in growth rates got larger during the latter half of the decade. Mr. Speaker, this pattern of divergence between what the country collects and what it spends on its day-to-day operations is clearly not sustainable.

Mr. Speaker, it should be noted, however, that during the first half of the 1990s the growth rate in recurrent revenue exceeded the growth rate in recurrent and statutory expenditure for the same period. This is the pattern that we need to restore if the country is to build-up general reserves and pay down debt over the medium- to long-term.

#### **CAPITAL DEVELOPMENT EXPENDITURE AND CENTRAL GOVERNMENT DEBT, 1991-2000**

Mr. Speaker, total capital expenditure (which includes capital acquisitions and capital development) for the period 1991-2000 was \$279.3m. The average annual capital expenditure for that period was \$27.9m. Whereas the average annual capital expenditure level for the period 1991-1995 was 17.3%, this average more than doubled to 38.5% during the second half of the decade.

Mr. Speaker this pattern of growth in capital expenditure is mirrored in the build-up of Central Government Debt for the same period, as debt has been the main source of financing for capital expenditure during the 1990s, and particularly so during the 1996-2000 period. Central Government Debt rose from \$17m in 1991 to \$93.7m in 2000. This represents an average annual growth rate of 20.9% for the decade. Of particular note is the average annual growth rate in Central Government Debt, which accelerated from 8.2% for the period 1990-1995 to 16% for the period 1996-2000.

Mr. Speaker, these statistics are especially important as capital expenditure (particularly Capital Development) contributes significantly to growth in Recurrent and Statutory expenditure. For example, Recurrent expenditure pays for employees' salaries and wages, utilities, supplies and so on for new buildings, and statutory expenditure pays for employees' pensions and for debt repayments. This relationship between Capital, Recurrent, and Statutory expenditure therefore helps to explain the growth rates for the latter two classes of expenditure during the period 1991-2000 as discussed previously.

Mr. Speaker, I turn now to Central Government indebtedness. The main point to note in respect of debt, however, is not so much the total value of the debt itself but it is the ability of an organisation to service debt that is more important. Mr. Speaker, successive governments have adhered to a debt service ceiling of 10% of recurrent revenue. It is important to note that in the case of our government, debt service payments are defined as including both interest and principal on Central Government Debt and Self Financing Loans.

During the period 1991-2000, the debt service ratio of Government peaked at 8.8% in 1995 from a decade low of 4.2% in 1992. At the end of 2000 our debt service ratio stood at 7.6%. I will return to this point later in the speech.

### **GENERAL RESERVES, ACCUMULATED SURPLUS/DEFICIT, AND OTHER FUNDS, 1991-2000**

Mr. Speaker, we have had a continuing objective of building up General Reserves to 25% of Recurrent Expenditure. However, during the 1990s, a number of new 'reserve' and 'operational' funds were established and recurrent expenditure grew significantly as a single category. Mr. Speaker, I therefore suggest that a more appropriate measure would be to seek to build up the balance on all Government funds to 25% of Recurrent and Statutory expenditure.

In my view, Mr. Speaker, this measure will provide a more complete picture. This new measure would capture not only the General Reserve Fund, but other funds such as the Surplus and Deficit Account, the National Disaster Fund, the Infrastructure Development Fund, and so on. In addition, this measure would also rightly capture Statutory expenditure.

During the 1990s, this 'reserve ratio' peaked at a positive 15.5% [10.5%] in 1991 and fell to negative 4.6% [positive 2.2%] by year-end 2000 which in itself represented a swing from a positive 10.9% [10.6%] only a year before in 1999 [1998].

### **FISCAL YEAR 2000 OUTTURN**

Mr. Speaker, as at December 31, 2000, the unaudited Accumulated Deficit was \$10.7m. Net Cash was \$14m overdrawn in the Treasury's cashbook. Honourable Members will recall that the approved overdraft limit for the Treasury's cashbook is \$15m or approximately 17 days' recurrent, statutory & capital acquisitions expenditure.

The General Reserves were approximately \$10.2m after the transfer of \$5.8m out of the Fund to help reduce the deficit on the Accumulated Surplus/Deficit Account. Other 'reserve fund' year-end balances include the Government Guaranteed Housing Reserve Fund \$1m, the Government Guaranteed Student Loan Reserve Fund \$0.2m, and the National Disaster Reserve Fund \$0.8m.

The Capital Development Fund had a balance of \$3.6m. All Capital Development Fund loans were drawn down by December 31, 2000 and these funds form part of the \$3.6m balance. Other 'operational' fund balances include the Environmental Protection Fund \$1.3m, the Infrastructure Development Fund \$7,000 and a nil balance on the Road Development Fund.

### **RECURRENT REVENUE AND TRANSFERS**

Recurrent Revenue and Transfers was \$283.7m, down \$28m, as compared to the 2000 Budget of \$311.7m. Recurrent Revenue exceeded the 2000 Budget in the following main areas: loans/interest \$1m, and miscellaneous revenue \$3.0m, which was mainly the result of an insurance settlement. Recurrent Revenue was less than the 2000 Budget in the following main areas: duty \$18.2m, taxes \$2.4m, licenses \$5.8m, sales \$1.6m, fees \$6.4m, rentals/leases \$1.8m and contributions \$1.1m.

### **RECURRENT AND STATUTORY EXPENDITURE**

Honourable Members should note that the references to the 2000 Budget expenditure figures in this section of the speech include supplementaries and virements, hence the references to the "modified 2000 Budget."

Recurrent and Statutory expenditure was \$284m as compared to the modified 2000 Budget of \$305.9m, down \$21.9m. This \$284m amount excludes budgeted and actual payments to various 'reserve' funds, totalling \$1.7m.

Statutory expenditure exceeded the modified 2000 Budget by \$1.5m. The recurrent expenditure was less than the modified 2000 Budget in the following main areas: personal emoluments \$5.6m, supplies and materials \$2.3m, utilities \$1.3m, other operational and maintenance services \$5.7m, grants, contributions and subsidies \$3.1m, loans \$1.1m, and insurance \$3.1m.

### **OTHER OUTFLOWS**

Capital acquisition expenditure was \$4.7m as compared to the modified 2000 Budget of \$6.2m. Contribution to the Capital Development Fund was equivalent to the modified 2000 Budget of \$12.4m. Capital Development Fund expenditure was \$38.5m as compared to the modified 2000 Budget of \$48m.

### **OTHER INFLOWS**

Environmental Protection Fund receipts were \$3.3m as compared to the 2000 Budget of \$3m, Infrastructure Development Fund receipts were \$2.6m as compared to the 2000 Budget of \$3.2m. Road Development Fund receipts were \$1.6m as compared to the 2000 Budget of \$2.2m.

### **ACCUMULATED SURPLUS/DEFICIT ACCOUNT AS AT DECEMBER 31, 2000**

Mr. Speaker, the un-audited deficit on the year 2000 is \$19.1m, up \$4.3m as compared to the modified year 2000 Budget deficit of \$14.8m. Taken together with the Accumulated Surplus of \$8.4m brought forward from 1999, this produced an un-audited accumulated deficit of \$10.7m, which is up \$3m as compared to the modified 2000 Budget accumulated deficit of \$7.7m.

Honourable Members should note that this \$10.7m accumulated deficit does not take into account any of the un-audited \$17.2m in 'overseas medical advances' outstanding as at December 31, 2000. (Their full treatment would have required either their write-off or conversion to a loan).

Mr. Speaker, there are 3 main items totalling \$22.3m arising from fiscal year 2000 that require special consideration. These are as follows:

- the clearance of the 2000 brought forward accumulated deficit of \$10.7m and its associated overdraft of \$14.0m;
- the clearance of \$5.6m in outstanding payments due to suppliers and others as at year-end 2000; and
- the payment of a \$6m retroactive cost of living adjustment to government employees to cover the period January-October, 2000. The cost of living commitment is being paid in two equal installments along with the February and March 2001 pay cheques.

Mr. Speaker, these three items, when combined with the fiscal performance trend of the past decade and a slowing economy, have created major obstacles to achieving a balanced 2001 Budget. Given this situation, the level of consultation on the 2001 Budget within the public service has been extensive and far-reaching. A number of significant policy decisions were required to be taken by the government in order to produce a realistic budget.

### **MAIN 2001 BUDGET POLICY DECISIONS**

Mr. Speaker, I now turn to a brief explanation of each of the main policies that underpin the Draft 2001 Budget. These policies include:

- Curtailing all new services except for new staff at the Bodden Town, Savannah, George Town, John A. Cumber, and Red Bay Primary and Lighthouse schools and staff for the Family Protection Unit and the Financial Reporting Unit.
- Holding the 2001 recurrent expenditure to the global 2000 actual figure at the Ministry or Portfolio level. Honourable Members are asked to note that whilst this was the general guiding policy there are notable exceptions. For example, education and human resource development re-

ceived top priority and was not fully subjected to this general policy. However, this policy was fully applied in the case of the 'Official Travel' expenditure, which has been held at the 2000 actual level.

Continuing with the policy guidelines:

- Holding the 2001 capital acquisitions budget at the global 2000 actual level and financing this expenditure from borrowing.
- Holding the 2001 capital development budget to \$28.2m and funding this expenditure through a combination of borrowing of \$24.6m and by using the brought forward balance of \$3.6m on the Capital Development Fund.
- Removing all restrictions on virements within a recurrent expenditure head.
- Implementing financial incentives to employees to increase recurrent revenue and/or reduce recurrent expenditure below the approved 2001 Budget.
- Limiting the leasing of new office accommodation in 2001 to that needed to house the Family Protection Unit, the Schools' Inspectorate, the Human Resources Unit, and the Financial Reporting Unit.
- Developing drawings to construct new government-owned office accommodation on Grand Cayman and Cayman Brac and finance the necessary preparatory work from the Capital Development Fund.
- Ensuring the correct usage of all future contingency warrants consistent with section 22 of the Public Finance and Audit Law.
- Implementing an 'offsetting policy' that involves the attachment of a specific revenue measure to any proposed recurrent expenditure item that exceeds \$1m per annum.

For example, the Seamen's Grant has generated an extra \$4.1m in 2001 expenditure with no revenue identified to offset it. This 'offsetting principle' has been applied to new 2001 expenditure relating to the Ministry of Education, Human Resources and Culture, the Cayman Islands Monetary Authority, the Financial Reporting Unit, the Family Protection Unit, and The Secretariat.

Continuing with policy guidelines:

- Implementing a debt re-structuring package with a view to reducing the annual debt costs.
- Deferring the commencement of the payment of Year 2000 cost of living adjustment from January 2001 to January 2002.
- Holding the 2002 and 2003 recurrent expenditure and capital acquisitions expenditure at or near their 2000 levels.
- Removing the amounts for vacant posts from the 2001 Budget except where recruitment is already actively underway.



- Implementing a moratorium on the creation of new posts for the remainder of 2001 except for absolutely 'essential services' staff for new capital projects and new leased sites which come on stream in 2001 and where there are direct revenue or expenditure blocking offsets.
- Implementing a moratorium on recruitment for the remainder of 2001 except for absolutely 'essential services' or where there are direct revenue or expenditure blocking offsets.

Mr. Speaker, the Draft 2001 Budget which I am about to present for consideration has been shaped in the main by these policies.

### **2001 BUDGET**

Mr. Speaker, the Government holds the firm view that greater emphasis must be placed on presenting attainable budgets in this House and to this country. As such, the 2001 Budget is being presented in a medium-term context and in a way that more realistically reflects Government's current and projected financial position.

Mr. Speaker, the total 2001 Budget is \$360.3m broken down into total Recurrent Expenditure (\$276.5m), Statutory Expenditure (\$50.1m), New Services (\$0.8m), Capital Acquisitions Expenditure (\$4.7m) and Capital Development Expenditure (\$28.2m).

The 2001 Budget is to be financed by: Recurrent Revenue (\$311.9m); General Revenue Fund borrowing (\$26.2m); Capital Acquisitions borrowing (\$4.7m); Capital Development Fund borrowing (\$24.6m); and the brought forward balance on the Capital Development Fund (\$3.6m).

Mr. Speaker, the proposal to borrow \$26.2 million for the General Revenue Fund was a difficult one to make. This proposal, however, is in the main related to the three items totalling \$22.3m from the year 2000, which were discussed previously. The choice here was whether or not to continue the use of overdraft financing or seek to borrow over the medium term. The latter option was considered to be more prudent as it would allow for more effective financial management.

### **REVENUE MEASURES**

Mr. Speaker, these are indeed challenging days for public finances at a time when the demand for public services continues to increase steadily. Against this backdrop the Government is very much aware of the potential impact that the national budget has on the domestic economy. In proposing any measure, the Government has to take into full consideration the availability of public revenues, public expenditure growth, and other fiscal measures that are required to promote sustainable economic growth whilst providing revenue to fund much needed public services.

Mr. Speaker, in addition to the expenditure control policies that have been implemented and which were discussed previously, the Government has identified revenue measures for the year 2001 totalling \$19.9m. This amount represents 12 months' collection on the Health Insurance Fund and Room Tax (\$4.3m), nine months' collection on import duty (\$9m), and seven months' collection on the other items (\$6.5m). A full year's collection on all items is estimated at \$27.4m, based on the 2000 collection patterns.

These measures include new fees (\$9.3m), fee increases in existing categories (\$5.6m), and the streamlining of existing fee assessment and collection procedures (\$5m). Included in the new fees are proposals to re-introduce import duty on some bakery products, excluding bread, and some foodstuff. The import duty lost from these areas is currently estimated at \$10m to \$12m per annum. Mr. Speaker, this was an extremely difficult proposal for the Government to put forward, but these funds are badly needed to help finance education and human resource development, health care, and social welfare programs.

Mr. Speaker, Honourable Members are asked to note that there has been significant consultation with the Private Sector Consultative Committee on these proposals. The Government expects that these measures will help to address deficiencies in the revenue side, which has contributed to the divergence between what the country collects and what it spends on public services. More will be said about these items when I present the various pieces of legislation that are required to effect the measures.

For now, Mr. Speaker, the proposed revenue measures and the incremental amounts expected from each category for the Year 2001 are as follows:

|                                     |             |
|-------------------------------------|-------------|
| Financial services fees             | \$1,845,037 |
| Professional licensing fees         | 65,000      |
| Vehicle licensing unit fees         | 629,942     |
| Environmental health fees           | 215,886     |
| Spear-gun licenses                  | 11,667      |
| Law school fees                     | 13,400      |
| Postal fees                         | 864,063     |
| Customs warehouse fee & package tax | 1,629,450   |
| MRCU fees                           | 56,951      |
| Stamp duty on debit transactions    | 1,166,667   |

#### **Customs Duty**

|                                           |              |
|-------------------------------------------|--------------|
| Some bakery products (excluding bread)    | 5,250,000    |
| Water                                     | 318,750      |
| Ornamental plants                         | 375,000      |
| Some foodstuff                            | 1,200,000    |
| Personal watercraft for pleasure or sport | 262,500      |
| Timeshare fee                             | 700,000      |
| Infrastructure fee                        | 641,666      |
| Health insurance fund                     | 4,300,000    |
| Land holding companies – stamp duty       | 70,000       |
| Hotel/condo/guest house/room tax          | 79,875       |
| Various administrative fees               | 186,871      |
| Total:                                    | \$19,882,725 |

Mr. Speaker, the Government is pleased to announce the appointment of a Fiscal Advisory Group under the chairmanship of Mr. Robert Bodden. This Group has been commissioned to make recommendations to Executive Council on public expenditure and revenue matters. These recommendations are expected within the next three months.

Mr. Speaker, I beg to lay on the Table of this Honourable House more details of these revenue measures.

### **IMMEDIATE MEASURES**

Mr. Speaker, the 2001 Budget is not likely to be approved until April/May 2001. In the interim, it is necessary to provide funds to facilitate the smooth functioning of public services. Accordingly, the Government intends to introduce to this Honourable House a Motion for Advance Expenditure to cover the 2001 Second Quarter. It is also necessary to present a Motion to effect the proposed 2001 import fees.

It has been mentioned as you will note in the Budget Address that both of these Motions will be presented today. However, only the one dealing with the import customs duty will be presented today. The one dealing with the advance expenditure will be presented during the course of next week.

### **CONCLUSION**

Mr. Speaker, the 2001 Budget is more about what is absolutely necessary at this point in time to maintain an acceptable level of public services rather than about choice. It is immediately imperative for our country to more closely manage public expenditure growth without hampering the delivery of much needed public services while at the same time seeking to generate extra revenue. These have to be done in such way as to not stymie economic growth.

The 2001 Budget is a first step in this direction. The Medium Term Financial Strategy, which will be delivered shortly, will pick up from the point where the 2001 Budget leaves off and provide a medium term focus to our fiscal affairs.

Mr. Speaker, a time of difficulty can be viewed in two possible ways—as a time of danger or as a time of opportunity. The Government views the current situation as a time of opportunity: an opportunity to correct fundamental challenges in public finance, an opportunity to encourage innovation in the provision of public services and an opportunity to set the stage for meaningful economic opportunities for all Caymanians in particular, and all residents in general.

In closing, Mr. Speaker, I am honoured to recommend to this Honourable House the Appropriations Bill 2001 in the amount of \$310.2m. This does not include statutory expenditure which amounts to \$50.1m.

Mr. Speaker, I seek the indulgence of all Honourable Members to allow the distribution of a better

formatted Draft 2001 Budget later in this meeting. This will allow the necessary time for formatting and printing. In the interim, a working document has been provided to all Members along with the Appropriations Bill 2001.

I wish to record my sincere thanks to all persons inside and outside the public service for their assistance and encouragement in the preparation of the 2001 Budget.

In particular I would like to thank the Deputy Financial Secretary and his staff within the Budget and Management Services Unit, and also within the Administration Office.

Thank you.

**The Speaker:** [*microphone not turned on*] The question before this Honourable House is that the Appropriation Bill 2001 be given a second reading. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE APPROPRIATION BILL 2001 GIVEN A SECOND READING.**

**The Speaker:** Moving on to Motions. The Honourable Third Official Member responsible for Finance and Economic Development.

## **MOTIONS**

### **GOVERNMENT MOTION NO. 2/01**

#### **THE CUSTOMS LAW (1998 REVISION)**

#### **THE CUSTOMS TARIFF LAW (1999 REVISION)**

**Hon. George A. McCarthy:** I beg to move Government Motion No. 2/01 to give effect to the changes within the Customs Tariff Law. The narrative reads:

**“IN ACCORDANCE with Standing Order 69, and pursuant to section 74 of the Customs Law (1998 Revision) the following resolution is moved:**

**“BE IT RESOLVED this day by the Legislative Assembly under the power conferred upon it by section 74 of the Customs Law (1998 Revision):**

**“THAT the following exemptions from, and variations of rates of, customs duty, and new charges of customs duty under the first and second schedule to the Customs Tariff Law (1999 Revision) be made:**

| CODE<br>NUM-<br>BER | HEADING                               | DUTY | NEW<br>DUTY |
|---------------------|---------------------------------------|------|-------------|
| 04.03               | Flavoured milk, yoghurt and ice cream | Free | 20%         |

| CODE NUMBER | HEADING                                                                                                                                                                                                                                                                                                                                                                        | DUTY | NEW DUTY |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------|
| 04.31       | Birds' eggs and egg yokes, fresh, dried or otherwise preserved                                                                                                                                                                                                                                                                                                                 | Free | 15%      |
| 06.02       | Other live plants (including ornamental plants for landscaping or decoration whether bearing flowers or not)                                                                                                                                                                                                                                                                   | Free | 20%      |
| 08.01       | Fruit, fresh, chilled or frozen. but not further prepared                                                                                                                                                                                                                                                                                                                      | Free | 15%      |
| 19.05       | Bread loaves whole or sliced                                                                                                                                                                                                                                                                                                                                                   | Free | Free     |
| 19.21       | Bakery products including biscuits, rolls, buns and similar products but excluding products under Code Number 19.05                                                                                                                                                                                                                                                            | Free | 20%      |
| 22.01       | Purified, desalinated and natural waters, other than aerated waters                                                                                                                                                                                                                                                                                                            | Free | 20%      |
| 88.01       | All boats for local use, whether sailing from abroad under own power or not, and whether registered or not, but excluding oceangoing vessels in the Islands temporarily (subject to the discretion of the Collector of Customs acting in accordance with section 19 of the Customs Law (1998 Revision)-                                                                        |      |          |
|             | <ul style="list-style-type: none"> <li>▪ under 18 feet, other than jet skis, wave runners, rowboats, canoes, personal watercraft, kayaks, and rafts</li> <li>▪ between 18 feet and 35 feet</li> <li>▪ over 35 feet</li> <li>▪ Jet skis, wave runners, rowing boats, canoes, personal watercraft, kayaks, rafts and other boats or floating structures under 18 feet</li> </ul> | Free | Free     |
|             |                                                                                                                                                                                                                                                                                                                                                                                | 10%  | 10%      |
|             |                                                                                                                                                                                                                                                                                                                                                                                | 5%   | 5%       |
|             |                                                                                                                                                                                                                                                                                                                                                                                | Free | 20%      |

**“AND THAT it is hereby declared that it is expedient in the public interest that this resolution shall have statutory effect under the provisions of the Customs Law (1998 Revision).”**

Thank you.

**The Speaker:** The question before this Honourable House is that in accordance with Standing Order 69, which reads,

**“69. Any Member of the Government may, without notice, make a motion for giving provisional statutory effect to any proposals in pursuance of section 74 of the Customs Law (1998); and the question on such a motion shall be put forthwith.”**

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

**AYES and NOES.**

**Mrs. Julianna O'Connor-Connolly:** Can we have a division Mr. Speaker?

**The Speaker:** Certainly.

Madam Clerk, will you please call a division?

**The Clerk:**

**DIVISION NO. 2/01**

**AYES: 12**

Hon. James M. Ryan  
 Hon. David Ballantyne  
 Hon. George A. McCarthy  
 Hon. D. Kurt Tibbetts  
 Hon. W. McKeever Bush  
 Hon. Roy Bodden  
 Hon. Edna M. Moyle  
 Mr. Rolston Anglin  
 Capt. Eugene Ebanks  
 Mr. Cline Glidden Jr.  
 Mr. Alden McLaughlin  
 Mr. Arden McLean

**NOES: 5**

Dr. Frank S. McField  
 Mr. Gilbert A. McLean  
 Mr. Anthony Eden  
 Mrs. O'Connor-Connolly  
 Mr. Lyndon Martin

**ABSENT: 1**

Hon. Linford A. Pierson

**The Speaker:** The result of the division is 12 Ayes, 5 Noes, 1 Absent. The Motion has passed.

**AGREED BY MAJORITY: GOVERNMENT MOTION NO. 2/01 PASSED.**

**The Speaker:** Motion for the deferral of debate.

The Honourable Third Official Member responsible for Finance and Economic Development.

**MOTION FOR DEFERRAL OF DEBATE ON THE BUDGET ADDRESS**

**Hon. George A. McCarthy:** Mr. Speaker, I move that the debate on the second reading of the Appropriation Bill 2001 (the Budget Address) be deferred until Monday, 26 March, 2001, and that the Throne Speech delivered by His Excellency the Governor on Friday, 9 March 2001, and the Budget Address be debated simultaneously. Thank you.

**The Speaker:** The question before this Honourable House is that debate on the Appropriation Bill 2001 (the Budget Address) be deferred until Monday, 26 March, 2001, and that the Throne Speech delivered by His Excellency the Governor on Friday, 9 March 2001, and the Budget Address be debated simultaneously.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: DEBATE ON THE APPROPRIATION BILL 2001 DEFERRED UNTIL MONDAY, 26 MARCH, 2001, AND THAT THE THRONE SPEECH DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY, 9 MARCH 2001, AND THE**

**BUDGET ADDRESS BE DEBATED SIMULTANEOUSLY.**

**The Speaker:** That concludes the business on the Order Paper for today. I will entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Planning, Communications and Works.

**ADJOURNMENT**

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until tomorrow, 22 March, at 10 am. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 1.40 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 22 MARCH 2001.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**22 MARCH 2001**  
**10.33 AM**  
*Seventh Sitting*

*[Prayers read by the Honourable Minister for Education, Human Resources and Culture]*

**The Speaker:** Please be seated. Proceedings are resumed.

Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**The Speaker:** I have apologies from the Honourable Minister for Health and Information Technology who is overseas on medical purposes.

Moving on to item number 3 on today's Order Paper, Questions to Honourable Ministers and Members of Government. Question number 26 standing in the name of the First Elected Member for East End.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 26**

**No. 26: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communication and Works if this Government supports a Freedom of Information Act/Law or if it has any intention of putting one in place.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Government most definitely supports the enactment of legislation, and the institution of the necessary administrative and regulatory systems, to provide for greater freedom of public access to information.

The Government intends to adopt a plan and timetable for the implementation of the necessary legislative, administrative and regulatory systems by mid year.

**The Speaker:** Supplementaries. Are there any supplementaries?

No supplementaries?

We will move on to Question No. 27 standing in the name of the Elected Member for East End.

**QUESTION NO. 27**

**NO. 27: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communication and Works what is the official policy of the Department of Agriculture and/or the Agricultural Society on the spraying of diseased trees, especially if persons in need of such vital service are not members of the Society.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Department of Agriculture operates the National Tree Crop Husbandry Programme which is an holistic programme designed to provide technical advice and assistance to registered and bona fide farmers in the management of their commercial fruit tree orchards. The advice includes all aspects of tree crop husbandry including fertilizer recommendations, pest identification and control, harvesting, post harvest handling, et cetera. Physical assistance, namely, pruning and pesticide application to the crops also form part of the programme. The overall goal of the programme is to improve productivity and fruit quality, thereby increasing profitability.

Perhaps the best known component of this programme is the management and control of pest infestations and/or disease infections on trees owned by qualifying farmers.

When chemical control is deemed necessary, the affected trees are sprayed provided that such applications of pesticides meet all the safety criteria that protect the client, neighbouring properties, the applicators and the environment.

My Ministry is not aware of any policy or programme of the Agriculture Society that addresses the spraying of diseased trees.

**SUPPLEMENTARIES**

**The Speaker:** Supplementaries, the Elected Member for East End.

**Mr. V. Arden McLean:** In the substantive answer the Minister did not give any indication about persons other than the bona fide farmers. I wonder if the Minister could tell us if this same service is provided to those people: particularly, private citizens who have fruit trees right in their yards?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, the answer speaks to registered and bona fide farmers. For purposes of clarity perhaps the Member will understand that when we talk about bona fide farmers they would be different from the registered farmers. But bona fide farmers are those he refers to as private citizens.

So, to extend the question by way of clarity, registered and bona fide farmers who grow a minimum of ten fruit trees for commercial production are the people outside of the registered farmers who qualify. If everyone having one or two fruit trees were to be serviced by the department, the staff would probably have to triple. It is really not a viable situation when you have the quantity of fruit trees being less than the 10 that are specified. The line had to be drawn somewhere.

I am not saying it would be a burden, all I am saying is that both human resources and equipment would have to be multiplied times over again and it is for that reason why that level is where it is at. They try to service anyone with ten fruit trees or more, as best they can.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister advise the House if this service is provided free of cost to the registered farmers and the bona fide farmers?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** This was being done for some time, but I believe it was two years ago when the costs were added up and it was obvious that it was prohibitive to deal with the operation like that anymore, charges were levelled. But the charges are very reasonable.

I cannot give a schedule of exactly what those charges are, but from firsthand experience I have an orchard (if you wish to call it that), and it takes them about an hour to spray my fruit trees when they come. It costs something like \$50 or \$60 to do.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I have some knowledge of the programme that the Minister refers to in his answer. I have had opportunity to speak with a well-informed and quite pleasant man, Mr. Small, who, I think sees about this particular management programme. I am wondering if the Minister has any plans, or if he would consider as part of a policy—since the expertise is in place within the department—to develop that unit so that it may serve persons with less than the present standard of 10 plants. I am not aware of any private operation that is doing this kind of thing.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, to the best of my knowledge there were two entities doing that type of spraying in the private sector—commercial entities. In having talks with the Department so that those entities knew what level the department was able to service and those businesses were put in place to cater to these smaller groups that the Member is talking about.

As I said before, it is certainly not the intention of the Department to be unable to service the needs of the community. But as a matter of viability and feasibility it was just very difficult to be able to service island-wide (including Cayman Brac) those people who have that small quantity. The private enterprise was supposed to trip in to take care of that.

If the Member wishes for me to ask the Department to look into the situation again to see if there can be any other arrangements that are satisfactory but not too cost prohibitive, I do not have a problem with that.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I would appreciate the Minister looking into the matter. I am not thinking of it as being free of cost because such an operation does have cost; it is having the service available is the way I am thinking.

**The Speaker:** Are there any further supplementaries?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, the Minister referred in his last answer to the Sister Islands. Could he add for clarity if the full husbandry programme is available to the registered and bona fide farmers in the Sister Islands?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I cannot say what level of service is provided. I can only say that it is part and parcel of the bigger picture when the feasibility was looked into and I can certainly get that answer and provide it to the Member. In doing so I will also take that into consideration when I speak to the Department about the same question that the Second Elected Member for Bodden Town asked. I would tie the two of them together and give both of them the answers with that.

**The Speaker:** The Elected Member of East End.

**Mr. V. Arden McLean:** Mr. Speaker, we need to ensure that farmers who are not registered or considered bona fide do not have diseased trees because if the disease is contagious it can certainly spread throughout the rest of them.

I wonder if the Minister can say if in his commitment that he just gave to consult with the Department, if they can also look at the amount of monies being charged for the services because I believe there is the possibility of it being profitable for the Department?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I cannot answer the question because it is fairly vague. If the Member would clarify what he means by looking into the prices—whether he means about looking into the prices with a view to make the charges more for it to be profitable or not. Is that what the Member means?

**The Speaker:** The Elected Member for East End would you clarify your question, please?

**Mr. V. Arden McLean:** Yes, Mr. Speaker, that is what I meant because in one of his previous answers to a supplementary he said that when the department came to his place it took about an hour to spray his fruit trees and cost around \$50. That amount does not seem reasonable enough for the use of pesticides for one hour and also to cover the cost of having department members come to peoples' farms.

**The Speaker:** Can you answer that, Honourable Minister for Planning, Communication and Works?

**Hon. D. Kurt Tibbetts:** Mr. Speaker, let me see if I can tie the answer in satisfactorily for the Member.

First of all, when the programme came into place and the minimum level of fruit trees were decided, the Department decided at that time to handle the situation in consultation with private enterprise (who are doing the same thing on a commercial basis), and have training sessions for anyone interested in the effective use of these pesticides. They are also available to give free advice to individuals or groups with regards to the most effective ways to use these pesticides on their fruit trees. Also, they sell the relevant pesticides to individuals to use.

Now, the philosophy of the whole thing—if we simply provide a service and we want just the Department of Agriculture to do so, then the philosophy will have to change. The Department's conscious decision, giving all of the advice that I spoke about free and everything else, is that they should gear themselves to be able to do this level of service.

For me personally, just hearing the discussions between us this morning I am not convinced that we should simply seek to provide the service that we are

talking about to those people with less than ten fruit trees through the Department. It is much like every other service that Government provides and understanding that this Government, meaning the Cayman Islands Government, is with a philosophy of providing services, certainly there are acceptable levels and beyond that private enterprises can trip in.

It is another question again when we have private enterprises performing these functions and the Department of Agriculture goes out to compete with them so it is not really cut and dried to look at the argument in one direction. I trust the Member is satisfied with the answer.

**The Speaker:** Are there any further supplementaries?

No further supplementaries, we will move on to Question No. 28 standing in the name of Elected Member for East End.

### QUESTION NO. 28

**NO. 28: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works what steps have been, or are being taken to bring the Cayman Islands into the modern postal/communication world by means of the introduction of an internationally approved zip code.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Currently, no plans exist to introduce an internationally approved zip code in the Cayman Islands. To do so would involve costs of research, division of postal zones and automated sorting equipment at the Offices of Exchange in Grand Cayman and Cayman Brac. Mail is presently sorted by suffix and post box number. For example, PO Box 3232GT correctly identifies Post Box number 3232 in the district of George Town. Implementation of a zip code for the small Cayman Islands is not seen as a priority. Zip codes are not universal.

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I noticed the Minister's last sentence that zip codes are not universal. I wonder then how come a lot of the mail sent from other places in the world wind up in Georgetown, Guyana?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The fact that some pieces of mail end up in Georgetown, Guyana, from other



places in the world does not speak to the fact that zip codes are universal.

Not wanting to get into an exchange that is not going to make any sense, the fact of the matter is: While one would probably say that it would be good if this were the case, looking at the situation in the Cayman Islands – and while I accept the instance that the Member spoke about is one that will happen on occasion – at this time it still does not justify going that route for the Cayman Islands: simply because of size and what it would take to integrate the postal system in the Cayman Islands to that level. The end result is a good one but what one would have to go through as an exercise to get to that level at this time it is my understanding that the people who operate the system are not satisfied that it is at the level to justify going that route.

**The Speaker:** Any further supplementaries?  
The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, would the Minister explore the matter further with the other persons in the postal services if for no more than the reason where if one goes on the internet and you are giving an address within the Cayman Islands there is always a place for zip codes. You virtually cannot give a zip code and you keep going back and forth.

Someone quite versed in the business of the internet tells me that sometimes if you put in B.W.I it will accept it as a zip code. There seems to be a problem in that regard so maybe there is another answer near to having a zip code or whatever but if he would explore it a bit further from that perspective.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, so that none of us are vague about it and understanding the concerns of both the Member from East End and the Second Elected Member from Bodden Town, what I will do then is to ask the people who operate the service to put in writing a cost benefit analysis of what it would take to get to that level and what it would take by way of charges to make the whole operation self-sufficient that it is not subsidised. Perhaps then we can make a policy decision at that point in time and I will undertake to do that.

I think both Members should be satisfied with that.

**The Speaker:** If there are no further supplementaries that concludes Question Time for this morning.

Moving on to item number 4, Statements by Ministers/Members of Government. A statement by the Honourable Minister responsible for Community Development, Women Affairs, Youth and Sports.

## STATEMENT BY HONOURABLE MINISTERS/MEMBERS OF GOVERNMENT

### NATIONAL YOUTH POLICY

**Hon. Edna M. Moyle:** Thank you. Mr. Speaker, and Honourable Members of the Legislative Assembly, even though the subject of youth violence is something I would prefer not to be speaking about, I am pleased to be able to say that Government understands the need for immediate action to address this destructive and deadly social ill.

Honourable Members will recall that the National Youth Policy was approved in Executive Council in September 2000 and consequently tabled in the Legislative Assembly. The policy is a document that has been formulated through input by more than 1,500 voices from our islands.

Using a consultative method, this document chronicles the conditions, needs, aspiration, and concerns of a wide cross section of the youth of the Cayman Islands.

Within the National Youth Policy, ten goals have been identified. I would crave your indulgence to allow me to draw your attention to goal one, which states:

1. Young people embracing healthy lifestyles free of acts of violence. The objectives are as follows:
  - To heighten the awareness of young men and women of the consequences of violent behaviour
  - To educate young women and men on the physical, psychological, social and emotional health issues related to youth violence.
  - To develop and promote programmes aimed at providing amicably and friendly ways to resolving conflicts.
  - To discourage the occurrence of organised antisocial activities, example: gangs.
  - To further develop punitive and rehabilitative measures to deal with young offenders.
  - To strive to eliminate the availability of illegal firearms and other offensive weapons.

The National Youth Policy calls for the establishment of a National Youth Commission. This Commission, it is envisaged, will be an independent body made up of members of the NYP Taskforce, representatives of the Cayman Islands' Youth Assembly, the religious community, the business community, educators, social workers and other Government and non-government providers of services to our young people. Its primary responsibility will be to monitor the implementation of the NYP and to advocate for youth issues to be addressed in all other relevant policies.

Subsumed under this National Youth Commission will be several committees. The National Youth

Commission will be empowered to co-opt people to serve on these committees to address the specific goals and objectives of the National Youth Policy.

In the current situation, the National Youth Commission will focus on: Goal 1: Young People Embracing Healthy Lifestyles Free of Acts of Violence.

Mr. Speaker, I believe that there should be a committee of inquiry and it should be an active research "arm" of the National Youth Commission. Its primary function being to address current affairs that are youth-related on a national level. I envisage the immediate mission of this Committee will be to determine the causes of youth violence and to propose preventative and rehabilitative measures.

The majority of youth in these Islands are well adjusted and productive young women and young men. We must continue to take active measures to reduce the numbers of youth who are simply not realising their full potential. The National Youth Commission and the Committee of Inquiry is therefore acutely needed in the Cayman Islands at this time.

Over the past few weeks, Government, specifically the Elected Ministers, Permanent Secretaries and Heads of Departments, have been frequently meeting to brainstorm potential courses of action to combat youth violence. It is anticipated that these ideas will be made available to the Committee of Inquiry to be set up under a Government Motion to be brought before Parliament for possible inclusion in its recommendations should it see fit. This type of preparatory work will assist the Committee with a timely task completion.

Government also intends to ensure that there is an administrative secretariat office space and at least two highly qualified and experienced youth workers to be resource people. As the Minister responsible for education has stated, Dr. Frank S. McField will be the Chairman of the Committee. Government understands that we need action and also understands that knee-jerk reaction is best avoided. We will not have an easy task but through unity and commitment and intelligence we will, God willing, overcome this horrific problem.

Thank you, Mr. Speaker.

**The Speaker:** Moving on to item number 5 on today's Order Paper, Other Business, Private Members' Motions, Private Member's Motion No. 2/01 entitled the Establishment of a Select Committee to Review Caymanian Owned Businesses to be moved by the Fourth Elected Member for West Bay.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 2/01

##### ESTABLISHMENT OF A SELECT COMMITTEE TO REVIEW CAYMANIAN OWNED BUSINESSES

**Mr. Cline Glidden, Jr.:** Thank you, Mr. Speaker.

I beg to move Private Member's Motion No. 2/01 standing in my name, which reads as follows:

**"BE IT RESOLVED THAT this Honourable Legislative Assembly appoints a Select Committee of the whole House to determine which businesses should be restricted to 100 per cent Caymanian ownership and to recommend any necessary amendments to relevant legislation to protect and reserve these businesses for Caymanians only; and that any amending legislation be introduced within a one year timeframe."**

**The Speaker:** Do we have a Seconder?  
The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 2/01 has been duly moved and seconded. Does the Mover wish to speak to it?

The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** Thank you, Mr. Speaker. I want to start by saying that this Motion is only meant as an attempt to level the playing field for Caymanians in small businesses. Let me clearly state up front that this Motion does not in any way attempt to control all businesses. And, this Motion also does not intend to be anti-foreigner, nor does it attempt to stop any Caymanian from selling his business.

Mr. Speaker, there was a time not so long ago when the Cayman Islands were the very survival depended on foreign capital and expertise that was not available locally. We are grateful to our forefathers who made sure that our country was established in such a way to encourage the foreign capital and expertise that was necessary to build our wonderful Cayman Islands. But the time has come when we are now at a much different stage in our development. The time when we have to encourage and support entrepreneurship within our Caymanian people.

As sensible and responsible legislators, we all recognise the necessity of foreign investment and keeping the economic and financial wheels of this Country running. Foreign investments have created one of the highest standards of living in any place in the world for our residents and we will continue to welcome foreign investments and foreign investors in this Country. But, Mr. Speaker, because it is hard for small Caymanian owned businesses to compete with the large foreign owned businesses with which they are sometimes forced to compete. I do not think that it is wrong for me as a representative of the people to

call on Government to consider putting in place measures and policies to promote or protect the local interest of Caymanians. Even the Good Book tells us that any man who does not look out for his own household is an infidel.

We all know that the Cayman Islands has been a place where Caymanians, regardless of what rung of society they may find themselves in, were always able to make an honest decent living in this Country. I believe that once Caymanians can continue to do that they will not feel too threatened or too concerned about the number of people who come here as visitors, or those here on work permits to fill jobs that Caymanians are not presently capable or available to fill. But we have to ensure that Caymanians continue to share in the success that we have in this Country.

We have many ambitious Caymanians who can provide a lot of the products and services, but they need a little assistance, protection and support to get started in these businesses. I know that sometimes in Cayman we have an underlying feeling that foreign things are better, but there are many cases to support that this is not always the case. Especially at this time what is going on in the UK with the provision of local beef with the current outbreak of Foot and Mouth Disease, is but one of those situations.

Another area that comes to mind is the Tourism industry. I know I am safe in saying that there is nobody in the world that can provide a better land and sea tour in the Cayman Islands than a Caymanian. They have always been known for their seafaring success and over the years they became known as some of the world's best seamen. They sailed the seven seas on merchant ships and turtle schooners and sent home their money to help build this Country. But then, Mr. Speaker, some of our Caymanians in a good old entrepreneurial spirit decided that they would try to make a living from the sea without leaving the Cayman Islands. These men, such as: Capt. Ertis Ebanks, Capt. Crosby Ebanks, Capt. Gleason, Capt. Marvin, Capt. Frank Ebanks and others, were pioneers in the watersports and charter fishing industry.

These were the men who were responsible for creating the big tourist attraction that we have today known as Stingray City. In the early days these men were able to earn an honest decent living in this industry and our visitors enjoyed real Caymanian hospitality. But over the years the watersports industry/dive industry has grown to where the Cayman Islands today now boast of being one of the top destinations in the world, and the watersports industry is now big business. As a result, large foreign investors have seen the opportunity and they have come in, through the assistance in some cases of Caymanian partners who get a piece of the action and have attempted to control all the business. And, in the process, have hurt many small Caymanians who are finding very difficult to continue to earn a decent honest living in this industry today.

Mr. Speaker, because this business is not largely capital intensive in today's standards, we have many Caymanians who could go to the bank and buy a bus or a boat and provide a high quality land or sea tour. But right now as that atmosphere stands they are not willing to take the chance to get committed to one of our lending institutions because of the lack of stability in the industry.

The reason why the industry is unstable—for clarity of my point I will use a hypothetical example including figures—let us say ten Caymanians decide to go into the tour business. To start off, they will do a business plan based on the availability of customers and the market price of these tours. Let us say they need \$60,000 to buy a bus and a boat to start their own business. They calculate that the repayment to the bank will be around \$1,500 per month and they will need around \$4,500, including expenses, to provide a living for their families—the desire of all hard-working Caymanians. However, it means that they need to make \$6,000 per month to make their business work. So, they look at the market and figure out that their land and sea tours can be sold for \$35 per person, and that they need around nine customers per day to survive. And then they figure, *'Well, if we are getting around 6,000 tourists per day and even if only 50% of those are going on a tour, then it should not be too much of a problem getting the required nine people to make the business work'*.

So, the Caymanians go out and they borrow the money and they purchase their buses and boats, and they are in business. Everything is going good; business is booming. Each of them has around the same expenses and the same capacity, and they are doing well. Then, Mr. Speaker, as happens in Cayman quite often, a foreign investor decides that he wants to get into the business so he gets a Caymanian partner or an LCCL, and he goes out and buys ten boats and ten buses that each carry 100 people with cash that he already has. Now because he is dealing with volume and he is not paying interest on the loan to the bank, he can drop the prices in half to get the business.

Now the whole market has changed and the local operators who had done their projections on \$35 for nine passengers per day now need 18 passengers to survive because the market price is only \$17. When that happens, we get what is going on now: a war at the docks. Everybody fighting for survival and banks foreclosing on the local business man.

The large foreign control business even though a lot of them are 60% owned on paper by some Caymanians have tremendous advantages compared to the small Caymanian who is in business. They have the cruise ship contacts, the contacts with the big wholesalers overseas, they have contacts at the hotels and condominiums locally, and as a result, they are able to sew-up the business at the expense of Caymanians. It has gotten so bad that some hotels even refuse to allow the local Caymanian operators

the privilege of displaying their brochures in their lobby. So the odds are against Caymanians at the present time in the watersports industry.

Now, Mr. Speaker, I have used this example to show how an industry, founded by Caymanians, and which could very well be serviced entirely by Caymanians, is being dominated by foreign-owned business. I know that this same situation exists in many other businesses as well. That is why, Mr. Speaker, I have specifically not listed any businesses in this Motion but I have requested that a select committee of the House decides which businesses should be set aside and protected for Caymanians only.

We know that it is healthy to allow Caymanians to compete among themselves and we want to encourage that. We want to make sure that we can get the very best product because our economy is entirely service-based. But if we do not protect our people, foreigners will definitely not want to come. Nothing is as bad as going to an island (and many of us have visited such islands) where the people are so disgruntled that they lack stability. They are so ill-tempered—cursing and so on—that you feel like taking the next plane or ship out. We never want to see the Cayman Islands like that.

Therefore, Mr. Speaker, I think it is very important for us to do our part to make sure that our own people can survive in dignity in these Islands. As in all developing countries there comes a time when protection is necessary for the local people. Now, I know that there will be opposition to this Motion, if not in this Honourable House, I am sure there will be opposition outside. But, Mr. Speaker, I do not care who likes it from who does not. I am a Caymanian and I was elected by the people to promote Caymanian interests, but it does not mean that I am against any foreign investor in this country. I do take pride in being Caymanian but I know that the minute we start emphasising or promoting these types of ideas, people very quickly label you as being a radical or anti-foreigner. I just want to say that I (and I am sure the other Members of this House) recognise the value of the foreign investor. I recognise the value of foreigner financial industry in this country.

Now, Mr. Speaker, in saying that, I want to make reference to the Bahamas—a country whose economic policy states that: **“the Government of the Commonwealth of the Bahamas is committed to building an economic environment in which free enterprise can flourish, where the government assumes its proper role as regulator and facilitator of economic development. Where the ideals of transparency, fair play and equality of treatment are paramount and a policy that maintains a stable society in which all people are afforded the opportunity to realise their maximum potential.**

**“In this regard the National Investment Policy is designed to support an investment friendly climate. It guarantees the complementarity of Bahamian and overseas investments; fosters appro-**

**priate linkages with all sectors of the economy in particular the tourism and financial service sectors; it encourages the exploitation of our natural resources in an environmentally sound and sustainable manner; provides for the maximum level of employment; guarantees an acceptable level of economic security and generally fosters the economic growth and development of the Bahamas.”**

Now, Mr. Speaker, even with that economic policy there is also a section in the Report that talks about the following businesses, which are reserved for Bahamians only which says that: **“Areas reserved for Bahamians: wholesale and retail operations, commission agencies engaged in the import/export trade, real estate and domestic property management agencies, domestic newspapers and magazine publication, domestic advertising and public relation firms, night clubs and restaurants except speciality gourmet and ethnic restaurants, and restaurants operating in a hotel/resort complex or tourist attraction, security services, domestic distribution of building supplies, construction companies except for special structures for which international expertise is required, personal cosmetic beauty establishments, shallow water scale fish, crustacea, mollusc and sponge fishing operations, auto and appliance service operations, and public transportation.”**

Now, Mr. Speaker, even though there are areas that are reserved for Bahamians, there are other areas that are especially targeted for overseas investors. These areas to encourage investment, they give investment incentives.

**The areas especially targeted for overseas investors: Touristic resorts, upscale condominiums, timesharing, second home development, mariners, information and data processing services, assembly industries, high-tech services, ship repair and other services, light manufacturing for export, agro- industries, food processing, mariculture, banking and other financial services, captive insurance, aircraft services, pharmaceutical manufacturer and offshore medical centres.**

As a caption under the areas especially targeted for overseas investors, it notes **that this list is not exhaustive and investors interested in areas not included above are encouraged to bring their interest to the attention of the Bahamian government.** But it also says, **“Please note that investments of less than \$250,000 will not be considered.”**

Mr. Speaker, I use Bahamas and I have the information available here if any other Members would want to see it. But we also have Turks and Caicos, a country who is playing ‘catch-up’ to us in development. Even in the Turks and Caicos they have reserved certain areas of business for what they call “belongers.” In their report they state that **“Government has reserved certain areas of business for “belongers.”** These include accountancy - non-

**professional agencies, travel freight forwarding, shipping or sales, apartment or condominium sales, rental or management, architecture - non-professional, auctioneering, bakery, bars - not part of the hotel or restaurant, contracting - small and medium, dancehall or disco, motor vehicle sales or rental, vessel operation less than 30 feet, printing, provision of sanitary security or transport services, real estate agencies, retail stores and service station garage operations.”**

So, Mr. Speaker, we are actually behind in legislation to protect our people. We have many examples in the region of legislation, such as what this Motion is seeking to address. Even though it has been long in coming, I say better late than never. We are not talking about businesses and investments that Caymanians are not qualified to undertake. We are not talking about the banks, trust companies and international organisations that have established themselves in the Cayman Islands. We are talking about simple businesses where there are sufficient Caymanians already amongst us to do the job.

I happen to be one of the members of the sub-committee on an inward foreign investment in the Cayman Islands of the Cayman Islands Chamber of Commerce. In closing, I would like to read one of the recommendations that this Committee made, it says that licences should not be issued to entities in certain restricted business sectors, for example: watersports, real estate agencies, management companies, restaurants and public transport. Now, even within the Chamber and from the surveys that were done and when we looked at the Turks and Caicos, Bahamas and Bermuda, we saw that there was a feeling within the Caymanian community that there were certain businesses that should be restricted.

Mr. Speaker, I have not discussed what should be done with existing businesses that fall into the restricted category. That is intentional. There are many possible solutions and if we decide to ‘grandfather’ them in but only allow them to sell to Caymanians, or institute a time frame in which they have to sell them to the existing Caymanian partners, or maybe decide to deal with only the new businesses . . . All of these questions including which businesses to restrict would be decided by a select committee because the important decisions as to the future of the Caymanian people should be a responsibility that we all share. After all, we are paid to represent the people.

I look forward to the ensuing debates on this Motion and I beg for your support. Thank you.

**The Speaker:** The floor is open to debate. Does any Member wish to speak?

The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, I rise on behalf of Government to accept the Private Member’s Motion No. 2/01 which is before us.

Mr. Speaker, this responsibility spans across two areas of Government, that is, the Honourable Chief Secretary’s responsibility for the Trade and Business Licensing Board, and my responsibility for Commerce. This is not the first time that such a Motion has been brought to this Honourable House; we accept and support the establishment of a select committee of the whole House to review such a matter. The Select Committee could review whatever work has been done in the past and also take input from the general public on the matter.

Mr. Speaker, while there have been many calls in many different categories of businesses and commerce to be protected, as always, in such matters it will be necessary to move with caution. There are many sides to this issue and I have also held the position that Caymanians must be left free to dispose of their businesses for as fair a return as they see fit in a free market society. Nevertheless, it is quite obvious that there are some areas that a more levelled playing field is necessary. And, we would hope that the Committee will examine all aspects of this issue to get a clear indication of what the Caymanian business community wants and expects from this Legislative Assembly.

One thing I can give a firm commitment on, Mr. Speaker, is that there will be a revamping of the Agricultural Industrial Development Board (AIDB) into an entity that is capable of assisting small Caymanian businesses in a much better manner than is done today.

Mr. Speaker, in the Throne Speech, His Excellency the Governor mentioned that the AIDB will be revamped. The Honourable Minister of Education has spoken on many occasions about the Gramean Bank and I have talked along the same lines. And, there is draft legislation—there was draft legislation from 1997, while I had responsibility. That draft legislation exists today to turn the AIDB into a proper development bank. That is my intention to move along those lines in order to assist small businesses to be more viable.

I feel that is of great need in these Islands today. So, Mr. Speaker, we have no problem in accepting this resolution and I also would like to thank the Mover for doing such a capable job in his research and the Seconder as they worked together on this Motion.

Thank you very much, Mr. Speaker.

**The Speaker:** The floor is open to debate. Does any Member wish to speak?

Getting back to our normal procedure, normally at this time is when we take the morning break. If it is the wish of Members that we take a break, we shall suspend proceedings for fifteen minutes.

**PROCEEDINGS SUSPENDED AT 11.11 AM**

**PROCEEDINGS RESUMED AT 11.33 AM**

**The Speaker:** Please be seated.

Proceedings are resumed. Debate continues on Private Member's Motion No. 2/01, Establishment of a select committee to review Caymanian-owned businesses.

Does any other Member wish to speak? The floor is open to debate.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. I rise in support of this Motion. I would like to commend the Mover for doing such a thorough job of taking us down the road as to where this Motion has come from and indeed some guidance as to where it would be headed, if accepted and in the Select Committee.

I would implore all my colleagues in this Honourable House to take this Motion seriously, as I am sure they do, and to attend the meetings of this Select Committee which would be established if the Motion is accepted and passed.

Mr. Speaker, there are many who feel like the World is one global market place, and as such, there is no place for such legislation. I am of a differing view. I think each territory and country in this world is unique in its development. In the context of Cayman, the way in which we went about ensuring economic development and promoting investment to generate jobs within our economy and to start to create economic momentum was a bit unique. There was a time when there was little by way of technical expertise on this Island and we were extremely limited in terms of capital and the ability to raise capital.

So, Mr. Speaker, as the Mover said, this Motion is not seeking to be against anyone. This Motion seeks to ensure that in areas where Caymanians can now reasonably be expected to raise capital and start businesses, we must now change the rules by which we generated investments in this country and the way in which we created economic momentum and economic growth.

So, Mr. Speaker, gone are the days when Caymanians cannot be expected to raise capital for small business. Obviously, there will have to be a natural tie-in with education and training in the confines of this Motion. There are numerous opportunities out there in the market place for which there is no local expertise but the cost of start-up is minimal.

We only need to try around and see some of the small businesses that are catered toward our tourists and our tourism sector. But again because we do not have adequate vocational and technical training programme we still see people coming here with ideas, simply as they may be, lucrative ideas, and basically you get a Caymanian partner and you go into business, once you go through the regulatory requirements.

Mr. Speaker, I think it is particularly interested to note that even a country or a territory such as Turks

and Caicos, which when you look at a lot of their criteria for attracting foreign investment, they are at a very early stage in their game. They are far behind these islands. However, at the outset they have seen need to protect certain industries such as service stations and garage operations, real estate agencies, vessel operation for those vessels less than 30 feet long, bakeries. Mr. Speaker, they have seen the need to ensure that the entrepreneurial spirit is promoted and that they give their people the best opportunity to be successful and that is what drives at the heart of this Motion.

We have been elected to represent the people of the Cayman Islands and as such we must ensure that our Caymanians are given every opportunity to succeed. That we ensure that where necessary we give them the protection they may need and I think it is obvious that is needed.

Of course, we have to maintain our investor friendly environment. We must ensure that the foreign investment that is still greatly needed in this country such as large scale projects like hotels, mutual fund administrators, captive insurance managers, banks, trust companies and the list goes on. We must ensure that we keep and maintain our investor friendly environment.

Mr. Speaker, I feel we would be failing in our duties if we do not seize the opportunity and ensure that this Motion is passed and that meaningful results come out of this Select Committee.

Mr. Speaker, I would like to touch one thing in a bit more depth than the Mover did. That is when we spoke of activities at our Port. There are people within the land and sea tour operation who are finding it difficult to make ends meet in this country. We hear incidents about tourists being grabbed by the arm because they want business—cursing each other in front of tourists. Doing things [like] that is damaging to our tourism product. But why? Because they are not able to obtain a decent amount of business to afford them a reasonable standard of living.

Now, Mr. Speaker, there are little things that are happening. There is a Land and Sea Co-operative that seeks to integrate them so they can be marketed as one product. But we must ensure that they are given some level of protection against large scale operators who seek to drive prices down simply because they have the capital to be able to buy boats, bus after bus after bus and then operate just on volume.

Yes, Mr. Speaker, I know we must strike a balance and we must ensure that we are price competitive in the tourism sector. But when we look at this country as legislators and even as common citizens we must always seek to ask ourselves: What is it? For what reason are we developing? To whom are the benefits going to be derived? After all if our people are not able to make their way as this country develops, an undercurrent will be left to fester. An undercurrent because it is labour unrest and social un-

rest and, Mr. Speaker, we must avoid this at all costs in this country.

After all, we all have a lot to lose in Cayman - not only Caymanians but also the foreign investors. So, we must ensure that Caymanians seeking to go into business in certain areas have the first opportunity. There are a lot of details to be worked out. We must be diligent. As a select committee we must be thorough but once again I would like to commend the Mover by going this route. Now we can ensure that we illicit responses from a broad cross section of people within our society and be able to move this concept forward in a manner that will be helpful to our island and our people.

Mr. Speaker, I would just like to end by saying that I think this is a Motion that is timely. I recognise that it may have been brought before in this House but it is timely nonetheless and it's long overdue. So, Mr. Speaker, we must do what we can as legislators to properly represent our people and to give them every opportunity to be successful. Thank you.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I too rise to support this Motion, as the Secunder of the Motion.

Just to repeat what the Second Elected Member for West Bay said. The Motion is very timely it is long overdue, as a matter of fact. I have seen many cases where there have been situations of fronting and such the like. It is high time that we have a close look at the ownership in respect of Caymanians having a fair share of the market.

In many industries which were established by Caymanians, the Caymanians are now in the minority shareholding or part-takers in those industries. There again, Mr. Speaker, without repeating what the Mover and the Second Elected Member for West Bay said, I support this Motion wholeheartedly. Thank you.

**The Speaker:** The floor is open, does any other Member wish to speak?

The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddén:** Mr. Speaker, I rise to make my contribution to this Motion which calls for the establishment of a select committee to review Caymanian-owned businesses.

I wish to begin by making the observation that I understand what the Mover and Secunder are trying to achieve, and I empathise with these efforts. Mr. Speaker, there was a time in the Cayman Islands when Caymanians were in eminent position to benefit to a greater extent from the economic boom which we have been experiencing, than we are currently, by virtue of the fact that all of the businesses were predominately owned by Caymanians. And I am given to pondering as to what went wrong.

Indeed some of the problems with which we are currently confronted are as a result of Caymanians not being in a position to benefit as much as they should be. For when one examines, for example, the hospitality industry and all those services which are created as offshoots of that industry I wonder why in a nation of seafarers the dive industry is dominated by persons other than Caymanians. Similarly, there are other areas and elements, and while the legislation will go some way towards giving us an understanding I would like to see the Select Committee's ambit complemented by a full and thorough examination.

The Government is, I contend, eminently poised to offer some support. Here are my reasons for stating this: In other jurisdictions, governments realise that they have a moral obligation to enhance the ability of aspiring citizens to avail themselves of entrepreneurial opportunities. The Government has to take this responsibility because the Cayman Islands is a classic textbook example of a country filled with banks whose interest is not to help the small struggling and aspiring entrepreneur because they are hell-bent on sticking to the principles of strict capitalism and they are not prepared to offer any soft loans or any kinds of considerations which will help aspiring business people. Yet, Mr. Speaker, other countries much less well endowed than we are in the Cayman Islands have set up models for helping their citizens.

Mr. Speaker, I recall that during my first term here I mentioned one example, which has now grown to be a worldwide and classic example of a bank, designed to help small entrepreneurs. I am talking about the Grameen Bank, which was developed in Bangladesh. It is unique in that it is the only bank in the world that has consistently achieved a 98% repayment rate on all loans. It is designed and established to uniquely, and peculiarly, service a particular clientele: persons who would not normally have access to commercial loans. It has a ceiling above which it does not lend. It is not equipped to lend and it sets up the borrowers into a pool of persons who support each other and ensure that the commitments are made each month so that they can service the loan payments.

Mr. Speaker, the founder of that bank, Mohammed Yunus is a worldwide resource person invited to, among other places, the United States to inform and instruct the United States on how they could set up mechanisms in the inner cities to help disenfranchised small persons who would not normally be able to access commercial loans.

Further, in this hemisphere in Boston, Massachusetts, there is an organisation called Acción International, whose business it is to lend money to these kinds of organisations so that they in return can lend to entrepreneurs who need the money for the establishment of small businesses.

Mr. Speaker, I have gone on record in this Honourable Assembly as saying the time has come in the Cayman Islands for us to look about the establish-

ment of a development bank. A bank which would have as its primary objective making available monies to lend to organisations and individuals which exhibit interests and have the capabilities to enter the entrepreneurial world.

Mr. Speaker, we are a major tourism designation and yet if you check all the services and all of the souvenirs that we sell and we have available for tourists, they all are made in China, Taiwan, Korea – made in other places by and large except the Cayman Islands. Even those Caymanian entrepreneurs who started out in what should have been viable projects have petered out, or have been allowed to suffer a process of attrition so that we have few and far between the numbers of Caymanians who offer any product or service to any significant extent.

Mr. Speaker, I am talking from the most basic in terms of transportation and boat tours, right on to the more sophisticated production of souvenirs. And, when I pass the docks on cruise ship days and see that Caymanian persons are relegated to holding signs saying *'boat tour to the North Sound'* and so on, operating like beggars, while persons who are transplanted—and I am almost tempted to call the names because it fills me with righteous indignation—here, who are criminals from whence they came, are allowed to dominate the industry with impunity. Not only dominate the industry with impunity and not only dominate the industry by having six to ten boats, but paying people slave wages! I feel like I could lose control and give someone a big push off the drop-off!

Mr. Speaker, for too long there have been governments and people who have been content to let this condition exist. But the time has come to put a stop to it. I do not necessarily believe that the way to address these things is through legislation, but if legislation is the only way then it has to be the only way. Let those who want to scream all the "ifs" and "isms" that they want to scream, let them scream! They have laid that on me for twenty years and I have survived. The time has come now for the Government to be a Moses to the Caymanian people because they need a Moses!

Mr. Speaker, the statistics tell us that 80% of the employers in this country employ ten persons or less. So, there is a reason for us to be concerned about the protection of Caymanians, particularly small employers. I have reason to believe that the Government is cognisant of the fact that it is past the time of lip service. Now we have to act.

I certainly would love to see some kind of effort being made toward the establishment of a development bank in the Cayman Islands, and complementary to that a micro-finance initiative so that we can have available to us money specifically earmarked for the development of small Caymanian businesses. But, Mr. Speaker, not only that: we should also help these aspiring entrepreneurs to develop business plans, feasibility surveys and proper prioritisation, so that they can understand the commitments they have

and that they can run their businesses according to modern management principles and practices.

Mr. Speaker, we have tried (through the AIDB) offering some assistance. Unfortunately, the record is blemished because there are more failures than there are successes. It should not have been that way, yet I believe that the breakdown was to a large extent because the capital (which was available) had to be loaned out at high interest rates, which the borrowers could not sustain. We have to find a way of accessing capital that can be loaned out at affordable rates. That is the key and when we do that, then we have to give the proper preparation.

Mr. Speaker, it is an objective of the Ministry for which I hold constitutional responsibility, that one of the things we do is offer some training in small business development and entrepreneurship. On a recent visit to Jersey, we paid special cognisance of the office they have which caters to these small business ventures. Persons who go into business are not left cold turkey to fend for themselves.

I believe that this call for a review is a step in the right direction, and I would only hope that the work of the Select Committee can be done in an expeditious and urgent fashion so that we are able in the next little while to get on with this. This is of crucial importance now when we consider the fact that the local economy here appears to be contracting.

Mr. Speaker, it is clear now that we need to take a broader view of the economic development of our country and we need to place greater emphasis on developing what I call *onshore* industries and areas vis-à-vis the offshore. Clearly, the offshore areas are under pressure, under threat, and in order for us to safeguard and ensure some reasonable development we must place greater emphasis on developing an internal or a domestic economy, which is not a concept foreign to the present speaker because I advocated and articulated this years ago.

Clearly, those countries are most powerful which have within their borders a great control of their own economy. And, since the money is really not our money, the only way we are going to be in a good position is if we develop industries and businesses which will allow a greater percentage of the money to remain within the Cayman Islands. We have to begin doing that. We have to begin encouraging Caymanians to get involved in that and we have to begin promoting that as a philosophical principle of the Caymanian economic development.

Mr. Speaker, it is the only true ingredient which is going to allow what economists call the *multiplier effect* to take place. It is the only method by which we are going to ensure the trickle down effect is going to reach everyone in the Caymanian society—from those at the top to those at the bottom. Clearly, it cannot be done through condominium development because the developers of these establishments are to a large extent not who I would call indigenous Caymanians. They are done from purely speculative



purposes with no regard. The only thing that the Caymanian gets out of them, if they get anything at all, is a little construction job. When that is over—finish, kaput—the Caymanian is disenfranchised. He has no interest or no opportunity to earn anymore. We have to get our people working and evolved.

Mr. Speaker, every person who spoke, has spoken of the respect we have for the foreign investor and we still have that respect; we need them and we encourage them. But I am saying that certain areas have to be reserved. Mr. Speaker, it is so in most countries similar to the Cayman Islands. Certain areas have to be hived off and reserved for local entrepreneurship, otherwise our people cannot compete because big investors, particularly those in the hospitality industry control everything. They have their own buses, boats and their own hotels. So everything is in-house and we have allowed that! In no other country in the Caribbean would that be allowed to happen. I dare anyone to go to Jamaica and get that kind of establishment! So how can Jamaicans come here and get it?

Mr. Speaker, a stop has to be put to that kind of thing because we have given away already too much. If you go to the Bahamas you will understand that in certain areas and certain services you see and you deal exclusively with the Bahamians. So why can we not have that here? Why can we not have that in the Cayman Islands? We need that. The time has come and this Motion is a step forward. There is enough turf and territory here that the foreign investors whom we need can continue to develop those areas and enterprises which take maximum capital. But the Caymanians must have the right reserved to them to have certain areas which they can enter relatively competition free from outside elements, and the hospitality industry offers a showcase where we can do that. Mr. Speaker, to do otherwise, would be to fool ourselves and to be courting disaster.

It is unfortunate that while the Government now has the intention to give this kind of support, it is not in a position where it could actively at this time pursue the establishment of development bank. But I am calling again for the Government to be minded of this move and also to bear in mind the necessity of the Government to place itself in a position where it, the Government, can set up the mechanisms for proper micro-finance initiatives.

Mr. Speaker, in addition to what the hospitality industry offers by way of opportunities, there is also the agri-industry which is a good area for the Government to get into by virtue of the fact that it should set itself up where it can offer affordable capital for Caymanians to pursue areas in the agri-industry.

I hope, Sir, that the Motion when it is passed, as I know it will be accepted, can expeditiously set up a select committee, and that select committee can proceed with a minimum of procrastination because Heaven knows that Caymanians need all of the help they can get at this time. Thank you, Sir.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I cannot miss the opportunity to speak after that Honourable Minister because I believe that he was saying so many relevant things.

What he needs to be saying though, Mr. Speaker, is that *his* government *will see to it that it does this* and *it does that*. Really it is now in the hands of *his* government to make sure that there is a change in the way in which business is done in these Islands.

We will start by looking at the question of how a business comes to being in the first place. A lot of us believe that a business is some legal instrument put together as soon as we get the relevant laws and put the Memorandums of Association and Articles of Association together, create company directors and secretaries of companies, and somehow at the end of the day we have a business. That provides a legal framework for a business, but a business is a trading entity and that is brought into being as a result of the existence of capital. Business uses capital in order to make profit on that capital which it has to its disposal.

Unfortunately, to begin with, businesses in Cayman have been at a disadvantage because of unfair lending practices among the merchant banks in the Cayman Islands. This is the true picture of the situation. It is not just that foreign companies have come in and competed against Caymanian small businesspersons. The banks have also fostered the growth of foreign businesses in these Islands to the disadvantage of Caymanian business people, and this is a fact. Our own banks that have taken our labels have set themselves up also and have pursued a policy similar to what we might consider to be the policies of the foreign banks.

So, if we start at an unfair disadvantage from the point of view of our access to capital, then we are going to, even if the Law favours us, end up at the end of the day at a disadvantage. So, it is important for the Government of the day to realise that they are now in a position to bring about a new attitude, a new policy with regards to lending.

If the Government of the day will continue to support the monopoly on lending which the Class A banks have at present – that continue to charge very high interest rates for business ventures . . . You can go into the bank and get a loan to get a business and you are given a much more unfavourable business arrangement than they would give you if you went to buy a house or a car. We know that. For instance, they will give you a 20-year loan on a house, but when it comes to a business they want to give you a three-year loan, or a five-year loan with even higher interest rates.

So, even at a time when interest rates are going down in the United States, we still have to pay high interest rates as a result of the fact that we have to

pay the 3% above prime. We have never been able to figure out why they charge us 3% above prime. Maybe someone can explain what this 3% is for. What does that particular cost to the consumer in Cayman Islands represent?

So, until the Government can have more influence on the lending policies and strategies of commercial banks in such a way that they would favour local small entrepreneurs, the (local small entrepreneurs) will be at a disadvantage. They might turn around and misuse the position which they are given by the Law in terms of the preferred position, by going and fronting for other individuals or finding some other way. Because, although the law says that they can establish businesses and that they should have the priorities in terms of owning those businesses, they cannot afford to establish these businesses simply because they do not have the capital.

So, even when we look at the market as it is, every single individual out there looking for help is not just doing so with regards to legislative protection; those persons are looking for assistance with finding the capital to improve the productivity of their businesses—the businesses ability to deliver services by having the relevant personnel and equipment to do just that.

That means, Mr. Speaker, we would all have to go back to the lending institutions again. So, what the past speaker had to say was relevant with regards to the development bank. He is again in the position to make sure that idea is developed as speedily as possible or that some compromise is made regarding that concept. If it is not a development bank, there has to be some way that the lending institutions will allow the Caymanians to have access to capital.

So, one of the things that I have always said was necessary is that there is a need for the Government to look at some of the unnecessary fees that the banks are charging. You go there and you have to put your house back up for mortgage and before you know, they are charging you a percentage here, and you have to have the same lawyers. You have to pay lawyers again just to change the arrangement and nothing is being done from a legalistic point of view. Nothing is being altered! The only thing happening is that you are coming back and you are saying *'I am bringing my house back again'* or whatever. *'I have paid down a bit on the loan and now I am saying that I would like to get a little bit more money'*. Mr. Speaker, they have to get a lawyer involved. The Government takes a part too to re-indenture your house. So, these are the things we have to look at which cause small businesses not to be able to succeed as they should in the Cayman Islands – those businesses owned by Caymanians.

Now, I know that the Motion is being brought by the Fourth Elected Member from West Bay and I realise that there is a focus in terms of the Motion on the watersports industry. I heard mention of the co-op being encouraged as a way to allow people to ration-

alise more the use of capital and the use of other resources in order to improve their businesses and be more able to compete. But, certainly as the Minister for Education and Human Resources mentioned, there is one individual in particular who is involved in that watersports industry and I think that person is Ernest Smatt from the Beach Club; the Minister did not mention that but I will.

I feel somehow that there is a case in point of what could be done to assist the other struggling Caymanians in that particular industry because from dealing with that individual I would say that anyone who has to confront him on a business level will be at some great disadvantage. So there we are if we look a little closer at the persons who are operating today.

We have a company like Red Sail. What is that? That is a giant monopoly. From its very inception it was organised in such a form as to be able to out power any, not just small companies, but any company by having more capital available and by having more influence when necessary in order to preserve its trading ideology and strategies.

If we look at the ways in which the hotels are owned, if we look at hotel policies (this is a good one for the Minister of Tourism) where we have the people who are not Caymanians giving the information to the tourists as to what to do . . . So loyalty and identity are important questions here. We have always stressed that if we have Caymanians as the information managers in the hotel industry that they would favour their own Caymanians who they know are more qualified to develop that Caymanian tourist product than foreign persons that are brought here, that are transient, and have no interest in preserving certain types of attraction in the Cayman Islands.

We know that part of saving the small Caymanian business, at least, in the tourism industry also has to do with amendments of the way in which the hotel industry regards Caymanians. The hotels are owned by big companies and they are always saying that if they have to make certain types of changes that in itself would be an inconvenience to them and they are very reluctant to do this, and they are saying Caymanians are not trained and qualified.

I remember the days when Caymanians were doing all of the jobs that had to do with entertainment in the tourism industry. Caymanians were playing the music because music and groups are also part of small business. Musicians earn money so we are talking about the fact that if musicians are establishing in the hotels, at the end of each set, people will come up to the musicians and say, *'Oh what a nice song and your Island is such a great place. It is a beautiful place! Where do you recommend that we go to eat and where do you recommend that we go snorkelling and how do we get to Stingray City? Who should we use?'* The way in which information is passed on is an important part of that entire business infrastructure that we have seen fall apart as a result of the fact that we have bowed down and bowed down to the policies

of the banks and hoteliers, who at the end of the day serve a similar purpose. That purpose is to make sure that stability in the Cayman Islands is interpreted as their having control and their not having to answer to anyone.

So we know that what we have to do here is more than putting this into a select committee. We know that we have to start thinking. We have to start getting out there and finding out exactly what the small businesses are experiencing. We have to look to other countries. I do believe that the Minister for Education was in the Bahamas, and saw some very interesting and important things that were been done in the Bahamas in order to assist and improve small businesses.

So, I can support this Motion: I understand that those of us in George Town, for instance, have been a little bit more removed in terms of our tradition from the whole concept of small business. Our small businesses have been destroyed basically in George Town by some of the bigger Caymanian companies, in particular, not just foreign companies that came here in the fifties. So, some of us local George Towners whose parents owned shops, restaurants, bars and different things have been pushed into the rank and file to become the Caymanian proletariat as a matter of fact.

That is the reason why we are also interested in getting the Honourable Members from West Bay to see that trade unions are also some things that small people would like to have supported, in order that they can be brought together in a co-operative effort, in order to preserve their 'Caymanianness' and their Caymanian influence, and in having a stake in the Cayman Islands. Not all influence is derived from business. Some influence is also derived from labouring and being conscious of one's contribution to the society by virtue of the fact that one forms an important part of the spokes of the wheel of commerce.

Mr. Speaker, I support this Motion and I hope when the Motion to review the Trade Union Law comes that the Minister responsible will be as enthusiastic about that as he was about this one.

**The Speaker:** Let us not anticipate.

Does any other Honourable Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Thank you. Mr. Speaker, almost thirty years ago the legislature of these Islands passed three pieces of companion legislation—The Caymanian Protection Law, the Trade and Business Licensing Law and the Local Companies Control Law in 1971.

In 1971, the population of these Islands was approximately 11,000 souls and very much in the early stages of development. There was little capital around and many efforts were made to encourage investment in these Islands. But, Mr. Speaker, interestingly, not-

withstanding that objective in 1971 when the Caymanian Protection Law was passed, its Memorandum of Objects and Reasons reads as follows: **“By reason of the tax advantages afforded to many people by taking up residence in the Cayman Islands and the unprecedented prosperity of the tourist industry, there has arisen a grave risk that the social character of the islands as well as the way of life of the population may be adversely affected by the influx of private and business settlers and other consequential factors.**

**“It is sought to enact legislation calculated to control the situation by affording means of protecting the traditional way of life of the Islanders by cushioning the impact of the establishment of international business interests and of settlement here by people who formerly had no interest in the public and private affairs of these islands.”**

Mr. Speaker, that was almost thirty years ago. I daresay that our forebears in this House had tremendous insight and forward thinking when they enacted those pieces of legislation. All three laws are still in full force and effect, some having undergone significant amendment and change, and, in the case of the Caymanian Protection Law, a change of name. Mr. Speaker, the purpose of that legislation was to ensure that while investment was encouraged, Caymanians continued to maintain a prominent place and role in the Island's progress and economy.

The Local Companies Control Law and the Trade and Business Licensing Law working together sought to ensure that businesses continued to be largely Caymanian-owned. Thus, the provision which required that a minimum of 60 per cent of the issued share capital of a company be owned by Caymanian interest and that 60 per cent of the directorship of companies also be Caymanian-owned.

The Local Companies Control Law provided the exception to this by permitting what was then the Caymanian Protection Board to grant licences to companies where in accordance with the Law considered that the particular investment or business which that company would engage in could not be carried on by Caymanians. Mr. Speaker, the provisions of the Local Companies Control Law required the Board to take into account when deciding whether or not to grant a licence to a company which was less than 60% Caymanian owned, a number of different factors, which included:

- The economic situation of the Islands and the due protection of persons already engaged in business in the Islands.
- The nature and previous conduct of the company, and the persons having an interest in that company.
- The advantage or disadvantage which may result from the company carrying on business in the Cayman Islands.

- The desirability of retaining in the control of Caymanians the economic resources of the Islands.
- The environmental and social consequences that would result from the carrying on of the business proposed to be carried on by the company, to name a few.

So over the last thirty years the situation which has obtained has been one in which, taking into account those various factors, various companies which are less than 60 per cent Caymanian-owned have been granted licences to do various things. Some of these have included the operation of watersports.

Mr. Speaker, we are now at a point in the development in Cayman (perhaps, we have been at that point for some time), where sadly there is a growing disillusionment – and I may even venture to say, *anti-foreigner sentiment* – within the community. This in my view is largely based on the perception by many Caymanians that the economic marvel which this Island now is, is one in which they have a disproportionate share.

This situation runs right through the length and breadth of commerce in these Islands. It is not limited merely to the watersports industry or the Tour industry, but also applies in the Retail and Wholesale industries in these Islands. There has been over the course of the last few years considerable agitation over this point and indeed even litigation.

There are companies that have been developed by Caymanians and have become quite successful with the assistance in some instances of foreign capital. There are companies that have been developed by Caymanians who now wish to sell either their entire company or shares within their company to a foreign interest. Mr. Speaker, this is when we arrive at a crossroads.

We have on the one hand, the Caymanian who feels that he has the legitimate expectation of selling his business interest or some part of them to anyone whom he chooses and anyone who will pay what he regards as a fair price. He believes that even though the consequence will be that the company becomes foreign controlled, he believes that because he has made a substantial investment in time, effort, and money, and has pulled himself up by his own bootstraps that he should be entitled to realise the profit of that hard labour. That is a fair position to take, looking at it entirely selfishly.

But on the other hand, when the foreign interest concern is a huge multinational co-operation with tremendous financial resources and access to capital, and when the business that is being purchased is one which trades locally and competes locally with local businesses then we have the real dilemma. This is not an easy question and I do believe that we have arrived at a time when a review of this range of legislation—The Immigration Law, The Trade and Business Licences Law and the Local Companies Control Law need to be reviewed.

Mr. Speaker, I support this matter being reviewed and support this Motion which would send this matter to a select committee of this House. While this is a very emotive matter I urge all Honourable Members of this House to approach this issue intelligently and sensitively. This is far too important a matter for us to act in an arbitrary manner.

We must strike the right balance between ensuring that Caymanians share in the continued development of this country. But we must also make sure that in achieving that we do not destroy the desire on the part of foreigners to continue to invest in these islands.

Caymanians have rightly said over the last few years, 'Who are we developing this country for?' That is a very important question and one that we need to ask ourselves every time we approve a new development. But I do not believe that we are at a point, nor did I hear any Member of this Honourable House suggest otherwise, where we can snub and shun all foreign investment and capital.

So, Mr. Speaker, with those few remarks and few words of caution I support the Motion. Thank you, Mr. Speaker.

**The Speaker:** At this time we shall suspend proceedings until 2.15 pm for lunch.

#### PROCEEDINGS SUSPENDED AT 12.44 PM

#### PROCEEDINGS RESUMED AT 2.28 PM

**The Speaker:** Proceedings are resumed.

Debate continuing on Private Member's Motion No. 2/2001, Establishment of a Select Committee to Review Caymanian Owned Businesses.

Does any Member wish to speak? The floor is open to debate. No Member wishes to speak?

Does the Mover wish to exercise his right of reply?

The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** Mr. Speaker, I rise to thank the Government for so readily accepting this Motion and also the other Members of this Honourable House who have spoken in support of this Motion. It is very encouraging to see that this Motion has met with such widespread support. It seems to have been in the minds of the present Ministers of Executive Council and during the debate it was very enlightening to hear the various sections and discussions as to the reason and need for such a Motion and the need for protection of Caymanian businesses.

We heard from the Minister responsible for Education how another sector of the Caymanian society was being affected in an adverse way as well. Not only those sections that this Motion talks about as to existing Caymanian businesses which have acquired the required capital to start their own business, but as to the need for the Government to ensure that the

lending practices that are exercised here in our wonderful Island are such that they also encourage people who have so far not been able to raise the required capital to again encourage more Caymanian businesses.

Mr. Speaker, in the Motion we did not get into the areas of fronting which is a terminology that most Caymanians are very versed in using. There has been much discussion as to the amount of fronting that goes on in the various businesses here in Cayman. And, even though we all know that this Motion will not solve that issue completely, I think, it is a fair statement to say that if the situation that exists now where we have people that are comfortable with putting up capital in return for having 40% of business on paper, it would be a bit more discouraging for those individuals if they were actually putting up 100% of the capital but legally on paper having no per cent. So, even though the Motion was not intended to address that problem it will have advantages in that area as well.

It was also enlightening to hear the Third Elected Member from George Town when he spoke about the needs and the influences that have been used to move Caymanians out of the areas of business that could influence and assist Caymanians in their various businesses that they are involved in. Especially the area I know he is familiar with - the tourism section.

In saying that, I just want to make mention of a letter that I received from one of the hotels where Concierge for those particular hotels are Caymanians and as to a new policy directed, it seems to have been sent down pertaining to those Caymanian concierges. That is to say and I quote: **“This serves as an official clarification of shoeshine procedures. We do shine guest shoes should they need it. When guests contact service express or any other department enquiring about this service, the appropriate department simply needs to notify the bell attendants to pick up the shoes. These are to be brought to the Concierge who shines the shoes and returns them to the guests via the bell attendant. There is no charge for this service.”**

Mr. Speaker, this does lend credit to what the Third Elected Member for George Town said, that the areas where we have the local concierge who could be used to encourage and direct business to the Caymanians . . . it appears to be an attempt to be driving them from those positions. So, Mr. Speaker, I look forward to the acceptance by those Members who have not spoken on the Motion. I know some of them intended to speak but in the interest of the efficient use of time, they have decided not to and I look forward to that support.

I look forward also to the speedy implementation by the Government of a select committee so that we can get this matter moved forward as expeditiously as possible.

Thank you.

**The Speaker:** I shall now put the question on Private Member's Motion No. 2/01 entitled Establishment of a Select Committee to Review Caymanian Owned Businesses. The Resolve section reads as follows:

**“BE IT RESOLVED THAT this Honourable Legislative Assembly appoints a Select Committee of the whole House to determine which businesses should be restricted to 100 per cent Caymanian ownership and to recommend any necessary amendments to relevant legislation to protect and reserve these businesses for Caymanians only; and that any amending legislation be introduced within a one year timeframe.”**

I shall now put the Question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Motion is passed.

**AGREED: PRIVATE MEMBER'S MOTION NO. 2/01 PASSED.**

**The Speaker:** Moving on to Private Member's Motion No. 6/01 entitled Review of the Trade Union Law.

The Third Elected Member for George Town.

## **PRIVATE MEMBER'S MOTION NO. 6/01**

### **REVIEW OF THE TRADE UNION LAW**

**Dr. Frank S. McField:** Mr. Speaker, this Private Member's Motion standing in my name reads:

**“BE IT RESOLVED THAT the Government undertakes a review of the Trade Union Law in order to address the existing shortcomings and to bring it in line with current developments in Caymanian society.”**

**The Speaker:** Do we have a Seconder?

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, I beg to second this Motion.

**The Speaker:** Private Member's Motion No. 6/01 has been duly moved and seconded. Does the Mover wish to speak to it?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, perhaps, I should begin by saying that one of the most alarming developments in the Cayman Islands at present is that the Concierge is being required to become the shoeshine boy. I think that this in itself places the Motion that I have brought before this Honourable House within the

context because it certainly speaks to the dictatorial policies of hotel managers and owners. Part of what a trade union is supposed to do, is to look after the social and economic interest of its members, the workers.

So, we do see that there is some need for the recognition of a trade union movement, which already forms part of the laws of the Cayman Islands. In 1967, a trade union law was brought into force in the Cayman Islands. Unfortunately, this law was the result of combining the 1871 British Trade Union Act and the 1906 British Trade Dispute Act.

Mr. Speaker, this goes to show that somehow the Trade Union Law should be reviewed with the view of having it updated and be able to include some of the more relevant philosophies which now exist in this sphere of industrial relationships.

Mr. Speaker, our Trade Union Law defines a trade union as **“any combination whether temporary or permanent, the principal purposes of which are, under its constitution, the regulation of the relations between workmen and employers, or between workmen and workmen, or between employers and employers whether such combination would or would not, if this Law had not been enacted, have been deemed to have been an unlawful combination by reason of some one or more of its purposes being in restraint of trade.”**

What it tells us, in fact, is that a trade union has to do with unity in the sphere of trade. It could be a combination between employers and employers, or between employees and employees. The law is not prejudice as to which takes place, but at the time in which the law was enacted, it was enacted primarily in order that such combination would not be unlawful. That was the primary purpose of the law and the law has not developed very far since then. For instance, section 8 of the Law says,

**“With respect to the rules of a registered trade union-**

**“(a) the rules of each such trade union shall contain provisions in respect of the matters mentioned in the Second Schedule; and**

**“(b) a copy of the rules shall be delivered by the trade union to every person on demand on payment of a sum not exceeding ten cents.”**

Mr. Speaker, that is a very small amount of money and would certainly not cover the cost of printing the constitution of the Trade Union.

We find also in section 12(1) that it says,

**“It shall be lawful for any registered trade union to purchase or take upon lease in the name of the trustees for the time being of**

**such union any land not exceeding one acre . . .”**

So again we see that is a very restrictive clause and I am pointing to this really just to show how long since the law has been examined to see whether or not it is practical and functional.

But, Mr. Speaker, these are just some of the minor reasons why I am bringing this Motion to ask the Government to look into the review. The main reason that this Motion is here is that I anticipated that the Government would have an interest in reviewing the present Labour Law. In answering a Parliamentary question, the Honourable Minister responsible for Education, Human Resources and Culture said that the Government intended, as a matter of some priority, to conduct a thorough review of our Labour Law to ensure that it is fully in line with the highest international standards.

The international standards that the Minister is alluding to would, first of all, be with regards to the main question: **“Was the Cayman Islands a party as a result of the extension of the ILO convention? Was the Cayman Islands a party as a result of the United Kingdom being a party to these conventions and having the conventions extended to the Cayman Islands.”** The Minister’s answer was in the affirmative.

Mr. Speaker, this means that the question of freedom of association and the effective recognition of the right to collective bargaining has been recognised by the Cayman Islands Government and by the Minister here. Now, the position that it places us in, is that, by virtue of the ILO constitution, a state by ratifying a convention undertakes to take such action as may be necessary to make effective the provisions of such convention. The obligation is not limited to giving effect to the convention in law but extends also to ensuring its application in practice—the application of collective bargaining in practice.

Furthermore, a ratifying state is requested under Article 22 of the convention to supply regular reports to the ILO on the measures, which it has taken to give effect to the provisions of conventions. Even if they have not ratified the conventions in question, member states have an obligation (arising from the very fact of the membership in the organisation), to promote and to realise in good faith the following fundamental principles among which is ‘the freedom of association’ and the effective recognition of ‘the right to collective bargaining’.

So, the Government is, of course, being reminded at this particular time of those obligations and since the Government has already indicated that it will be reviewing its Labour Law, we are saying that this is a companion legislation law and that this law also needs to be looked into.

In reviewing, of course, these laws we need to understand that the Labour Law that was formed as late as 1987 does not even recognise the existence

of a Trade Union Law. There is no definition of collective bargaining. There is no definition of collective agreement in the vocabulary of these laws. If we are going to treat our relationships with these conventions as serious, as the Minister had stated in his answer, then we would have to, at least, give some type of legal recognition of our understanding of these principles which are very important principles concerning the freedom of association.

Now, the freedom of association is the recognition of the right to organise. I have here the *ILO Principles, Standards and Procedures Concerning Freedom of Association*, and I ask your permission to read briefly from parts of it with regards to the recognition of the right to organise.

**“In recognising that all workers, without distinction whatsoever, have the right to organise, Convention No. 87 summed up the idea that had already taken shape during the preparatory work on the Convention when it was stated in more detail that freedom of association must be guaranteed in both the private and public sector, without distinction or discrimination of any kind as to occupation, sex, colour, race, creed, nationality or political opinion.**

**“While in the great majority of countries the right to organise of workers in the private sector is recognised, recognition is somewhat less generalised in the case of civil servants and sometimes even in the case of workers in nationalised undertakings. Nevertheless, at the time the Convention in question was being framed it was clearly established that public servants should be included in the scope of the new instrument, it being pointed out that ‘it would be inequitable to draw any distinction, as regards freedom of association, between wage earners in private industry and officials in the public services, since persons in either category should be permitted to defend their interests by becoming organised’. At the same time, it was made clear that the recognition of the right of association of public servants in no way prejudged the question of their right to strike which was a problem quite apart.”**

The other aspect of this concept of freedom of association deals with **“Right to Collective Bargaining”** and reads: **The right to negotiate freely with employers and their organisations with respect to wages and conditions of employment constitutes a basic aspect of freedom of association and, consequently, trade unions should be able to exercise this right without being hampered by legal restrictions. The adoption of restrictive measures runs counter to the principle that workers’ and employers’ organisations shall have the right to organise their activities and to formulate their programmes, and is incompatible with the provision of Convention No. 98 which calls for the encouragement by governments of voluntary collective bargaining.**

**“Among the methods employed to promote collective bargaining are procedures for designating the most representative trade union as collective bargaining agents, provisions enforcing recognition of such a union by employers, the use of conciliation machinery to assist the parties in the collective bargaining process and the setting up of joint collective bargaining committees.**

**“It should be borne in mind that the right to bargain collectively is not the exclusive prerogative of primary organisations, but should also be granted to federations and confederations . . .”**

Mr. Speaker, I would just like to table this so that it serves the other Members at some particular point and becomes a part of the record of this House.

**The Speaker:** So ordered.

**Dr. Frank S. McField:** Mr. Speaker, I guess part of what I am pointing to is that it is not a freaky thing for a person to be interested in a trade union. It is not a strange occurrence. It is not like Martians coming down here to the Cayman Islands. It is part of modern industrial culture. The same way we want to talk about small businesses and the rights of small businesses, we want to talk about workers and the rights and interest of workers. We want to give them the democratic organisations, not give them the illegal weapons or encourage them to solve their grievances in undisciplined, unorganised, undemocratic methods. We want to create a framework within which they can continue to be a part of the solution to the problems which they encounter, which they view themselves as encountering on a day-to-day basis.

I have an example of that, that I can somehow give again with regards to the Concierge being required to shine shoes, which means if we had an underground organisation within that particular hotel it would be more difficult for them to use this type of constructive dismissal to remove the few remaining Caymanians in these positions. Our experiences tell us that the interests of Caymanian working people have been continuously eroded by the fact that they have no organisational support within the work place.

Now, it is fine and good that the Government sees itself as capable of representing the interests of all parties and groups in society. But, I think there is a folly to this, when Government thinks somehow that it can represent all groups perhaps even better than the groups can represent themselves. Government can assist groups in representing themselves, but primary organisations are necessary. Groups must all have their particular interest somehow in an organised fashion and it serves also to discipline working people and to keep them as a part of what we consider to be organisations that are a part of the norms of our society.

So, we have no . . . at least I have no desire in calling for this Motion to be reviewed—simply that it be put on the shelf, like it was when revised in 1989.

When we took the Trade Union Law off the shelf in 1999, most people did not know that a Trade Union Law existed in this country. Why did they not know, when they knew so much about the Labour Law? Why did they not know that a Trade Union Law existed when the Minister responsible for Labour talked about *“for a number of years the Director of Labour has worked closely with the International Labour Organisation, Caribbean Office, and has utilised the expertise of that office in a number of areas including the training of labour inspectors and members of labour tribunals, and labour appeals tribunal”*?

What the Minister did not say is that the ILO is a tripartite organisation and they not only have experts to assist the labour inspectors; they also have experts to assist labour unions and the leaders of labour unions. So, the same way Government is able to receive support from the ILO, the employers are able to receive support from the ILO. For instance, the Chamber of Commerce (Mr. Will Pineau) and I recently attended a conference in Port-of-Spain, Trinidad, which dealt with the whole question of labour management relationships. And it is unfortunate that the Government did not have representatives there, because we were beginning to coin the start of a new movement in the Caribbean which would bring in that phase where labour and management understand that only when they co-exist; only when they share information; only when they see themselves as joint stakeholders in enterprise would the enterprise be productive and beneficial to all the stakeholders.

This is the type of framework I am working within when a member of the Chamber of Commerce would be at the same forum that I am at, representing the employers, while I would represent the employees. I felt that the dialogues that we were having were progressive – that we are talking about how to improve the employers because there are some very good employers, just like there are some very bad employees.

So, trade unionism does not necessarily mean support for bad employees and the destruction of good employees. Trade unionism (at least in the modern context, the context in which the ILO speaks of and the context in which I speak of it) means the encouragement of good employers and the rewarding of good employees, and sanctioning the bad employees.

It also means that you have an organisation that has the capacity to recognise the need for skills improvement within the rank and file workers: the need to encourage them and to motivate them so that you organise even at that particular level. Your organisation goes that far in terms of working to complement each other; to have one common goal which is the success of the enterprise; to make it competitive, productive and rewarding—not just for the employers but for the workers. That is the new spirit of the new age of labour, the same type of labour that we were able to see ushered in in the UK when the Labour Gov-

ernment was voted in there not too long ago – I think it was in 1998.

I have a letter from the House of Commons, that I would like to read and table. It is addressed to me, as Secretary of NACE, dated Monday 18 December 2000, and it reads:

**“Thank you for keeping me in touch with employment problems on the Cayman Islands. I have at last managed to speak to Bill Morris about the situation and he is happy for you to contact him directly at the Transport and General Workers’ Union, Transport House, 6 Palace Street, London, SW1E, 5JD, telephone [so forth and so on]. I am writing to Bill to let him know that you will be contacting him in the near future. I am also raising the matter with the Foreign Secretary, Robin Cook, I hope that they will be able to assist you.**

*[signed]* **“Fraser Kemp, MP.”**

And then a letter that I got on 26 February from Fraser Kemp to show the continuation of correspondence. Although there is some correspondence that is not here. It reads:

**“Dear Frank:**

**“Thank you for your letter. I was rather surprised by what you said in it though, as Bill Morris sent us copies of correspondence he had with you. I have enclosed copies in case you didn’t receive them. I have also forwarded your latest letter to Ray Collins at the TGWU who is dealing with your case. I hope things will move in your favour soon. I think we should see first if there are any funds available to fight your case before approaching a lawyer. Keep us in touch with everything.**

**“Best wishes,**

*[signed]* **“Fraser Kemp, MP.”**

Now the letter that should have come from Bill Morris we got that a little bit later. I do not know what the problem was. It is addressed to me as Secretary of National Alliance of Cayman Island Employees, and it reads:

**“Dear Dr. McField:**

**“Thank you for your letter dated January 3<sup>rd</sup>. I have had discussions with and correspondence from Fraser Kemp, MP, concerning the issue of trade unions in the Cayman Islands arising from his visit last year.**

**“I can advise that we do have membership around the world under different legislative authority. For example, we do have members in Gibraltar, which of course has the same status as the Cayman Islands.**



**“In order to move this matter forward, it would be extremely helpful if I could have details of the current structure and constitution of your organisation, and information whether it is, or has, attempted to affiliate with any international or regional trade union body, including those under the umbrella of the International Confederation of Free Trade Union.**

**“The T&G would be prepared to explore associate membership, direct membership or affiliation to our organisation. In this regard, I have asked my colleague, Ray Collins, Assistant General Secretary, to look after this matter and perhaps you could liaison with him directly at this address. He looks forward to hearing from you.**

**“Best wishes,**

**“Yours sincerely,**

*[signed]* **“Bill Morris, General Secretary.”**

Now, Mr. Speaker, some of us know that this T&G Union is perhaps the largest trade union in the UK. We have managed to get their attention, and we have managed not only to get their attention, but also to get the attention of the people in the Foreign and Commonwealth Office. The reason why is because we knew from the very beginning that there are certain rights that working people have with regard to their right to organise and bargain collectively. It seems that the Government should be doing something to make sure that these rights are being assisted. It is okay for people to say ‘*Yes, you have the rights; nobody is stopping you from doing anything*’, but Mr. Speaker, in the little limited experience that we have with trade unionism in the Cayman Islands we know that people discriminate against those persons who are members of NACE.

We have more than enough evidence to prove that workers are afraid to join the union. We know that civil servants have been led to believe that they have no right to join the union—which is untrue. Civil servants can join a union. We are not just talking about NACE. NACE is just one union registered under our Trade Union Law. We are not just talking about something that I might be involved with; we are talking about something that others might also want to do.

The mere fact that we have a general workers’ union excluding whatever trade, it is a union there because it is a small country and we have enough problems trying to financially and administratively support one union. It might even be more difficult to support more unions. So we have encouraged people to join this one union and to find within this union their own unique way of dealing with their particular trade or industry, because when administratively we come together we can accomplish a little bit more.

Now we have heard a lot about the difference between co-ops and unions. We know that part of our understanding about of a union is—strikes, trouble,

this and that. But *nobody knows the trouble I’ve known*. We can see the manifestation of problems; but what about the problems that the working people are experiencing in the workplace? ‘*Clean my shoes, concierge!*’ How do they react? If they react they will lose their jobs. Open door policy, Mr. Speaker, always means the door is there – Leave! Go! We do not need you! The Caymanian has been so blessed in that sense—or cursed in that sense—that he leaves and goes out the door and as he is going out the door, rather than closing the door and tying a little thing around it he goes out of the door and somebody else comes in and takes his job. We have found ourselves—in particular in the hotel industry, where Caymanians have been less and less able to command any kind of important position in that industry. That affects the employment of managers, because if they need to employ a concierge from Canada, why would they employ a manager from Cayman? If you cannot even fill the concierge job with a Caymanian, how will you ever fill the managerial jobs with Caymanians? People are dreaming.

One thing for sure Unions do—and to use a case in point NACE has done—is to show people that ownership does not mean dictatorship. Because they own the hotels that should not mean that everybody should become subservient without any kind of rights and without any kind of social dignity. It is only when the working people organise together, unify and speak with one voice will they gain the respect of their employers. In most cases their employers are not Caymanians—have no use for many of them. The issues in the work place, are issues that should not just be resolved by Labour laws and by Government labour departments, but should also be resolved by the active involvement in those persons who provide employment and services.

We have the understanding that unions are just something for workers. When we use the word “workers,” we always mean poor people. But we are all workers. Most of us have to sell our labour in the form of physical labour or labour in the form of some skill, in order to survive. Whether or not we are working in a hotel or a bank, or whether or not we are working with the Government, we are working. And we have that in common. More than enough reasons exist why people should come together, therefore the framework to allow this coming together should exist in this country.

The Labour Department owes not just the employer recognition, the Labour Department should not encourage the employers’ unions to flourish and to be productive, the Labour Department should also encourage the workers’ union to flourish and be productive. And the Labour Department should be creating the framework for this to happen.

Now one of the things the Minister of Labour has been talking about is the tripartite system. That is the most advanced concept. You can’t get any more advanced than to come to the recognition that the three

social partners have to work together in order to have a prosperous, productive, and harmonious society. For this to happen, Mr. Speaker, you cannot ignore the desire of the weaker group in your tripartite system, and expect to have a tripartite system. The weaker group in the tripartite system is the worker. He cannot gather the muscles in order to be able to put himself on the same footing as his employer who can much easier understand the benefits of organisations.

Also, Mr. Speaker, we have a culture in our country whereby people do not easily organise. We like to be individuals. We like to solve our problems on our own. We do not like the commitment; we do not like the responsibility. But paying dues to a union creates a certain kind of social responsibility and discipline in working people where we need to make sure that the traditional community fabric that is falling apart is reinforced by some new more dynamic more practical kind of organisation.

Most people spend most of their time working anyway, and the rest of the time they might spend watching TV. But, the big influence on our people in this country takes place in the work place. And so many parents have devalued the value of jobs that I can see why some of the kids say, *'Me Mama? Me Mama? Me naw going to no wuk.'* I ask them, *'Well what you going to do?'* *'Well, I dunno wha I gonna do, but I naw gonna wuk for dem Mama, because you tink I gonna sit by and let dem treat me like they treat you Mama? Because if dey do dat to me, Mama, you know wha I gonna do to dem Mama?'* Do you hear it? They are devaluing the value of jobs. Why? Because the worker has no power.

So, by empowering the employee, we empower our community, and by empowering our community, we give respect and dignity back to our children because they depend upon their parents to have the respect and dignity. If there is no dignity in selling that labour, and if there is no dignity in labouring, then there can be no respect for the people that labours produce for, because they do not see the value.

So organisations/trade unions, teach people the value of work. One of the things we experienced is that we did not deal with those people who were rebellious. They left our movement early and went out there and criticised us, and cursed us because we would not tolerate the unfair criticism. And sometimes, even when we jumped in early, we changed our mood because we knew at the end of the day that working people could not benefit without jobs, and the employer needs to make profit in order to be encouraged to employ employees.

So we are not back in the 1870s when this first Trade Union Act was made in Britain and this situation where it was so confrontational where the trade unions were the result of a kind of daily confrontation, daily strike, daily fight between employers and the police and so forth. People still have the idea that if a few people go to demonstrate to the people their plight, to demonstrate to the people the reason for

their dispute that somehow that is disruptive and will cause chaos, and that will give the country a bad name. And that is truthfully within the confines of how we saw the trade union.

So I am—

**The Speaker:** May I interrupt you, for just one moment?

I have listened very carefully to all of your debate. I have given you extremely wide latitude. But I must call to your attention that the Resolve section reads as follows, **"BE IT RESOLVED that Government undertake to review the trade union law in order to address the existing shortcomings and to bring it in line with current developments in the Cayman society."**

We are discussing the review of the Trade Union Law. Please—

**Dr. Frank S. McField:** Mr. Speaker, with all due respect, I am trying to create reasons why the Government should accept this Motion asking for a review; this is not the review I am discussing.

**The Speaker:** No, I am not saying that; all I am saying is that we must address the Motion before the House. I have given you very wide latitude. You may continue, but I will be listening to you carefully.

**Dr. Frank S. McField:** Thank you, Mr. Speaker.

If we are going to talk about the short-comings of the Trade Union Law, I would hope that the review committee would concentrate on those specific points. I have not been able to get a copy of the Trade Union Law of any other jurisdiction. But I am sure they are available and if this is accepted to be reviewed, I will try to make sure to get that, Mr. Speaker.

I think it is important that we understand that one of the reasons why the Government might not want to review the Law is because of the prejudice people have against the concept of a trade union, which I am trying to deal with here. So to do my job, I really have to put the concept of a trade union within a more modern, more progressive light, which is what I am trying to do.

Once I have been able to establish, in fact, that a trade union is not something that is coming here to rob you merchants of this and that, but a trade union is something that is coming here to assist, probably, in reinforcing the solidarity in the community and reinforcing again the cohesiveness which is lacking today, it might help. This is another vehicle not just to be used in labour disputes but also in social issues as well.

Now, when we talk about trade unions, the point is that a trade union is usually interested in anything that its members are interested in, and the trade union covers a lot more than just work-place activity. Trade unions are involved with community activities.

For instance, the president of NACE has been trying to get a 'police watch' group going in the community. And people become interested; they become active; they learn how to organise; they learn how to (as a result of organising), perhaps preserve some of their interests. This whole idea that organisation of a particular kind of people is a negative, I just do not know where that came from.

Mr. Speaker, I think that I have put enough forward and I shall keep the rest of my remarks for when my colleagues have served me the message. But, as I said, at least we have the possibility that the people in London are aware that this Motion has been debated in this democratic House, and they will know at the end of the day what the reception will be and so forth.

**The Speaker:** The floor is open to debate. Does any Member wish to speak?

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, the call to review the Trade Union Law is one that the Government willingly accepts because the Government purports to be responsible, to be modern and cognisant of the changes not only in Caymanian society, but in the World. Government realises that in a vibrant and developing society people must be in a position to exercise their democratic rights. It is indeed a fundamental right that people should have freedom of association.

I was happy to hear the Member moving the Motion, who by his own admission is Secretary of this union, stress the fact that trade unionism carries with it a certain amount of responsibility. I think you are right in pointing out that while we speak of rights and we are in an era of human rights, rights are always balanced with responsibilities.

The Government recognises that the Law needs revision. For example, it draws reference to certain fees (and the Mover mentioned some of them) that are irrelevant and unrealistic now. If one were to check page 18, the first schedule talks about the fee for registering a trade union as being two dollars, and for registering an alteration to the rules, as one dollar, and for inspection of documents, twenty-five cents. In an age when the Government is in a position to offer modern services and at a time when the Government is prone to take a realistic look at its finances, I am sure that all and sundry would agree that we could do better than this.

If, for no more than mere mundane reasons, this law needs to be reviewed and probably redrafted. Also, I think the Law needs to be more comprehensive in terms of what it spells out because we are in an era where the behaviour of business organisations and human beings takes place on a far more sophisticated plane than this law takes into account.

In fairness, it should be said that the law probably served the purpose it was drafted to serve at that

time, because I am sure that nobody anticipated it would be so necessary and important to have a trade union. I believe, and so does the Government, that the Caymanian people must be given every encouragement to associate themselves if they see that in the best interest of their survival. I would certainly encourage them to articulate their concerns and to join associations. I have encouraged the teachers to form a teachers' association. It is much easier to deal with a collective group, than it is to deal with an agglomeration of individuals.

When you have a group of persons espousing the same philosophy and espousing the same concerns, it is much easier to deal with them than it is to deal with a thousand people all voicing individual concerns. So from the mere fact of an organisation and a managerial point of view, it is better to have people approach an entity as one organisation rather than an agglomeration.

The Government also realises that in a changing society it is necessary for people to have the right to articulate themselves through these kinds of forums. For that reason, the Government supports the drafting of a modern Trade Union Law.

The Honourable Member moving the Motion made reference to one meeting that he attended along with the representative of the Chamber of Commerce, sponsored by the ILO, in Trinidad, at the regional office. The reason why the Government had no representative there was simply because the Government was not invited to participate. It is my understanding that these things are usually extended by invitation. The Government had no invitation to send a representative.

Where the Government is invited to participate, since I have assumed responsibilities, we have made every effort to do so. For example, the Government is invited to send a representative as part of the United Kingdom delegation to a major ILO conference in Geneva from June the 5<sup>th</sup> to the 21<sup>st</sup>. We have made arrangements already to have a representative attend that conference as part of the United Kingdom delegation because the Government, and certainly the Ministry, believe that it will be beneficial and in our best interests to be represented.

The reference to a certain hotel demanding that the Concierge also takes on the responsibility of being a shoe-shine boy (or girl) can only be explained, as far as I am concerned, by the fact that anyone who would be so unrealistic must not have read Émile Durkheim's, *The Division of Labor in the Society*. That is the reason why, in the Labour Law, we need to be so sophisticated that we categorise the minimum wage for many of these things.

I believe that the call for someone who occupies the position of Concierge to also be a shoeshine person is a most facetious and unrealistic call. However, I have to realise that there is little (or nothing) I can do except chide those persons who would insist and indulge in those kinds of nonsensical practices and

suggest to them that they should develop a broader understanding. Which leads me to the comment: *The capitalist system is sometimes a difficult system to understand in that those persons who may be in positions of having the wealth may not necessarily be the most learned or the most informed persons.* Which brings me to make the point that in these situations where we have these kinds of industrial relations, it is best to develop an understanding where each party is respected and appreciated for what he brings to the table. That is the reason why in modern trends the Government sees itself in a position to encourage the tripartite system where the Government holds the responsibility for offering some kind of education and understanding and in cases where necessary, mediation.

The Honourable Mover is right when he says that the modern concept of the trade union is not as an adversarial body calling strikes, but indeed is one which takes such a broad interest in representing its members that it is also respectful of management to the point where the Union itself is responsible for setting standards of behaviour and performance for its members. And he is also correct in saying that there are cases where the Union suspends or expels those members that it deems in contravention of the Unions best interests.

I think the problem which existed in the Cayman Islands in years past was one that when people heard of unions they thought that they merely existed to be mischievous, to be contentious, and to be adversarial, and did not realise that the unions themselves, by their very existence, have evolved to the point where not only are they protective of their membership and the rights of the membership, but they are also protective of the membership's right to fair employment. By their very existence they concede that the employers have cause to exist—and not only exist but exist to a point where they can realise realistic returns and profits on their investments.

Government realises that the Cayman Islands must move forward. In order for the Cayman Islands to move forward, the society has to be one where the playing field is not only level, but is seen to be level. As a result of that, the Government takes the view that it is in the society's best interest to have mechanisms where people can exercise their democratic rights—particularly in an era when individual human rights are coming into greater focus, and having greater emphasis and impact on the way business is done and conducted.

Mr. Speaker, I notice that the Motion, while it calls for the review, does not give any indication of how the review should be done. Which brings me to the point that in a way I am happy that the Mover did not ask for the Motion to be brought before another select committee. It is perhaps more practical, and certainly faster in these kinds of cases, to get a law or a number of laws from comparable jurisdictions such as the Cayman Islands, with a similar level of sophistication.

And (for want of a better word) copy those elements of those laws which can be best applied to our situation. Certainly that is the route I would suggest, and I notice that the Mover suggested that that is what he would be prepared to do.

Mr. Speaker, I reiterate that the Government is sincere and serious in its acceptance of this Motion. I hope that we can move forward expeditiously because it is the view of the Government that for the society to continue to develop along democratic and constructive lines we must have these kinds of organisations with the people being able to exercise their individual and democratic rights to join and to participate, if they so wish.

It is correct to say that any such law must be complementary to the Labour Law. I am reminded that George Lammy, that eminent and respected West Indian author remarked at one stage that **“it is labour in all its manifestations which has been the most democratising influence in the Caribbean.”**

So, I look forward to this review as much as I look forward to the development of a minimum wage law and a modern labour law because these are mechanisms which Caymanians and Caymanian Society—all elements—must have access to and be able to use to ensure that the Cayman Islands develop as a progressive, fair and democratic society which takes the interest of all and sundry in an attempt to develop in such a way that all stakeholders feel equally important.

It gives me great pleasure to accept the Motion on behalf of the Government, and I look forward to working with those interested parties in developing a modern law of which all can be proud and all can accept.

**The Speaker:** We have reached the time when we would ordinarily take our afternoon break. Is it the wish of the House that we continue without a break? I am in your hands.

We shall suspend proceedings for ten minutes, but before doing so, I would like to call to the attention of Honourable Members that on Private Member's Motion No. 2/01 a select committee was appointed. I have had no indication of a chairman, so I am going to leave the appointing of a chairman to its members. We shall suspend for ten minutes.

#### PROCEEDINGS SUSPENDED AT 3.26 PM

#### PROCEEDINGS RESUMED AT 3.59 PM

**The Speaker:** Debate continues on Private Member's Motion No. 6/01 Trade Union Law, does any other Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon Martin:** I rise to support a Motion calling for the Government to review the Trade Union Law. I am pleased that the Minister responsible for Labour has accepted the Motion on behalf of Government and has made a very positive contribution.

I would like it to be noted that an association of individuals is a natural phenomenon for individuals who share a common plight. It is not an occurrence that will be governed or encouraged by the provision of a law or even this revision. The Trade Union Law is merely a piece of legislation that ensures that this association of employees, or employers, is protected and not discriminated against, offering a vehicle to guide its operations.

I commend the Mover of the Motion, my colleague the Third Elected Member for George Town, for his contribution and all that he said in regard of trade unions. The most important thing that I think he highlighted is the importance of the relationship between employees and employers and the role that a modern trade union plays—a positive role, one that enhances that relationship; one that enhances the efficiency of negotiations between the two bodies.

The freedom of association and the right to collectively bargain is imperative to ensure that the rights of employers and employees are preserved. Throughout this sitting of the Legislative Assembly, during the debate on the Minimum Wage Bill and the Motion calling for a review of the need for the Caymanianising of various businesses, we heard much of the need to protect employees. We heard much of the practice and the pattern for our hardworking Caymanians to be overlooked. We heard much about the exploitation of our hardworking Caymanians and the poor conditions under which many of them have to work.

However, the Motions agreed to so far, such as the Minimum Wage Bill and the Motion today, do not address a vehicle in which employees can seek to improve the conditions under which they work. This Motion today encouraging an individual and protecting his right to collectively bargain, is the only Motion on the agenda of this Legislative Assembly that seeks to address the problem that we all have highlighted as necessary to curtail in our economy and community.

It should also be noted that the employers of this country are organised and have a collective voice. They have had the ability to collectively bargain on their behalf even to the extent of correcting and changing Government revenue measures. With such a strong body of employers joining together, it is necessary to offer a piece of legislation that will address the issues for employees.

I make note of the warning provided by the Speaker to the Mover of the Motion and progress with great caution for relevance to the Motion. Mr. Speaker, I would like to reiterate that an association of individuals is a natural phenomenon. Individuals have a need to be a part, and to have a fight for a common cause.

If the employers provide an atmosphere that employees are happy with, if the Government through its Labour Department intervenes when there is a problem in an efficient and effective way, the motivation for an employee to join a union will be reduced.

What we must do as a government is to ensure that all aspects of the tripartite system are in place. We must ensure that Government is there with its Labour Law and an effectively functioning Labour Department that administers the Law in a timely and efficient manner; and that employers are represented through one collective body and the employees must bring their views together for their various industries into one collective group, for this system to work efficiently.

I use this forum in addressing the Trade Union Bill to warn off some employers: We have a lot of employees in this country who are discontent, who are concerned about the conditions under which they work. Once we provide the assurance that their right to collectively bargain, and provide the legislation that ensures they will not be discriminated against for being part of a group that seeks to represent their interests, the employers can be assured that their employees will seek to rectify and remedy their concerns.

The district that I represent has been able to operate over the years without any form of trade union. However, the tension is there, especially among hotel employees. If these issues are not addressed through the current forums, such as the labour tribunal and the labour department, the natural phenomenon will be the joining of these individuals under one common union. That is something I would encourage.

It is not necessary for me to spend any more time on my contribution to this Motion as it has been stated that the Government will be accepting it, and that it will be going towards some kind of review. The exact format is yet to be determined. I conclude by inviting the entire House to give its support to this Motion. Thank you.

**The Speaker:** Does any other Member wish to speak? *(Pause)* Does any other Member wish to speak? *(Pause)* Does any other Member wish to speak to the amendment? *(Pause)*

If no other Member wishes to speak, does the Mover wish to exercise his right of reply?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** I would like to thank the Seconder of this Motion, the Second Elected Member for Cayman Brac and Little Cayman for speaking to the Motion. I believe he amply demonstrated not just his understanding, but also his commitment to the concept of labour management partnership that will result in the highest productivity, competitiveness, and high quality for sustainable economic growth.

The Honourable Minister responsible for Education, Human Resources and Culture spoke brilliantly.

And although in the beginning I thought he was going in one direction, he proved himself to be a true Libran and balanced the scales in such a way that he proved that he understands exactly where we would like to see him go with the review.

I have not talked about the format of the review because I believe (as he said) that there are so many jurisdictions already bearing some similarity to ours where we would be able to get the legal framework. I would also like to remind the Minister and others that the motivation for joining a trade union does not have to be bad employers.

A trade union is people gathering together out of common interests. As was said by the Second Elected Member for Cayman Brac and Little Cayman, it is a natural occurrence. When it does not happen, there is something very unnatural. It means that society is beginning to decay and fall apart.

So, people can find good reasons to join trade unions. Therefore, in reviewing the Trade Union Law, we should take an approach to the law that we adapt to replace this law. An approach that will allow us not to see a trade union as a result of bad working conditions only, but also as a result of the desire on the part of the employee to be empowered in the workplace and in the community, and in the country. A trade union is more than a collective bargaining agency; it is an agency of social and political change as well.

Let us not believe that a union will come and go simply because of bad working conditions and that the need for a law will exist simply because there are bad employers, or because we have someone like me involved in a trade union movement and in this House, and therefore able to advocate on behalf of the Trade Union.

The Trade Union structure is an essential part of empowering working people to be stakeholders with their counterparts Government and the employers' union. Without the existence of some kind of formal organisation for the workers, it will make it very hard, if not impossible, for true tripartite system to function in this country.

Therefore, I say to the Second Elected Member for Cayman Brac and Little Cayman that whether or not he or someone else attempts to do something about organising in that district, should not depend upon situations getting so bad that people see a union as the solution to the problems. By that time, it is already at the conflict stage and hopefully the unions in today's world will mean less conflict, more agreement, more reconciliation, more negotiation, and more cooperation, productiveness and harmony.

I thank the Government through the Minister of Human Resources, for the genuine approach to the acceptance of this Motion. I thank the other Members who did not speak, but who I know have articulated their concerns for working people in other Motions brought before this Honourable House.

I think it is time that we recognise that approaches to problems can be from many different directions. Simply because I choose to say that people should be empowered to improve their wages, rather than having their wages legislated for them, does not mean that I lack an interest in those persons or a serious understanding of the issues which the country is now faced with. No one can tell me that giving a person a fish is more important than giving him the line to catch fish. Allowing people to collectively bargain and providing the legal and other framework for that to happen will put the working people in this country in a position to fish rather than be fed by the fish Government catches for them. I think we are changing our culture in so doing.

Mr. Speaker, in closing, I hope that the country as a whole will have gained a bit more tolerance in regard to the concept of a trade union, and that the review will go ahead in haste and that the Government will be able to report back to this Honourable House in a very short period of time, since we have resolved not to tie this up in Committee but to use research to find appropriate legislation that can be amended to fit our needs in this jurisdiction. Thank you.

**The Speaker:** I shall now put the question on Private Member's Motion No. 6/01 entitled **Review of the Trade Union Law** which Resolve section reads as follows:

**"BE IT RESOLVED THAT the Government undertake a review of the Trade Union Law in order to address the existing shortcomings and to bring it in line with current developments in Caymanian society."**

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 6/01 PASSED.**

**The Speaker:** In view of the late hour, I would suggest that we adjourn at this time. I will entertain a motion for the adjournment of this Honourable House.

The Honourable Minister responsible for Education, Human Resources and Culture.

## ADJOURNMENT

**Hon. Roy Boddén:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.18 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM FRIDAY, 23 MARCH 2001.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**23 MARCH 2001**  
**10.31 AM**  
*Eighth Sitting*

*[Prayers read by the Elected Member for East End]*

**The Speaker:** Proceedings are resumed.

Item 2 on today's Order Paper, Administration of Oaths or Affirmations. Oath of Allegiance to be administered to Mr. A. Joel Walton, JP to be the Honourable Temporary Acting Third Official Member.

Mr. Walton would you come forward to the Clerk's table? Would all Honourable Members please stand?

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*by Mr. A. Joel Walton*

**Mr. A. Joel Walton:** I, A. Joel Walton, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, so help me God.

**Mr. Speaker:** Mr. Walton, on behalf of all Honourable Members I welcome you to this Honourable House for the time of your service here. Please take your seat as the Honourable Temporary Acting Third Official Member.

Honourable Members please be seated.

Item 3 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies from the Honourable Minister for Health and Information Technology who is overseas recuperating from an operation.

Item 4 on the Order Paper, Questions to Honourable Ministers/Members. Question No. 16 standing in the name of the Third Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS  
OF GOVERNMENT**

**QUESTION NO. 16**  
*deferred Friday 16 March*

**No. 16: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Community Development, Women's Affairs, Youth and Sports:

- (a) What is the criteria for persons to be eligible for a Seaman's Grant; and
- (b) Will persons who have not lived on the Islands for 10 years or more and who are still living overseas, be eligible?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** (a) The previous criteria for persons to be eligible for Seaman's grant, which were approved on 5 September 2000 was –

- The applicant (Seaman) must be Caymanian.
- The applicant (Seaman) must be retired from sea
- The applicant (or surviving spouse) must be 60 years of age or older. If the seaman dies at sea, the surviving spouse need not be age sixty (60) or over.
- The applicant or surviving spouse MUST not be receiving the ex-servicemen benefit.

As can be seen from the above, the previous criteria allowed for persons who have not lived on the Island for 10 years or more, and are still living overseas, to be eligible. Honourable Members of the Legislative Assembly will recall that the original intention of Private Member's Motion No. 7/2000 (see below) was that the benefit be given on a needs' basis.

As the new Minister for Community Development, upon taking up office in November 2000, I was very concerned about the amount of money that the Government of the Cayman Islands would be committing the people of these Islands to in the future if the criteria remained the same.

Having consulted the Ministry staff, and staff having met with the Auditor-General, the Government has revised the eligibility criteria for the seamen's ex-gratia benefits and this criteria was approved by Executive Council on 20 March 2001. These revised criteria will save Government at least \$1,000,000 this



year and will not commit to any further expenditure in the future unless it is on a need basis.

(b) Under the revised criteria which was approved by Executive Council on 20 March 2001, the applicant (or surviving spouse) resident abroad shall not qualify for the benefit.

**“AMENDED**

**“PRIVATE MEMBER’S MOTION NO. 7/2000**

**“EX-GRATIA PAYMENTS AND OTHER BENEFITS**

**“WHEREAS Government often grants ex-gratia payment to persons who have worked in the public service but who did not put in sufficient time to qualify as permanent and pensionable;**

**“AND WHEREAS Government increased the cost of burial vaults from \$600 to \$1,200;**

**“AND WHEREAS the cost of other funeral expenses are high;**

**“AND WHEREAS medical cost overseas runs high;**

**“AND WHEREAS Government grants free medical to some elderly at our local Hospital;**

**“AND WHEREAS medical care for our elderly who are sent overseas by Government is not free;**

**“BE IT RESOLVED THAT Government consider amending its policy that the spouse of ex-gratia payment recipients be the beneficiary should the recipient pass away.**

**“AND BE IT NOW THEREFORE RESOLVED THAT Government consider granting a minimum of \$2,500 towards funeral expenses for our elderly who are not working and for veteran seamen and veterans as needed and find ways and means to offset the cost;**

**“AND BE IT NOW FURTHER RESOLVED THAT Government finds a way of reducing the cost for overseas medical expenses for the handicapped, elderly persons of 60 years of age and over, veteran seamen and veterans who are in need of overseas medical attention;**

**“AND BE IT NOW FURTHER RESOLVED THAT, because of the high cost of living brought about by increased electrical and interest rates and other costs, financial assistance be increased as needed to veteran seamen and veterans, the handicapped, sick or elderly persons 60 years of age and over or those who are otherwise medically unfit to work.”**

**SUPPLEMENTARIES**

**The Speaker:** Supplementaries, the First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** Can the Minister say whether or not there is any particular reason why Executive Council’s approval for the original criteria was not mentioned verbatim, or with permission to be attached to the answer to this question?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I wonder if the Honourable Member would repeat her question, please.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman, please repeat your question.

**Mrs. Julianna Y. O’Connor-Connolly:** Certainly. Thank you, Mr. Speaker.

I wonder if the Honourable Minister could say why the criteria that was approved by the past government in Executive Council was not also attached by way of further information, and whether or not consent was sought for the attachment thereof?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** If the Honourable Member is asking me to refer to an Executive Council paper, I would have to get the permission of His Excellency the Governor to read that. Or does she want me to read the paper where it said you had to be a seaman as contained in this answer?

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** Mr. Speaker, I was asking why it was not attached. Was it because consent was not sought from Executive Council to attach it by way of clarity and further information seeing that the Motion was attached to assist this Honourable House?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I undertake to request permission from His Excellency the Governor to circulate to all Members of this Legislative Assembly the paper which dealt with the criteria under the past government.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** I wonder if the Honourable Minister would also be so kind as to undertake to provide to this Honourable House (if she is not in a position to do so today) a list of the applicants which were approved from each of the six electoral districts?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, that question relates in no way to the question before Parliament.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. With reference to the paragraph as specified in the question given to this Honourable House which refers to the Minister being very concerned about the amount of money that the Government of the Cayman Islands would be spending, could the Minister say whether this concern arose once she was given the constitutional responsibility as Minister, or whether it arose when the Elected Member for North Side submitted applications which were also approved?

**The Speaker:** I really do not know if this within the ambit of the substantive question.

Honourable Minister for Community Development, Women Affairs, Youth and Sports you may answer if you wish.

**Hon. Edna M. Moyle:** Mr. Speaker, most certainly there are seamen in the district of North Side and when I was handed the application form by that Minister (when she was the Minister) to deliver to the seamen what other choice did I have?

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Seeing that in the substantive answer the Minister spoke about the \$1 million savings as a result of the new criteria, I wonder if the Minister can say whether that is as a result of the applications in hand or the applications that are anticipated?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The Government took that decision because the past government—and I did not want to get into this sort of debate but I guess I have been pulled into it—took the decision when they decided to give the men what they called a pension/ex-gratia payment to make it retroactive to August [2000]. So those applications before Government right now will not be retroactive to August last year. That is why there will be a saving of \$1 million.

**The Speaker:** Are there any further supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I appreciate the Minister's answer, but I wonder how much of this million dollars is saved under the new revised criteria, but based on the people from overseas who are now not eligible because of the new criteria.

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The Minister will have to go through over 600 or 700 applications and deal with those. We do not know how many applications we will be receiving from overseas. We have had seamen return from the United States, from Canada, the United Kingdom and anywhere else in the world to claim the \$400 as the criteria is presently written. But as my colleague is pointing out the savings of that \$1 million does not include that.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Would the Minister say whether or not it is the case that persons have come to understand that the ex-gratia payments are due to ex-seamen not because of need but because of contribution?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Since I took over this Ministry we have had people who sailed for one year collecting this payment. It is believed that it is a pension Government has put in place for seamen—which it is not. It is an ex-gratia payment and that is why the Ministry will now deal with it upon a need basis.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Could the Minister say if she can recall whether or not this impression which ex-seamen seem to have could be the result of the entire debate on this, or whether or not it had something to do with the Ministry responsible?

The question is (if I can reformulate it), If the debate with regard to this particular entitlement was conducted in such a way would persons be privileged to conclude that it was a result of a contribution rather than as a result of some need entitlement?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, the Honourable Member is asking me to give an opinion, but I will say to him that I will research and see what basis it was done on.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister confirm whether the new criteria will affect any of the current recipients of the ex-gratia payment?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I am not in a position to answer that question at this time.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I wonder whether the Honourable Minister is in a position to say that while an attempt is being made now to revise the criteria for the seamen whether it is her intention to do the same thing for the veterans who also receive ex-gratia/pension payment?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I am not going to stand on this side of the House and get into a battle of words here this morning. No, I have not considered this. It is a matter that has been ongoing for years, and if it comes to the point where the Government has to, we will.

**The Speaker:** The Third Elected Member for George Town, two additional supplementaries after this one.

**Dr. Frank S. McField:** Mr. Speaker, just briefly stating that this is a very important policy decision that Government would be making. The attempt here is to get some kind of clarification as to the direction that Government will be going in with regard reviewing—

**The Speaker:** Please turn that into a question.

**Dr. Frank S. McField:** Mr. Speaker, I would like to know if in revising the criteria, whether or not it will affect mostly those persons who will turn 60 and apply, or will it affect those persons who have already applied and who are already receiving some type of payment with regard to the revised criteria?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, the major changes on the revised criteria are:

1. Qualifying service—this was necessary as the present criteria do not stipulate how many years a seaman must have gone to sea to qualify for the benefit.
2. Exceptions are listed to the present criteria. This was necessary as there are disabled seamen who are not yet 60 years of age and are in need of the benefit. Additionally, there are surviving spouses who are under 60 years of age whose need becomes more acute once the seaman is deceased.
3. The applicant seaman must not be receiving any other benefit that is based on service. Additionally, if the applicant is receiving financial assistance, he or she shall be reassessed by the De-

partment of Social Services to ensure that both benefits are needed before the seaman's grant can be processed.

4. All new and pending applicants shall not receive retroactive payment. If the revised criteria is adhered to the Government should save, at least, \$1 million.
5. The provisional cut-off date for inclusion to the approved list shall be December 2001. If this criteria is adhered to, Government will realise savings of \$480,000. This is only an estimate, as the Ministry does not know how many seamen will become eligible in the future.
6. All recipients having obtained Caymanian status as an adult and are currently on the approved list shall be assessed and shall have been a Caymanian for at least three years of their sea-going career. This is necessary as there are some status holders who were not Caymanian at the time they were going to sea.
7. Future applicants without certified documentation will be carefully assessed in order to confirm that he had, in fact, gone to sea.
8. The applicant or surviving spouse shall be domiciled in the Cayman Islands.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister elaborate on one of the criteria listed there that related to the spouse of a deceased seaman who is under the age of 60, and give me an exact definition of what would be incorporated into that?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I have discussed this question with that Member.

If the seaman dies at sea and the wife is under 60 years of age, the way it is written now she gets it. But we cannot say if a seaman dies when he goes out fishing that it is the same thing. I have discussed this and I sent the Member in the right direction to assist this woman if there is a need.

**The Speaker:** Final supplementary. The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I think I would like to direct this supplementary to the Minister of Tourism since he is giving all the answers out there, but not getting on the microphone.

**The Speaker:** This question is directed to the Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Dr. Frank S. McField:** Is the Minister suggesting, in fact, that persons who are outside the Cayman Is-

lands presently receiving the seamen's grant would no longer receive the seamen's grant? Would they have to be resident in the Cayman Islands in order to receive the grant?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** This only applies to new applicants because all those persons living outside the Cayman Islands for 20, 25, 40 and 50 years that have come back to claim this have all given local addresses.

**The Speaker:** Question No. 29, standing in the name of the Third Elected Member for West Bay.

### QUESTION NO. 29

**No. 29: Capt. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture How many after-school programmes are in the country and who runs them (broken down by district).

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** There are approximately one hundred and fifty (150) after-school programmes in Government schools in the Cayman Islands. In addition, other after-school programmes are run by the churches and community organisations. The after-school programmes in Government schools are as follows:

**West Bay:** John A Cumber Primary has computer, cricket, netball, football, dance, pottery, uniformed groups, brownies and cubs, gardening, junior Red Cross and academic enrichment programmes.

**George Town:** George Town Primary has computer club, dance, football, gardening club, craft, steelband and netball.

**John Gray High School:** Activity clubs, art, badminton club, concert band, business club, choir, dance, drama, Duke of Edinburgh. Focus, girls weight club, guitar club, home economics, information technology, junior achievement, library, lose it all club, netball, peer counselling, recycling club, Red Cross, steel band, volleyball, yearbook committee, house sports and competitions, badminton, basketball, cross country, gymnastics, indoor hockey, netball, quiz, road relay, soccer, softball, squash, swimming, track and field, key club and volleyball.

**George Hicks High School:** Craft club, Red Cross, Spanish club, choir, recorder, reading club, web page design, Girl Guides, art club, key club, science club, Cayman folk fiddle, music appreciation,

math club (year 9), technology club, sign language, table tennis, homework help, fitness club, year book club, football, fellowship club and swing band.

**Red Bay:** Red Bay Primary School has cricket, football, dance, computer, netball, steelband and academic enrichment programmes.

**Savannah:** Savannah Primary School has computer, swimming, art and craft, football, netball, dance, Red Cross and uniformed groups (Brownies).

**Bodden Town:** Bodden Town Primary School has netball, football, instrumental music and academic enrichment programmes.

**East End:** East End Primary School has computers, pottery, recorders, netball and football.

**North Side:** North Side Primary School has netball, football, computer club, instrumental music, dance and academic enrichment programmes.

**Cayman Brac and Little Cayman:** Cayman Brac High School has choir, steelband, agriculture club, newspaper club, art, computer and drama. New clubs still in development stage include Leo Club, debating society.

**Spot Bay Primary School** has netball, football, music, dance and local crafts.

**West End Primary School** has sewing, steelband, netball, craft, football, cooking and gardening.

**Creek Primary School** has arts and crafts, netball and pottery.

The After School Programmes are run by teachers and members of the community who are skilled in local crafts, cooking and dancing.

### SUPPLEMENTARY

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I would like to thank the Honourable Minister for his most detailed answer and would ask for his undertaking to look into the three primary schools of Cayman Brac to why they do not offer computers as an afterschool programme. I am sure he agrees this is a very important area.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I most certainly will look into it and give the House an undertaking to give the Member an answer in writing.

**The Speaker:** Are there any further supplementaries? If not, we move on to Question No. 30 standing in the name of the Elected Member for East End.

### QUESTION NO. 30

**No. 30: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport what are the current and future plans for the introduction of affordable and appropriate housing for lower income families in these Islands?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The current arrangement for affordable housing is administered under the Government Guaranteed Mortgage Scheme. This has worked reasonably well in the past, but it now requires restructuring in order to make it more accessible to the intended recipients. This refocus will be done in conjunction with the recently appointed Housing Development Corporation Board. We are currently working aggressively on short and medium term plans for affordable and appropriate housing.

It should be noted, however, that it seems unlikely that we will be able to produce affordable housing using the traditional method on construction in the Cayman Islands. Consequently, we are exploring other options which will not only significantly reduce costs but will also offer structurally safe, strong and attractive accommodation. I intend to make a public announcement in late April which will detail one of our plans for affordable housing for these Islands. Honourable Members of this House will be briefed on these plans prior to the public announcement.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Minister say what are the criteria currently employed to determine if one qualifies for a mortgage under the current scheme?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I do not have the criteria with me this morning. But that is already public knowledge. I will undertake to get a copy of the criteria to redistribute to Honourable Members.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say whether or not the current guaranteed mortgage scheme is still in place and operational?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The scheme is still operational in CIBC, Bank of Butterfield, British American Bank and Barclays Bank.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say why the other A class banks do not support this Government mortgage scheme?

**The Speaker:** I think you are asking the Honourable Minister for an opinion. Honourable Minister responsible for the Ministry of Tourism, Environment and Transport, you may answer it if you like.

**Hon. W. McKeeva Bush:** I can say that we are in the process of inviting them to join this scheme. In fact, by now they have either met or spoken on the phone with Mr. Daniel Scott, the Chairman of the Housing Development Corporation Board.

**The Speaker:** Are there any further supplementaries? If not, we will move on to Question No. 31, standing in the name of the Elected Member for East End.

### QUESTION NO. 31

**No. 31: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Community Development, Women's Affairs, Youth and Sports why members of the Sports Department are not actively involved in or working with programmes in the districts outside of George Town.

**The Speaker:** Before asking the Honourable Minister to answer the question, I would appreciate a motion for the suspension of Standing Order 23(7) & (8).

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

**Hon. Edna M. Moyle:** I respectfully move the suspension of Standing Order 23(7) and (8) to allow question time to continue.

**The Speaker:** The question is that we suspend Standing Order 23(7) and (8) to allow question time to continue beyond 11 am. Those in favour please say Aye, those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question time will continue.

**AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.AM.**

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The staff of the Department of Youth and Sports are not actively involved in the districts outside of George Town due to commitment to prepare age groups national and senior national teams. However, between the hours of 9 am and 3 pm they visit schools in the outer districts. However, the Ministry intends to expand the present programme to include district programmes.

**SUPPLEMENTARIES**

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say how frequently the staff visits the outer district schools per week?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** As the Department of Sports presently only has one coach on each sport, they travel to the outer district schools whenever that sport is in season to assist. I know in the district of North Side, the community police officer assists the North Side Primary School on his own with the football during football season.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I understood the substantive answer to read "However, between the hours of 9 am and 3 pm they visit schools in the outer districts." That suggests to me that it is on a daily basis. Can the Honourable Minister say if that is a fact?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** They do not go to the outer districts on a daily basis.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say how long it has been since we have had the commitment to prepare age groups and national and senior national teams? How long have we been preparing them?

**The Speaker:** The Honourable Minister responsible for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** This has been in place since the Government hired coaches and they have worked with the associations and schools.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I was not talking about the coaches. I would like to know the timeframe. How long ago was it? Was it two years ago? Three years ago? Five years ago? Can the Honourable Minister say how many years ago this came into being?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I will undertake to provide the information in writing.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether or not the intended programme for expansion into the districts envisages including additional new staff for the Sports department?

**The Speaker:** The Honourable Minister responsible for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I guess it would entail additional members of staff, but this would not come about until the National Sports Policy has been completed so that we know exactly what our needs are.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It appears that the outer districts have been left outside. However, I wonder if the Minister can give us a definitive time as to when the department intends to expand the present programmes enjoyed in the district of George Town to the outer districts?

**The Speaker:** The Honourable Minister responsible for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The answer to that question is no. I cannot give the Member a definitive time. But I can assure him that the Ministry will make every effort to have these programmes moved to the outer districts.

**The Speaker:** Are there any further supplementaries?

If not, we move on to Question No. 32, standing in the name of the Fourth Elected Member for West Bay

### QUESTION NO. 32

**No. 32: Mr. Cline Glidden, Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs to state the total number of Civil Servants in the Cayman Islands and how many are Caymanian; and how many are non-Caymanian.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The total number of civil servants in the Cayman Islands on 9 March 2001 was 2,721. The total number of Caymanians was 1,565. The total number of non-Caymanians was 1,156.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member confirm that this number does not include group employees?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** That is correct. It does not include group employees.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member give the number of group employees currently employed by the Cayman Islands Government?

**The Speaker:** I think that falls outside the ambit of the question, but if the Honourable First Official Member wishes to answer it he may do so.

Are there any further supplementaries? The Elected Member for East End.

**Mr. V. Arden McLean:** We note in the substantive answer that Caymanians only make up 57% of the total amount of 2,721. Can the Honourable First Official Member say what plans are in place to reverse this trend?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** A decision was taken last year to advertise every post held by an expatriate when it came due, or at the completion of the contract, in an effort to allow Caymanians to apply for the post. The Public Service Commission has been, in my view, very careful to look at Caymanian applicants to ensure that wherever possible as long as they were suitably qualified they would replace expatriates.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It seems to be a global movement by governments to try to bring some equality in their wages compared with the private sector to attract more people of their own into the public service. Can the Honourable Member say if Government has ever considered that? And I know that we are in financial trouble now, but I wonder if that has ever been considered.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs. I think he is asking for an opinion. But if you wish to give it, you may.

**Hon. James M. Ryan:** Parity of salaries between the public sector and the private sector is a goal that is well nigh impossible to attain, not only in the Cayman Islands, but in many parts of the world. We have tried, where possible, and Honourable Members will be aware of this. There was a very comprehensive review a couple of years ago of all the posts. There was a very comprehensive job evaluation exercise carried out. Every post in the civil service was re-evaluated in an effort to more carefully ensure that they were graded and remunerated at the right level and wherever possible to bring them nearer to the private sector.

We had a team come in from overseas that looked at certain private sector organisations and tried to look at parity. One difficulty the team had was that the private sector organisations generally do not want to disclose this information.

I think it is a fact of life that salaries in the public sector will never really be brought in line with the private sector. But I believe there are certain benefits in the public service that civil servants enjoy—job security, for the sake of argument, that may not necessarily hold true in the private sector. That has to be put into the equation.

I hear what the Member has asked, but it is an extremely difficult, if not impossible task.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 33, standing in the name of the Fourth Elected Member for West Bay.

**QUESTION NO. 33**

**No. 33: Mr. Cline Glidden Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs to state the longest period of time in which Government has hired an expatriate on contract and who is still employed; and what attempts have been made to train and replace these officers with Caymanians.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The longest serving expatriate officer has been employed since 1969, i.e., 32 years. This officer, as well as the three next longest serving expatriate officers, is a teacher. Efforts to train replacements include:

- Scholarship applications from Caymanians who wish to pursue a teaching career are given priority by the Education Council.
- Annual funding for in-service scholarships for post-graduate training and continuing education for teachers is also made available where possible.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member say whether or not Government has in place, in relation to the civil service, succession planning?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** There is a succession plan in place in the public service. The effectiveness and efficiency of that plan depends on every department. The succession plan must be supported by each department.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member say how the succession plan is supposed to work?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The succession plan is a fairly comprehensive one and if the Member would like, I would be prepared to make a copy available to him.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Honourable First Official Member can say: (1) If this plan covers from the top of the civil service to the bottom, and (2) is it discussed with the people in the plan on a yearly basis when they are being reviewed for salary increases?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I think for me to answer that, I will have to explain that posts below the level of permanent secretary go through the Public Service Commission. Posts above that level are dealt with by His Excellency the Governor. In addition, posts where the postholder is required to have legal qualifications that does not go through the Public Service Commission; police officers and prison officers do not go through the Public Service Commission. So, it is difficult to answer that across the board.

On the matter of succession planning, department heads are aware of it and the fact is, contrary to the popular view that the Personnel Department must centrally control succession planning, it has to be dealt with on a departmental basis. Each head of department has to be committed and has to work with succession planning. It is difficult for me to say whether or not department heads take this into consideration on an annual basis. If they do not, the fact that we now have in place the requirement (and this is slightly off the subject) for posts to be advertised, then it does give Caymanians the opportunity to apply even if a successor is not identified in a department.

What that policy does is work against succession planning in the sense that I, as a head of department, might identify someone to succeed in a post, but I am still required to send it to Personnel to be advertised. The person that I (as a head of department) might identify as the successor, may not necessarily be the successor. If someone else comes along who is better qualified, better suited for the job, then the Public Service Commission is likely to appoint the best person for the job. But there are always risks in whatever one does in life.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden Jr.:** Hearing the statement just made concerning succession planning—and I do not expect the Honourable First Official Member to have the information available . . . Looking at the 1998 *Hansards*, the ratio was 60% Caymanian to 40% non-Caymanian. There are changes in the numbers we just received. They are now 57.5% and 42.5%. So, we are actually getting a swing in the numbers of non-Caymanian staff. In light of that, would the Honourable First Official Member undertake to give us a breakdown so that we can view for ourselves how the succession planning is going in terms of which expatriate



positions have been replaced by Caymanians in, say, the last five years?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I will certainly undertake to try to provide the information for the Member. However, I should say that two areas in particular where we have had increases in the number of posts in the last five years are the health services and the schools. The difficulty is that we are simply not attracting enough Caymanians as teachers and as long as the school system has been expanded, the only way to go is outside of Cayman for staff. The same thing holds true for the Health Services Department.

So, you will certainly see an increase in the non-Caymanian employee in the public service in the last five years because of the enormous expansion in those two areas of government, but particularly the Health Services Department since the new Hospital came on line.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member explain how Caymanianisation of the Civil Service features in the Civil Service's succession planning?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my wish, to see more Caymanians in the public service. His Excellency the Governor shares that view and so do the Personnel Department and the Public Service Commission. But, if there are not Caymanians available, the only thing that can be done is to import labour. That has happened in the two instances in particular that I cited a few minutes ago.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable First Official Member say if, when students are being given scholarships, an effort is made to identify specific posts, that is targets, to which those students would strive to reach in terms of job positions once they return from university?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am unable to say whether that is done. As the Member will appreciate, scholarships are handled by the Education Council and under the Ministry of Education. I am unable to say whether or not that is the case.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Member give this House an undertaking that we will actually have Government departments working together? I mean, after all, this is the money of the people of the Cayman Islands. We are talking about Caymanians' lives! It is unacceptable to me to have it answered that another department handles it, therefore we cannot work with them to make sure this happens.

Will the Member give an undertaking that they will be working together to make sure that this critical process happens?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** If I gave the impression that I am not prepared to work with another department in Government, I certainly want to correct that. But I think that Member needs to understand something, and that is that when a youngster in this country makes an application to the Education Council for a scholarship, and if the Education Council approves the scholarship, if he gets a scholarship to be trained as an astronaut, I can do nothing about it.

The Minister of Education and I will work very closely, and I know he will do his best. But I have seen instances where scholarships are given to Caymanian youngsters to train in certain areas where there is no post available in the public service.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable First Official Member say if Government has a recognised evaluation scheme or programme in place, what recognised system it is, and if it includes sections for succession planning for each employee in Government?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am not sure that I understand that question. I wonder if the Member could elaborate a little more.

**The Speaker:** The Elected Member for East End, please repeat your question.

**Mr. V. Arden McLean:** I am asking [about a system] such as the Hay System—an evaluation system of employees. It talks about evaluating the employee on performance and goals for the next year and succession planning where the supervisor sits with the employee and between the two of them they evaluate the individual: a self evaluation. And he says 'Yes, I would like to be the Chief Secretary' and they set down the

plan over the next five years showing what he has to do to be the Chief Secretary

I am just wondering if Government has such a plan, and if it is employed religiously.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** We used the Hay Management team for the job evaluation exercise that was carried out. We recently (beginning 1 January 2001) introduced new performance evaluation forms and, yes, there is a section that allows the appraiser to discuss the issue of succession planning with the one being appraised.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Honourable Member can say who is responsible in Government for ensuring that what the appraiser and the one being appraised decide upon is reasonable and put in place over the long term.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The appraiser is the individual who would deal with appraisals and would agree with the appraisee, the whole issue of appraisal, including succession planning. The Public Service Commission reviews appraisals and I expect that the new system will continue in that way.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable First Official Member say what happens when complaints are made against an individual by someone seeking to move up the ranks in the Civil Service and in his opinion, conscious efforts are being made by a non-Caymanian to stop his ascension? Who do those complaints go to? And how are they resolved?

**The Speaker:** The Honourable First Official Member. I think that is outside the ambit of the question, but if you wish to answer it you may. The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Thank you, Mr. Speaker.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable First Official Member say if the Public Service Commission, responsible for reviewing the appraisals, does so on a regular yearly basis? And is it working?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is done whenever a matter comes up to the Public Service Commission (PSC), whether it is for promotion, or in the case of non-Caymanians, the issue of replacement. But no, it is not done regularly. The PSC would never be able to deal with over 2,700 appraisals with all the other work it has to do.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Part (b) of the question reads: What attempts have been made to train and replace these officers with Caymanians? If there is a Caymanian in the Civil Service who does not feel he is getting adequate training and there have been conscious efforts by his direct report, that is a non-Caymanian, to provide adequate training so that he can replace that specific officer, who would those complaints go to? And how would the complaint be resolved?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** If an individual is aggrieved by inaction by his or her immediate supervisor, he can refer the matter to the Permanent Secretary in the Ministry involved, or, in the case of the official portfolios, can be referred on to the official member responsible. The matter can also be referred to me as Chief Secretary and can also be referred to the Public Service Commission.

**The Speaker:** The final supplementary. The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say what is the purpose of doing appraisals and what is done with them after being completed? Are they just put in a file and nobody looks at them again? Are they scrutinised, looking at the goals and objectives set and the succession planning? What is being done with these performance appraisals?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Up until last year there was one performance appraisal form for virtually the entire civil service. But it is a case of one size not fitting all. It is something that has been under review for some time and last year we brought in some expertise to assist (I will not get into all the details, it is fairly lengthy). We did workshops at various levels of the service and the end product is a set of performance appraisal forms that will be used at various levels in the service.

The new forms came into effect at the beginning of this year and in fact some are just being worked on as in the case of permanent secretaries who would be my responsibility. I have not yet met with them, but I will be doing so shortly. For the first time, everybody from the Chief Secretary down to the lowest post in the service will have an appraisal; His Excellency will deal with mine.

Those appraisal forms are designed where we will have regular meetings. There will be meetings at intervals throughout the year and it will form the basis for continuing appraisal. A copy will go into each officer's file in the Personnel Department. But the form will also be countersigned by an officer who will also be involved in the appraisal. I believe that the new performance appraisal system is going to make a big difference, a vast improvement over what we have had in place for many years.

**The Speaker:** Moving on to Question No. 34, standing in the name of the Fourth Elected Member for West Bay

#### QUESTION NO. 34

**No. 34: Mr. Cline Glidden Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what is the status of the Civil Servants who were suspended from the Department of Vehicle and Equipment Services for the last 15 months.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** His Excellency the Governor has appointed tribunals to enquire into the alleged offences by the Civil Servants who were interdicted from their duties at the Department of Vehicle and Equipment Services.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member say when this process is likely to be completed?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The tribunals began meeting recently. It is difficult to say how long the process will take. As the Member asking the questions is an attorney himself – just for information – the civil servants are entitled to have legal representation at the tribunals. It is really a matter of how long those legal arguments go on. I would hope that the matter can be dealt with as quickly as is reasonably possible. I do

not know if I can nail down a time, but I would certainly hope it is weeks rather than months. But it is really impossible to say for sure.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Member say if these individuals are prohibited from having any employment during this period since the suspension by Government? And are they paid any emoluments in the meantime?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Persons who are interdicted may apply for permission to work. Indeed, I believe at least one has done so and been given permission.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In the answer it was my impression that the Honourable First Official Member was saying that the Government does not wish these persons to be employed once suspended. Can he clarify that point? Is there any money available to them in the case they are not employed?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I do not think I implied—I hope I did not—that Government is against them working. They are still civil servants and, as such, they can seek permission from the Governor to be employed. To my knowledge, whenever an application is made in one of these cases, it is always granted.

In addition to that, under the Public Service Commission Regulations, the fact is that civil servants when interdicted are paid no more than half their salary.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable First Official Member advise this House why it has taken 15 months for the tribunal action to commence?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The matter was reported to the Police in the first instance to determine whether there was any criminal action to be taken. The Police investigated, went to the Legal Department and it was ruled that criminal charges would not be laid. This did not mean that disciplinary charges would not, or could not, be laid.

The police enquiry and the decision by the Legal Department is a fairly lengthy process. As soon as that process was completed, the disciplinary action was taken. In one of the cases the matter has progressed further than in another, because one of the individuals was off the Island for an extended period of time and asked that the matter be held in abeyance until his return.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** This is a follow-up to my other question. Did I understand the Honourable Member correctly that the hearings in relation to the interdicted officers are now underway?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my understanding that in the case of the individual who had been off the Island and had asked for the matter to be held in abeyance until his return, that tribunal has not actually been started. It was authorised by His Excellency the Governor and it should start very shortly. But the other tribunal is in progress.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Member confirm the period of time between receiving the advice from the Legal Department that no criminal action would be taken and the commencement and appointment of a tribunal?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am unable to give specific dates on this. But I do know that the matter, once word was received that no criminal charges were to be laid, and the civil servant responsible for requesting disciplinary action moved on it, came to my office, there was no delay. I am required under the Regulations to have the Attorney General bring charges. It was dispatched to the Legal Department and within a very short time came back.

I then wrote to the individuals. They are normally given three weeks in which to respond. In one instance, the individual asked for a further 30 days beyond the three weeks. Once the response was received, I dispatched it straightaway to the Public Service Commission, where the matter was considered and recommendations were made to His Excellency the Governor, who then authorised the appointment of the tribunals.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It appears as if we are talking about two individuals. Can the Honourable First Official Member say whether or not there were three individuals? And what happened to the other one?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** There were only two civil servants involved.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question time for this morning. Moving on to item 5 on today's Order Paper, Statements by Honourable Members/Ministers of Government.

The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

## STATEMENTS BY HONOURABLE MINISTERS/MEMBERS OF GOVERNMENT

### UNITED STATES SUMMER SALES PROMOTION 2001

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. Members of this Honourable House may have heard recently on the news hotel rates and discount for a range of services by on-island suppliers about a program which the Department of Tourism (DoT) and the tourism industry partners have put together for this summer season.

I felt, Mr. Speaker, that it would be good to bring to the House a brief overview of why the programme has been put together and what other opportunities have arisen as a result of our partnership with travel partners within the marketplace.

Mr. Speaker, for approximately four years the Cayman Islands DoT and members of the private sector have tried to support the traditional low summer period with a number of initiatives in the US. With more and more customer surveys speaking about the price/value relationship in the destination, *Chillin 'n Cayman* was the programme designed to offer a special value-added package based largely on reduced hotel rates and discounts for a range of services by on-island suppliers.

Feedback from both the local industry and the travel trade in the US has suggested that this programme has run its course, and is no longer perceived as offering any real value to the consumer. More so, it had become increasingly difficult to encourage the US wholesalers to sell these packages as they were able to negotiate, in some instances, better prices with some of the hotels, bypassing the actual *Chillin 'n Cayman* package.

Mr. Speaker, in short, the destination became uncompetitive in the US marketplace. Over the last three months, the DoT has been meeting with local

industry partners in an attempt to come up with a revitalised programme that would not only stimulate the US traveller to make the Cayman Islands his/her destination of choice, but also to create added incentives to the travel trade to sell. The objective of the new campaign is simple: Increase travel to the Cayman Islands by US travellers during the traditional low summer season.

Since it is the common view that the destination needed to have a more aggressive position in the marketplace and in the minds of the consumer, the programme has been branded as *Re-energize yourself in the Cayman Islands!* The rationale being that this is how someone would feel after visiting the destination.

In order to make this a competitive programme, the local tourism sector—across the board—in conjunction with the DoT, had to come up with a creative way to entice the consumer. As such, all of the local associations in Grand Cayman and the Sister Islands provided input into its development.

The following is a brief outline of the components of the programme:

- 1) The programme will be available for sale in the US during the period May 1 through August 31, 2001 and visitors will be able to travel during the same period.
- 2) Book a vacation package of four nights or longer and receive one extra night free.
- 3) Kids under 12 stay free and eat free.
- 4) 20% off specified watersports services and select merchandise.

Mr. Speaker, I am pleased to report that airlines other than the National Carrier have also come up to the plate to offer discounted fares. In addition to Cayman Airways, American Airlines and Air Jamaica have joined the programme as well. Discussions are underway with Delta and Continental.

To stimulate the US travel trade to sell this package, the Department of Tourism and the industry have committed to providing cash and travel incentives to the top producers. A new creative campaign will support the efforts of promoting the programme, and the Department of Tourism sales force in the US has already been mobilised to 'blitz' the travel trade.

Consumer promotion would be via the following means:

- Travel publications and newspapers
- Direct Mail
- The Internet
- Press releases

Additional marketing programmes for the summer will see the DOT leveraging the Cayman Islands brand with other internationally recognisable brands, such as American Express (AMEX cards, AMEX Vacations, AMEX Travel) and MasterCard.

Both card companies have developed programmes that will give cash-value incentives to their cardholders for booking a vacation to the destination using their respective credit cards. This gives tremendous exposure of the Cayman Islands to a targeted

database of potential visitors with the propensity to travel to the Caribbean.

The synergies realised by the DoT and its industry partners seek to remove the perception that the Cayman Islands is an expensive—and sometimes only *aspirational*—destination. This becomes an even more critical objective in the face of declines in the US stock market over the last few weeks.

Mr. Speaker, efforts such as these are the backbone of what drives business to the destination. These efforts, a result of a focused objective between public and private sector, are the template for success for our destination.

Airlift particularly is a critical ingredient to the tourism growth of these Islands, the growing partnership of all elements of the travel and hospitality sector of these Islands augur well for us. I now look forward with anticipation to the success of these efforts, which are underway.

Thank you very much, Mr. Speaker.

### SHORT QUESTIONS STANDING ORDER 30(2)

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, by virtue of Standing Order 30(2) would you please allow me to ask one short question for clarification?

**The Speaker:** A short question, please. The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I wonder if the Minister would be so kind as to explain a bit further his statement which reads, "Mr. Speaker, I am pleased to report that airlines other than the national carrier have also come up to the plate to offer discounted fares"?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** What we are trying to say, Mr. Speaker, is that in partnership with the other airlines we will reach other markets in the United States.

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

#### HOUSE VISITORS

**The Speaker:** I would like to welcome Miss Cassandra Ebanks, and the group of students in the gallery. We hope you will enjoy your brief visit with us.

We will now proceed with Item 6 on Today's Order Paper: Government Business, Motions, Govern-

ment Motion No. 1/01, Establishment of National Youth Commission and Committee of Enquiry into the Causes of Social Breakdown and Violence among Youth in the Cayman Islands.

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

## GOVERNMENT BUSINESS

### MOTIONS

#### GOVERNMENT MOTION NO. 1/01

##### ESTABLISHMENT OF NATIONAL YOUTH COMMISSION AND COMMITTEE OF ENQUIRY INTO THE CAUSES OF SOCIAL BREAKDOWN AND VIOLENCE AMONG YOUTH IN THE CAYMAN ISLANDS

**Hon. Edna M. Moyle:** Thank you, Mr. Speaker. I beg to move Government Motion No. 1/01 Establishment of National Youth Commission and Committee of Enquiry into the Causes of Social Breakdown and Violence among Youth in the Cayman Islands, which reads as follows:

**"WHEREAS events of the recent past in the Cayman Islands have given cause for national concern with the apparent social breakdown and incidents of violence among certain elements of Caymanian youth;**

**"AND WHEREAS the Cayman Islands society prides itself on its reputation for stability, compassion and orderliness;**

**"AND WHEREAS the National Youth Policy calls for the establishment of a National Youth Commission;**

**"BE IT THEREFORE RESOLVED THAT this Honourable Legislative Assembly now authorizes the establishment of this National Youth Commission comprising young persons and other stakeholders—to monitor, implement, review and advise on the application of the National Youth Policy;**

**"AND BE IT THEREFORE FURTHER RESOLVED THAT this Honourable Legislative Assembly authorizes the establishment of a Committee of Enquiry and that such a Committee be charged with the following –**

**"1) to investigate the incidents of youth violence and the social breakdown among Caymanian youth;**

**"2) to enquire into the causes of youth violence in the Cayman Islands;**

**"3) to identify those issues and concerns which affect what appears to be disenchantment and alienation among some young persons; and**

**"4) to make recommendations as to ways and means of combating or countering youth violence in the Cayman Islands.**

**"AND BE IT FURTHER RESOLVED THAT such a Committee of Enquiry be headed by Caymanian Sociologist and Member of the Legislative Assembly Dr Frank S McField, MLA, and comprised of Dr Ivan Henry, A Steve McField, Attorney-at-Law, Susan Barnes-Pereira, Ramona Ritch, Pastor Winston Rose, Judith Seymour, Lucille Seymour, Rolston M Anglin, MLA, Cathy Delapenha, Tanya Nelson, Patrice Donalds, Mr Leonard Hew and Janice Bradshaw, representative for Cayman Brac and Little Cayman, as members.**

**"AND BE IT FURTHER RESOLVED THAT the Committee be authorized to co-opt some young persons deemed at risk as well as any other person or persons it (the Committee) deems essential to the achievement of its objectives;**

**"AND BE IT FURTHER RESOLVED THAT such a Committee be required to present its findings to the Government within three months of the date which the Motion has been approved."**

**The Speaker:** I have waived the necessary five days' notice for Motions.

Government Motion No. 1/01 has been duly moved. Would you like to speak to it?

**Hon. Edna M. Moyle:** Thank you, Mr. Speaker. I could stand here and say that I do not need to speak to the importance of this Motion, but this Motion arises out of Government's concern over the seemingly increasing incidence of serious violence among some of our young people in these Islands.

The Motion seeks to address the best way forward for the Cayman Islands in dealing with this challenge by establishing a national youth commission and a committee of able persons to serve on the Committee of Enquiry.

I feel that these Islands have the expertise in the Chairman and all members of the Committee put forward by Government. They are all young Caymanians who are very concerned about the future of our youth.

The Government, specifically through the Ministry of Youth, and the Ministry of Education, is committed to coming to grips with this problem. These Islands can wait no longer to deal with this serious problem; we can no longer sweep it under the carpet. We believe the course we have embarked upon is constructive, effective and appropriate, and the Government at this time takes the opportunity to welcome on board all Caymanians to rally and help us wipe out and defeat and find out the cause of this scourge among our youth.

It is the Government's belief that the majority of our youth are productive, law abiding and respectful. Nevertheless, this country has an obligation to those who do not fall within that. We have an obligation to work with them, rescue them, and nurture them so they can find a way to develop positive self-images,

pride and self-esteem. These Islands must give these youth a sense of hope and identity, which is positive, and also a sense of destiny.

The National Youth Policy and National Youth Commission are the instruments that will serve to guide us on the route we have embarked upon. The proposal to develop joint programmes between the Ministry of Youth and the Ministry of Education also holds great scope for these young people for positive development.

It is hoped that the two Ministries can put into place a cadet corps and a national youth service that will attract the youth into formal organisations where they can earn respect and recognition and will encourage Caymanian youngsters into constructive activities.

While the terms of reference of the Committee of Enquiry lay on specific parameters and a strict time-frame, it is recognised that for our efforts to be successful they must be extensive. We cannot afford to leave one stone unturned in our efforts to alleviate this serious problem. It must be stressed that this is our problem. It is not the Government's problem; it is not the Ministry's problem; it is Cayman's problem. And for us to be able to do anything about it there must be a collective effort.

The problem will not be solved with the establishment of The National Youth Commission; it will not be solved when the Committee of Enquiry presents its findings; it will not be solved when every Caymanian youth realises that he or she is a jewel—an essential beginning in the history of society's development. It will only be solved when parents take their responsibilities seriously and exercise their obligation to raise their children well.

I wish to speak briefly about the Committee of Enquiry and its work. It is appropriate for me to begin by expressing the Government's gratitude to the Chairman, Dr. Frank S. McField, the Third Elected Member for George Town, and all those members (some of whom are sitting in the gallery this morning) who demonstrated that this Motion is of utmost importance because they are ready to come on board to find solutions to the problem and accepted the invitation to participate in this project.

The Government is confident that the Committee is equipped to exercise its terms of reference and is behind the Committee 100 per cent. The feedback from the general public on the setting up of this Committee has been very positive. Caymanian society has always prided itself on its resilience, its spirit of cooperation and resoluteness. The establishment of this Committee will afford the society a glorious opportunity to work collectively for a common cause.

I commend this Motion to this Honourable House and hope it will have unanimous support. As responsible Members I would impress upon you not to allow this Motion to become political. It is too important for the future of the youth of these Islands. Thank you, Mr. Speaker.

**The Speaker:** The floor is open for debate. The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. I rise to offer my contribution to this Motion. As I look in the gallery at the future of Cayman, I am struck even more forcibly by the importance of this undertaking. And how very fundamental it is that we ensure through our efforts—through the efforts of the Commission—that the tragic events that have transpired over the last six months or so, never occur again.

Like many other Honourable Members of this House, I have looked into the anguished eyes of a bereaved father as he struggled to come to grips with the senselessness of the death of his young son. I, too, have listened with tears in my eyes to the heart-wrenching sobs of a bereaved mother as she came to grips with the result of the violence of some of the young people in this society.

Like other Members of this Honourable House and our small community, I have also felt the sense of loss, or outrage, of fear and of helplessness. But we cannot allow this feeling of helplessness to prevail. I am fortified that the Government of these Islands is finally taking steps to investigate the causes and seek solutions to what is now a major societal problem that is fast becoming endemic.

The creation of a national youth commission is one of the initiatives contained in the National Youth Policy that was laid on the Table of this Honourable House recently. That policy is the result of the National Youth Task Force, which carried out a survey of the youth of these Islands over a two-year period beginning in 1998.

After reviewing that survey, I was struck by a number of important considerations. The first was that 85 per cent of the young people who responded to that survey believed that Cayman would be a worse place to live in the next ten years if nothing was done to address the needs of its young people. Those young people had serious concerns about the future. They felt that in ten years Cayman would be an over-developed, over-populated, conflict-ridden, polluted society and country with the drug culture and crime rampant, and poverty widespread. In this scenario expectations were that young people would be disruptive felons and bitter about the negative outcome they were experiencing.

The results of this survey provide considerable insight into the disaffection and disillusionment of our young people, and the bitter fruit that those feelings are now bearing.

Over the course of the past three decades, this country has experienced what can only be described as unprecedented development and immigration at a pace it had never seen before. Over that period, the population increased from approximately 10,000 in 1970 to approximately 40,000 now—and increase of some 400 per cent! Importantly, much of that increase has been the result of immigration. And when

a population increases so dramatically over such a relatively short time, there are bound to be serious social strains.

Mr. Speaker, one of the harsh consequences of the pace of development is that we have left many of our own people behind. This is particularly true in relation to our young people, many of whom find it impossible to cope with the society and the education system they find themselves in.

Today's youth are in a position that the youth of yesteryear (the time I grew up in) did not have to encounter, with both parents in most cases working full time just to survive in the expensive society that Cayman has become. Many children are growing up in single-parent homes. Young people today get a lot less attention and guidance and spend less time with their parents than used to be the case.

They are growing up in a society that is constantly in transition. Their attitudes are heavily influenced by the mixing of so many cultures as more people settle in Cayman. The impact of so much immigration has led to a dilution of the Caymanian culture and identity crises in many cases as young people are unsure in many cases of who they really are and where they came from. Added to this sad fact is an education system that does far more to frustrate our youth than to educate them.

Although it is conspicuously absent from the National Youth Policy tabled in this House, an earlier draft of that document reported that in 1999 almost one-quarter of the students who left the government high schools did not graduate. To say that is alarming is an understatement. I believe that this high dropout rate is largely the result of frustration on the part of young people who find that the education they are receiving either so overwhelming or irrelevant that they simply fall out of the system.

The problem is that our secondary education system is simply not designed to cater to the needs and abilities of the majority of students in it. It focuses principally on the 15 per cent or 20 per cent who have high academic abilities and expectations. By and large, it ignores the others, so many of them leave. In many cases, those who do not leave the system graduate from it with little or no skills or qualifications with which to join the workforce. As a result, they find it difficult to cope with the working environment and either find no job at all or float from job to job, never staying anywhere quite long enough to learn any real skills.

In the highly competitive and expensive society that Cayman has become, these young people are almost bound to fail, and bound to be angry and envious of the society which denies them the opportunity to share in its wealth.

But it is not just the Education system that is to blame for the problems with our youth, and it is not just the parents either, although they must share part of the blame. It is all of us who make up this community. Last year (January) I had the privilege of listening to the Hon. Chief Justice as he addressed the

opening of Grand Court. He made a statement that has stayed with me since then. He observed that, **"although a relatively small community, Cayman is fast becoming less the intimate community it once was. With that loss of sense of community goes the sense of responsibility to one's neighbour. The village does not think like a village if it does not see itself as one. The social fabric of the country has changed, perhaps beyond recognition. As we seek to deal with these problems it would be wrong to lay too great an emphasis upon outside influences. It would also be wrong to overemphasise the institutional solutions. Rather, in the spirit of inclusiveness, the answer will indeed require the support of the entire community."** Wise words indeed. In this exercise, and in the time to come, we would do well to heed those words.

Most of us are quick to blame parents for the increase in juvenile delinquency and the attitudes of our young people generally. When a young person goes wrong, we almost automatically say it is because they did not receive a good upbringing, and because their parents failed to instil in them proper values and have not provided them with adequate supervision and guidance. What are these proper values? They are primarily the principles of respect for other people and for property, honesty and integrity in dealing with others, as well as responsibility for themselves and others.

Yes, those are the proper values. But the truth is that many of us in this community are ourselves too often inconsistent in living with the very values we claim are so important. We teach tolerance and mutual respect, but we practice discrimination. We teach that there is value in work, but we disregard the contributions of those who do an honest day's labour for a minimum wage. And too often we are contemptuous of the poor. As the dollar continues to replace all other values in the new Cayman and takes centre stage in this society as the most desirable social value, the virtues of honesty and integrity—which we were taught on our mothers' knees—are only practised by many of us as long as they do not affect the profit margin.

These mixed messages we are sending to our young people have caused the community of adults to lose credibility with them. Our young people not only watch their parents; they watch all of us. It is no wonder that so many of our young people reject those values since it certainly must appear to them that few of us practise what we are so fond of preaching.

So, our young people rebel. It is an understandable expression of their suspicion and distrust. They express this rebellion in increasingly antisocial ways—offences against property, offences against authority, and lately, Mr. Speaker, in horrific acts of violence.

Mr. Speaker, there are other factors at work as well contributing to the growing trend of serious juvenile delinquency. We boast about the high standard of



living in Cayman. But poverty is relative, and not all persons share the Islands' high standard of living. Indeed, we know that more than half of our workforce is earning less than \$1,500 per month. It is a generally accepted fact that young people from lower socio-economic groups regularly commit more violence than youth from higher socio-economic groups.

Social isolation and economic stress are two of the main products of poverty, and serious poverty undermines the relevance of school and the traditional path of upward mobility. It is also a fact that households headed by women are generally poorer than households headed by men. And more and more households in Cayman are being headed by women.

As Cayman becomes an increasingly materialistic society, there is an increasing division of society into distinct groups identifiable by their relative wealth. And the gap continues to widen between the haves and the have-nots. So, Mr. Speaker, as a country, we have to come to the realisation that children and young people in poorer households feel that their chances of success are limited. For them, and for a much wider group of Caymanians, there is a sense that they cannot travel the traditional routes of upward mobility to wealth—at least, not the wealth they see all around them.

When we couple that factor with the dysfunctional education system, it is inevitable that many of our young people will feel that education is irrelevant. These young people seek acceptance, respect and a sense of worth in a peer group and the value of that group—or gang—becomes their own.

It is widely recognised that a young person's environment is probably the most significant factor in determining behaviour, and that the most significant influence in the life of a young person is his or her particular peer group. The traditional values of which I spoke earlier are rejected by gangs. In fact, it is that rejection that causes the gang's formation in the first place. Eventually the dominant values in the peer group are the ones that the young person adopts.

What do we do? I have already mentioned that our current education system is not designed to cope with the needs of the majority of young people in it. This is a situation that must be addressed immediately. A full-time comprehensive vocational training course must become part of the high school curriculum.

We must do this to ensure that the less academically inclined students can begin to learn what they are good at and remain interested in school. The education system must keep our young people's interest or they will leave it. And when they leave the education system unequipped, unfulfilled, and without a sense of purpose, we have a major problem on our hands.

If we are lucky, those young people who leave the system in that way will just become a social burden. But in many instances, they become not just a social burden; they become involved in antisocial ac-

tivities. When we lose our young people the gangs and the drug culture are sure to find them.

As parents, we need to exercise more control over the influences to which our young people are exposed. We need to see to it that they are engaged in structured activity of the kind that promotes acceptable values and ensures proper supervision. A young person in an unstructured environment with time on his hands and nothing to do is far more likely to be subjected to negative influences than is a young person who is engaged in useful extracurricular activity. As parents and members of this society, we must endeavour to practise what we preach, and be aware of the mixed messages we are sending to our young people when we do not do so. And more importantly, we need to change our attitudes toward young people at risk and to juvenile offenders. We have to stop regarding them as "*those children*," or "*the children of those people*." Delinquency is not limited to any racial group or social class, nor is it in the context of Cayman, a problem of foreigners—it is a Cayman problem. It is our problem and we must fix it.

This Motion calling for the establishment of a national youth commission and a committee of enquiry into the causes of youth violence is a major important step in the right direction. I pledge my support to its Chairman, the Third Elected Member for George Town, and all members of the Committee and the Commission. I believe that they will have the entire support of this Honourable House and we pray the support of this community.

There is far too much at risk. Far too much blood has already been shed; far too many tears have had to fall. Let us do all that is within our power to reverse the trend and ensure that it does not happen again. I thank you, Mr. Speaker.

**The Speaker:** This is the usual time that we take our luncheon suspension, but in view of the fact that we have students in attendance in the gallery, is it the wish of the House that we continue with another speaker?

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** Mr. Speaker, it is my understanding, Sir, that some of the students would like to speak with some of the Honourable Members before they leave at 12.55 pm. In light of that, may I respectfully ask the Chair if he would consider asking Honourable Members if they would wish to take the suspension at this time to facilitate the children speaking with some Members.

**The Speaker:** Certainly, we shall suspend proceedings. But before so doing, I want to again congratulate the teachers in bringing the students here today. We welcome you all, and want to say that the doors are always open when the legislature is in session. We would welcome your attendance and seek your cooperation in this important issue.

**Hon. Roy Bodden:** Mr. Speaker, I crave your indulgence also to remind Honourable Members that the inter-primary school sports are being held at the Truman Bodden Sports Complex. We have for the first time about 16 schools, both public and private. I invite Honourable Members to visit. There will be a school there for every Honourable Member and more! Please come and encourage the students and teachers in this noble venture.

**The Speaker:** Proceedings are suspended until 2.15 pm for lunch.

#### PROCEEDINGS SUSPENDED AT 12.46 PM

#### PROCEEDINGS RESUMED AT 2.40 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continues on Government Motion No. 1/01, Establishment of National Youth Commission and Committee of Enquiry into the Causes of Social Breakdown and Violence among Youth in the Cayman Islands.

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. I rise to make a contribution to this most important of Motions at a time when it seems the Cayman Islands are faced with a myriad of intractable problems, not the least of which concerns our ability to access financial resources in the amounts we were hitherto accustomed to accessing.

The Cayman Islands today have been long removed from the mosquito infested, swampy backwater as they were described by Arthur Maloney in the 1950s, when he called them "The Islands that Time Forgot." With the change in the economy and in the societal makeup have come concomitant changes in the challenges we face.

I want to dwell a bit on the 1970's when it was realised that the Cayman Islands had taken off with an economic boom and political directorates were consumed with the fact that we were *growing wealthy and waxing fat*, but gave little or no thought to the repercussions of this new-found wealth. It is true that it is no fault of governments or politicians that they were taken up with the fact that the Cayman Islands became a 'boom' town without realising that there are always two sides to the coin.

So, while it is true that we have made rapid economic progress, with that progress comes certain social tolls. Our society was transformed to the point where a generation (if not generations) of young people grew up and were introduced into a society which because of the rapidity of its movement, was devoid of family structure and other societal structures which had been used in the past to nurture and bolster Caymanians, those from birth up through puberty into adulthood.

The family had changed: it was no longer the extended family system. Because of the economic boom it allowed itself to be segmented into small independent units rather than the extended family system we had come to know. Coupled with that was the advent of television, a medium foreign to the Cayman Islands prior to this time. All these things impinged upon the behaviour, the mores, and the value system of Caymanians. Particularly working class Caymanians became so enamoured, so caught up in the necessity to not only survive, but to do well, which certain things that were cherished in the past were given little or no importance.

The Cayman Islands was always a matriarchal society. It still is today, except that the role of the mother has changed from being a housewife—she is now the predominant breadwinner. We were a society where the majority of men went to sea. But it was known at that time that there was a man, even if he was absent. He periodically came home, sometimes for extended periods. So, sons and daughters knew that they had a father. There were pictures, letters, and money at the end of the month. The circumstances have changed now.

I grew up in a home where the only man I saw was my father—one father and five siblings. That was the old style. Now it is not uncommon to have five children with five different fathers! With these situations there is a certain amount of instability. But instability is not necessarily bad. Instability is only negative when it is not understood. Now we have a system where many of our young people come of age not knowing who is in authority. Mothers have to work two and sometimes three jobs. Some of these kids are termed "latchkey kids." They have the keys, let themselves in and set the rules.

Mr. Speaker, I want to establish that no parent wants to be bad. Every parent wants to be ideal and have children of whom they can be proud. But Caymanian society has been overtaken by a series of events for which parents were not prepared. We were not prepared for the advent of television. I say this again—after saying it umpteen times in this Legislative Assembly—when the television becomes the babysitter we are headed for chaos and problems.

Not to mention too that the world has shrunk and global communications make it possible for something to happen on one continent and before the end of the day we, in the Cayman Islands, are aware of it. All of this is not necessarily positive; some of it is negative. And all of it is attractive to the young and malleable.

We have a situation where our youth are exposed to many different kinds of stimuli which were not around in my generation and those closely following. As a result, we have certain contingencies coming to bear on our students. Particularly if they are in a system where their interests are not being catered to by virtue of the fact that what is taught is not interesting to them. It is foreign to them and they cannot make the connection between learning and mastering those things and making an economic livelihood. And

not to mention the fact that they may be influenced by persons they see coming from outside doing much better than they are. All of this bears on how these persons think.

It is basic human nature to be ambitious, to strive to be noticed and accepted. The manifestations come out in many ways. Some people excel at their studies. Others develop a prowess for athleticism—becoming great athletes. Still others take on deviant behaviour. But the basic philosophy is that nobody is born bad. So, the point I wish to underscore is that we cannot afford to write these people off. We have to find a way to correct the problems.

It is pointless to blame any element in society, although that is the usual easy route. We have to try to begin to understand what has happened in Caymanian society since the 1950s up until this time when these problems have begun to manifest themselves at such a rate as to become alarming.

I am reminded of some cultural differences. In the book *Men at Risk*, Errol Miller tells about the first time he travelled to Washington DC and saw a white man eating out of the garbage receptacles alongside the road. To a West Indian that is a phenomenon because the white people we see in the West Indies do not do that. But if you have lived in North America, Canada and other countries you know that is not strange.

We are exposed to all kinds of influences. Recently we have seen the behaviour of young people become so alarming that it is culminating in violence—violence that was foreign to the Cayman Islands. What is the reason? I do not believe there is any one particular reason. Rather, I believe that this breakdown lies in a combination of elements, not the least of which is a breakdown in the family structure. I believe that the influence of television, particularly the Black Entertainment Network, this whole business of rap music and the genres that surrounds the lyrics of this music, the dress, the code of the streets, have all come to play a part in the deterioration of behaviour among certain elements of Caymanian young people.

Gangs are not new. Anyone familiar with the musical *West Side Story* will know that gangs existed a long time ago. Now, however, along with gangs (and behaviour associated with gangs) come the drug subculture and all the negative effects. When we have a combination of drugs and gangs, the problem becomes acute and begs for a solution.

In a society that prided itself on orderliness and compassion, we have now (like everywhere else) come to face this kind of problem. This Motion calling for an analysis of the problem by the establishment of a national youth commission is a direct culmination of the National Youth Policy. And equally as important, the Committee of Enquiry to investigate certain anti-social behaviour with a view to suggesting corrective measures, is one of the most important Motions to come to this Assembly in recent times.

Mr. Speaker, we should avail ourselves of this opportunity to be honest and sincere in our efforts to first of all admit that we have such elements in our

society, and then to attempt to address them in ways which are meaningful. And I want to spend some time on the necessity of admission.

When previous attempts were made in this Legislative Assembly to enquire into this phenomenon it was met with semantic arguments that there were no *gangs*, there were *groups*, and there was an attempt to deny the existence of certain elements and antisocial behaviour at the schools. Previously, when persons like Dr. Frank S. McField wrote that this was the direction in which we were headed, the people who did not like the message sought to 'shoot' the messenger (if not literally, figuratively). The first point I wish to make is that we have to be honest with ourselves and admit there is a problem. If we can achieve this level then we have a good beginning.

I like the way the Committee is set up. In the past, we brought in experts. Here I am reminded of the 1997 Family Study in which commissioned—probably at great expense—Dr. Wint from the University of the West Indies. The study has much information, many things that can inform us. But, Mr. Speaker, it has been to this point little more than an academic exercise. To the best of my knowledge, there has been no attempt to incorporate the findings of this study in any of the policies of government. That was a colossal waste of intellectual ability and a colossal waste of the country's financial resources. I am happy that this attempt at enquiring into a serious problem has a predominately local flavour.

While it is true that a prophet has no honour in his own country, the foreign prophets who did this Family Study in 1997—and a similar study in 1991 whose work went unheeded . . . I hope that when the Government receives the report of this Commission it will meet with a more deserving end. If we do not pay heed, and if we do not understand the problems challenging us at this time, they are bound to grow worse. And while they are now confined to a certain element of society it will spread to the level where it will be out of control affecting us all.

I am happy to have played a very important part and I shall continue to stress that this exercise be done and when concluded that the report be acted upon. That is the challenge for all Honourable Members of this august Legislative Assembly. It is time, Mr. Speaker, that the matter of youth development (their roles, their responsibilities, et cetera) be given the prominence and the importance it deserves. For they will be the persons who occupy these halls when we are gone. If we do not prepare them by inculcating in them a sense of destiny, a sense of responsibility a sense of self, and a sense of country, then sad will be our fate.

The parameters are set. There is one observation that I think needs to be made. Probably due to an oversight, there was no mention of the facilities available to the Committee to carry out its work. I would suggest that the Legislative Assembly is the most fitting place for this Committee to carry out its work. I would like to see some arrangements made so that

the Committee can have the appropriate clerical and secretarial pool available to it, and that if necessary there could be some facilities for recording verbatim depositions from persons who wish to appear before the Committee. Mr. Speaker, these kinds of considerations are important as there may be persons appearing before the Committee who may not be disposed to give written depositions but who may prefer to verbalise what they have to say.

I would also like to see the Committee empowered if necessary to go into any section of the community they deem fit in order to gather evidence, either as a whole committee or as a sub-committee. I believe that in order for the report to be as comprehensive and far-reaching as it should be, there should be no encumbrances to the Committee in an effort to carry out its work. But these are matters best developed by the chairman and his members. I see from the membership that we have an eminent panel. I look forward to the Committee doing its work.

I want to address a few matters raised by the Second Elected Member for George Town in his comprehensive and succinct contribution. The Honourable Member mentioned a failing education system. It is a concern of the Government that there needs to be some marked improvements in the Education system. I can vividly recall when the statistic was given that approximately 24 per cent of the students leaving the High School did not graduate, that there was great furore. I have always said that we have a good system if we measure it by the fact that it caters to the top 20 or 30 per cent. The system is significantly weaker when it comes to catering to the remaining 70 per cent. It is to this element that we have to bolster if we are to avoid these problems.

I used to see many youngsters who in my estimation were skilled soccer players, good basketball players. I can not recall too many of them getting scholarships to colleges or universities abroad. I see some of them in my travels along the roads of Cayman. I ask them what they are doing. Many of them express disappointment. It seems that we only give importance to excellence in academic subjects. We have not cultivated the ability to translate athleticism into intellectual prowess.

That is one of the things I like about the United States. It is possible for hardworking students who apply themselves (and heaven knows some have to plod and plod) and have athletic ability to go to college and graduate, some from good schools. It is an area the Cayman Islands needs to pay much more attention to, if only for the reason that as financial resources grow tighter we may be less able to give the number of scholarships we have been accustomed to giving and may have to explore ways of sending more students abroad through athletic scholarships.

For years Jamaica has gotten at least 20 scholarships by sending high school teams up to the Pen Relays in Pennsylvania, plus all the other scholarships they get for soccer and other sports. It is a sensible route to go and it is one I hope that we can explore. It

is certainly one area in which I am committed to developing some understanding.

Mr. Speaker, this Government is committed to developing a practical Education system that benefits the majority and is meaningful to the point that students can understand where they are going, and that they themselves can formulate their own objectives and ambitions. But it is not through education alone that the solution lies.

We believe that the best effort has to be a collaborative effort and the Ministries of Youth and Education have agreed to collaborate on certain efforts which are bound to improve the opportunities for Caymanian youngsters to excel. We are talking about a cadet corps, a national youth service, and other organisations that Caymanian young people can enter into and develop themselves to the fullest.

We have entered a time when manhood in Caymanian society is being devalued by the threats and attractions of gang identity, the drug culture, opportunities to get rich quickly, being the neighbourhood 'Don' (a lady's man) and all those things which are not in the long term, positive. It is at this point that we have to exercise sense, restraint, understanding and the ability to deal with this challenge. As Edmund Burke cautioned his generation, "**If our patrimony is cast aside, and we become smug and apathetic we shall come to know servitude of mind and body.**"

I say to those elements in our society who do not want to get involved because it does not affect them now, this is a cancer. It is going to affect everyone if it is not dealt with and treated. I have every confidence in what this Motion calls for. The Committee of Enquiry has my support, the youth commission has my support and I will continue to advocate and articulate for better opportunities for education and training for our young people.

I want to conclude by saying that it is regrettable and unfortunate that we do not hear enough about the good youngsters—that newspapers do not see fit to play up the success stories. We seldom hear about the A students and those who are role models,

I would like Caymanian young people to know that we care for all of them—those who are good, and those who are not so good—and that it is our responsibility to ensure that all of them have the protection, the opportunities and the ability to assimilate themselves into this society to be productive, respectful citizens. And we are determined to do that. That is why the Government has decided to exert an all-out effort to alleviate the scourge of gangs before it grows in our society.

Mr. Speaker, I commend this Motion to Honourable Members. I would like to encourage the Committee, wish them well, and thank them for accepting the invitation to serve in such an important capacity.

**The Speaker:** Honourable Members, before calling another person to speak, I would like to make a procedural correction.

This Government Motion No. 1/01 was tabled in this Honourable House on 21 March 2001. Therefore five days had not elapsed at the commencement of the Honourable Minister's presentation. I graciously waived the five-day notice, but procedure requires the suspension of Standing Order 24(5), "**Subject to the exceptions specified in paragraph (9), no Member shall make a motion unless he has given notice in writing of that motion either at some previous sitting of the House, or to the Clerk, not less than five clear days prior to the commencement of the meeting of the House at which such motion is to be made.**"

I will now ask the Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports to move the suspension of Standing Order 24(5).

### SUSPENSION OF STANDING ORDER 24(5)

**Hon. Edna M. Moyle:** I beg to move the suspension of Standing Order 24(5) in order for Government Motion No. 1/01 to be debated.

**The Speaker:** Thank you. I shall now put the question that Standing Order 24(5) be suspended in order for Government Motion No. 1/01 to be debated.

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

**AYES.**

**The Speaker:** The Ayes have it.

### AGREED: STANDING ORDER 24(5) SUSPENDED IN ORDER FOR GOVERNMENT MOTION NO. 1/01 TO BE DEBATED.

**The Speaker:** Continuation of debate on Government Motion No. 1/01. Does any other Member wish to speak? The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I had hoped to exercise a bit of patience waiting until toward the end of the discussion to make my contribution. I feel that since the Motion asks that I chair this Committee it might be best for me to hear what all other Members have to say.

*[The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport rose]*

**The Speaker:** Will you give way to the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport?

**Dr. Frank S. McField:** Yes, Mr. Speaker.

**Hon. W. McKeever Bush:** I will not be long; but that will give the Member some more time. This matter before us is a laudable one in that we are bringing a

Motion to set up a committee and a commission. The problem we are dealing with is one that affects everybody. There are so many angles to this problem that I will say a prayer for those who have to deal with it in the first instances, the two Ministers, and the Committee members and those appointed on the Commission.

Dealing with young people is not easy. I speak from a parental point of view. Sometimes we wonder where we have gone wrong, if we have gone wrong, as we strive to raise our children. I have two. As a couple we struggled, sometimes by trial and error. We looked at how our parents raised us. We took examples from other good families. It is not easy being a parent with teenage children. My mother used to say that she could *account for them when they were around her frock tail, but after that the world takes over.* That is so true!

I have been to funerals where very appropriate sermons have been preached, where speaker after speaker talked about, warned, lauded . . . but still we are faced with a growing problem. We can easily point our fingers blaming various factions and causes. This is much (and I will give this simple analogy) like finding the proper low-income housing scheme—the problem is so that we have to tackle it with various methods.

I wonder how some parents can allow ten-year-olds or twelve-year-olds to rule the roost. Yes, times have changed—pressures have changed. And new pressures have arisen. But, I cannot figure out how parents can allow these children to be so disruptive. Perhaps some of this will rise to the top when the Committee undertakes its work.

At one of my son's graduating ceremonies (in Florida) a teacher of his who was speaking, said that in the United States 92.5 percent of the young people were deemed good, not giving problems. It was the other 7.5 percent that got all the attention of social services; all the attention of the school services; all the attention of the police arm that dealt with young people, and the media. While we have problems at hand that burn us to our soul, we must always remember that we have excellent young people in our communities, in our churches, in our schools.

This morning a question was asked about after-school activities. When talking to various people the first thing they tell us is that Government is not doing enough, they do not have enough activities, the schools are not doing enough. The question this morning highlighted so many things that the school system is involved with. But it lends the question 'Is there time for anything else?' There are 150 after-school activities in Government schools in the Cayman Islands in addition to after school programmes run by the churches and community organisations. I do not know if that is the problem, but I believe that while there can be a few more programmes to deal with problems, I would hope that people understand that there is a lot going on in the school system.

I hope that the Family Study can be perused and that whatever statistics available will be used. I believe that the Family Study highlighted quite a few problems. It made some suggestions. I hope that will be looked at. I would like to thank the persons who have agreed to serve on the Committee. They have already been given the assurance that Government will work with them and do what it can to help them.

Mr. Speaker, I fully support the establishment of this National Youth Commission and Committee of Enquiry.

**The Speaker:** Does any other Member wish to speak? The Second Elected Member for West Bay.

**Mr. Rolston Anglin:** Mr. Speaker, I rise not only in support of this Motion but also as a future member of the Committee of Enquiry, once this Motion has passed.

In the first Resolve, Government states that there will be a national youth commission which for the National Youth Policy will be an independent body made up of the National Youth Policy Task Force, representatives of the Cayman Islands Youth Assembly, the religious community, the business community, educators, social workers, other Government and non-Government providers of services to young people. Its primary responsibility should be to monitor the implementation of the National Youth Policy and to advocate for youth issues to be addressed in all other relevant policies. Its first task should be to receive and approve a plan of action for the implementation of the National Youth Policy. This mechanism would further enhance the collaborative efforts in the entire community.

Mr. Speaker, it is that very last sentence that is of utmost importance, that is, this mechanism the National Youth Commission would further enhance the collaborative efforts of the entire community.

Being a small community, where resources are seemingly scarce, it is critical that we have a body that will seek to do just that, that is, enhance the collaborative efforts of the entire community in regard to youth.

Talk is cheap. Being the youngest Member of this Legislative Assembly, being four short years removed from the Government's official definition of youth, I feel it particular important to stress to all Honourable Members of this Legislative Assembly and to all citizens of Cayman, that we have heard slogans like "*the youth are our future,*" and "*the future is our youth*". However, until the Honourable First Elected Member for West Bay and the former Minister of Youth called for a national youth policy, to the best of my knowledge there was no real formal document on youth or serious effort to ensure that issues faced by our youth are properly addressed or an effort to enfranchise them so they would have a holistic view.

The National Youth Policy seeks to do a few things. It is a transition from the old guard to a new policy, to move from an era of competition to one of

collaboration; to move away from a one-dimensional approach to one that is holistic, multi-dimensional; to move away from having youth marginalised, to having them be integral participators of society; to move away from control to participation; to move away from seeking cures to seeking prevention.

Obviously, this Motion seeks to bring about some cures because there is illness among our youth. But also, the Committee of Enquiry ultimately must come up with some evidence and when used along with the National Youth Policy and its implementation will seek to provide preventative measures so that someone is not here 20 years from now reacting.

The Honourable Minister responsible for Education, Human Resources and Culture laid out the entire history, so I do not need to go into that.

Our National Youth Policy brought together adults who were in positions of influence: young people, parents, teachers, police, clergy, sports leaders, club leaders, counsellors, social services, et cetera, in a quest to define high community standards for youth development. It is obvious from reading the document that many meetings, many conversations, and a lot of research went into it. Of course, its terms of reference were much broader than that of the Committee of Enquiry. However, it provides a lot of useful information that the Committee of Enquiry can use in its work.

As I said earlier, talk is cheap. The citizens of these Islands must make a commitment to make Cayman a wholesome place for youth by communicating high standards for people in homes, in schools and throughout the community. Standards and resolutions have been developed within the National Youth Policy, and should include standards of prohibitions against the kind of conduct that has become all too familiar—use of drugs, smoking and drinking, violent behaviour, gang activity, premarital sex.

Mr. Speaker, we have discussed and explored many topics that concern young people—early habits, mode of discipline, household chores, guidelines for watching TV, homework, friendships. A lot of the groundwork has been done.

When it comes to the youth in our community, there are many things we have to look at—parenting, peer pressure, culture, the influence of television, young people going unsupervised for long periods of time, discipline or the lack thereof, the education system, substance abuse, and the topic at hand—violence and gang activity. We need not look very far from the issues facing young people than to find solutions. Obviously born into any issue on any topic is to find a cure. Having said that, we must look at parenting.

I am glad to hear the Government speak of a cadet corps. I am glad to hear Government speak of education. We must look at authority within our society. We must look at television. I was glad to hear the Honourable Minister of Education express his concern about one particular television station, the Black Entertainment Television network (BET). I had a parent from my constituency tell me last year that BET

was a great cause for destruction within our society in regard to youth; that it had a great influence on behaviour. Although I am the youngest Member of this House (and we all go through phases) I had not actually watched that station for quite a while. Probably not since my days of break-dancing and rapping.

In those days, life seemed so much more innocent in Cayman. In fact, I think every generation will look at the prior generation and normally conclude two things: 1) they were a lot smarter than us academically because as society grows educationally the parents will equip the children with tools and resources at an early stage that they would not have been exposed to; and 2) people always say '*boy, this generation is bad. It's the worse yet*' simply because their lifestyle is very different from ours. The world changes. Some people cannot deal with that, but the world changes.

I would say that it is not that generations get worse. I can remember when rapping and break-dancing came to this country that there were numerous parents who did not want us taking part in that activity because it was so different. It was bad. It meant you were a bad, vulgar child. *Different* does not always mean worse.

I took the occasion to actually turn on Black Entertainment Television (BET). Another adult was in my home at the time and heard. He was shocked. He said "Rolston, what are you watching?" Once he saw it, he was in as much awe as I was. There were limousines with swimming pools in the rear. There were people who were actually naked except those body parts were fuzzed out on the screen. It was not that they had on skimpy clothing, the people were naked. Their private parts were fuzzed out so that you could not make them out.

This is the type of television our youth are exposed to. What do young persons in the early stage of formulating ideals as to right and wrong, what is acceptable and unacceptable, think when they are at home and this is what they watch? In fact, when I saw that this Motion was coming, I took the liberty of turning on BET just yesterday morning because I wanted to refresh myself. I did not want to come here and say something that might have been a hallucination, so I turned the channel on again in the late afternoon.

Again, I saw a circle of people acting out acts of violence, fights, gang fights, I saw them all gathered around like that is the norm, like that is acceptable behaviour. I saw the people on the television screen all gathered around fighting and the rap music played on, and on, and on.

I go back to what I said earlier, 'Are we going to be honest with ourselves as a legislature and as a community as we embark on this endeavour?' Or, are we simply going to say '*No, you can't censor what the cable station wants to show. It's the people's right to watch that. They should monitor their kids, do parental lock on the channel*'

Every generation gets smarter and smarter. I do not buy these solutions because at the end of the day

parents can do what they want. But if something is available, something that seems exciting, young people will find a way. If there are things that shock us as a community, things that we do not need, why have them?

To me, it is like all of us saying we do not want drugs, but why have drugs delivered into the living room of every home of this country every afternoon at 3.30 when children are home under lock and key because the children should not have it? No one would agree with that. But there will be people in this community who will find all sorts of excuses for keeping these lewd and disgusting channels in these Islands.

Mr. Speaker, double standards are wicked! They lead you to hell before you even know it! The Second Elected Member for George Town touched on that earlier. *Parents can preach, but never teach unless they practise what they preach!*

If we, as adults, are going to sit idly by and keep readily available things that we know are destructive, then how can we truly look at ourselves in the mirror and say 'the youth is our future, the future is our youth?' Nothing gets me going more than hypocrisy and double standards. I have seen too much of it in this community in my short 29 years here. This Committee has a lot of work to do. But so does this entire community. Are we going to look at ourselves in the mirror and do what is right?

We are a small community. But we seem so fragmented. Gone are the days when a village mentality prevailed. Can we get it back? It would be good. I am not sure it is practical. But we must try. Double standards . . . we say we are going to fight gangs in this country, yet we have adults who are members of fraternal organisations, such as lodges. Double standards, Mr. Speaker. We look at our youth and say to them "gangs are bad. Do not be involved in gang activities." And in the same breath we jump in our cars and go to our lodge meetings. Whoa, Mr. Speaker, I tell you that is what you call double standards. No wonder our youth are so disoriented and confused.

Speaking of denial, I was at a meeting of the police in West Bay some time last October. We were assured by the Police Commissioner that Cayman did not have gangs. In fact, he said he was from the "big country" where there are "real gangs" and "real gang activity." All we had here was loose groups. Again, maybe we are standing here in this House talking about things that are not in Cayman.

The day after I took part in the Chamber [of Commerce] Forum that I took part in in West Bay, I had the privilege of having the principal from the George Town Primary School call me and threaten me in no uncertain terms that she and her PTA were going to write a serious letter of rebuttal in the *Caymanian Compass* because she understood me to say that there were gangs in the George Town Primary Schools.

I cleared the air and told her that I did not actually say that. What I said was that it was reported that a particular gang by the name of "Central" was so

organised that they had members in the John Gray High School, the George Hicks High School and the George Town Primary School. In other words, they had their legacy plan in place. Where we may struggle with legacy planning within the private sector and the civil service, the gangs have their legacy planning in place.

I was told that they were going to write a serious letter against me. Once I convinced the lady of exactly what I had said, she ended up telling me that yes, there may be gang members attending her school, but that there was no gang activity within her school, and that that stuff cannot be spread about her school. Again, I am not saying there are gangs in the George Town Primary School, or any other primary school.

Of course, there is another gang, or purported gang . . . you see, sometimes this issue even confuses me when I hear all the experts talk about it. Those who are so close to the situation should know whether or not there are gangs. But, there are gangs in West Bay, three they tell me, and a few from George Town. In other words, like an organism that destroys itself from within, so seems the path of us in Cayman where we have to align ourselves with various similarities (the predominant one being along the line of districts), and commit acts of violence against each other. This Committee has a lot of work to do.

One of the things that needs to happen, as I think the Honourable Ministers of Education and Tourism mentioned, is that we need to showcase the success stories, the good children we have. I agree with that 110 per cent! After all, we have two local channels and I am sure that our television station, being good corporate citizens, would avail itself to carry more youth oriented activities, to highlight them, to 'big them up'. I would implore the *Caymanian Compass*, *Cayman Net News*, and Radio Cayman that as a matter of doing business they seek out activities that highlight our youth, and cover them. Give our youth the recognition they need, that they deserve.

I was glad to see CITN send in a cameraman to a CASA graduation programme at Boatswain Bay Presbyterian Church last night. We had numerous young people graduate from an 8-week series of lectures on the harms of substance abuse. What was so disappointing was the lack of males in attendance. In fact, on the list of graduating students, four of the 11 were boys. But none of them were actually at the graduation ceremony to collect his certificate and prize for participating.

When we think of parenting, and when people talk about lack of good role models, the lack of good father figures, it starts from a young age in our community. I often hear about "at risk" youth. But on the other side of that coin, I see "high-risk" parents. It is my view that high-risk parents produce at risk youth.

Mr. Speaker, everything in life is interrelated. A few days ago when we were debating the Minimum Wage (Select Committee) Motion I mentioned in my

contribution the fact that parents are disgruntled and discouraged because they are working as hard as they can doing what society tells them to do, making the most of their abilities. Yet, they cannot make ends meet. They go home frustrated and suffering from low self-esteem. After all, if we are taught at an early age that if we are honest and hardworking and do the best we can that life should be okay. When that doesn't happen, how can adults have high self-esteem. And if the adult doesn't have high self-esteem and he or she is a parent, how can he or she possibly pass on any level of esteem to the children? Mr. Speaker, everything is interrelated.

When this Committee meets and we start doing our work, we cannot focus only on youth violence, we must focus on everything that contributes to life in this society and address it all at the most common denominator. Everything affects everything.

Disgruntled adults make disgruntled homes, create young children who become disillusioned by having low self-esteem and look for other ways to identify. After all, which young person wants to identify with a parent who is disgruntled, obviously suffering from low self-esteem? The last time I checked, human nature makes one want to do better, and it is human nature to not look at things that you can definitively say are not of a positive standard.

When our young people come together in school and in other social settings, it only seems logical that they would acclimate towards each other and identify with the behaviour of each other.

Self-esteem is a key ingredient to life. On page 13 of the National Youth Policy, item (c) "Youth and Employment" is covered. Reading from paragraph 3 of that section, I quote, **"In 1997 the overall unemployment rate was 4.1 percent and though this may be considered low in comparison to other countries, it is reason for concern in the Cayman Islands because of the country's large body of imported workers who make up 44.7 percent of the labour force. Some youth find it difficult to cope with the working environment and normally resign from work rather quickly and frequently. It should, however, be noted that the student drug use survey shows that about one in four students hold part time employment.**

**"The unemployment rate for young people is notably higher than the overall unemployment rate. The rate for young men aged 15 to 25 was 6.2 percent, and young women aged 15 to 25 was 12.5 percent. That equates to one in every eight."**

One of the things that caught my eye was the age range (15 to 25). However, when one takes the time to talk to young people in this community one will find that these statistics do not lie.

I know a young man who used to frequently attend the Boatswain Bay Presbyterian Youth Group when he was in high school. He is out of high school now and he has his driver's licence and a car. So, youth group is not high priority any more. He graduated last June or July and he was only able to procure



a permanent job two weeks ago. Yet, we have thousands of people in this country on work permits.

Here is a child who sees frustrated parents with low self-esteem. They made their way through high school and did not think it cool to cause trouble, or did not find it as a natural way of rebellion. They come up to graduation. They graduate and we have a new life coming into the labour force available for a job. They are Caymanian. How crushing it must be to have to look seven to nine months before finding a job. This is ludicrous! Again, everything affects everything.

The message I want to send out to my fellow committee members and to every Member of this Legislative Assembly and to the community at large, it's just that: Everything affects everything.

So, Mr. Speaker, I pick up this young person's life. He is now crushed. He is in the fifth largest financial centre of the world. He's been led to believe that Cayman is in a boom. He's been led to believe Cayman is a wealthy country. But he cannot find a job and he wants to work. What sort of behaviour are young people in that situation expected to carry out? It would seem to me that we expect miracles for youth in that situation to not get into antisocial behaviour. It would seem ridiculous to me for adults to expect people in that situation to not lash out in some way. It may not be immediately overt; it may start out with *'I'm home and out of school, so I'll walk around my district.'* He bumps into some of his friends and they are having a drink, so he has a drink too. After all he is in his land of opportunity and he cannot find a job.

So, this young person wants attention. And he will naturally acclimate towards someone of the opposite sex. Then, the person winds up getting intimately involved with another human being. Guess what? Nine months later here comes the baby. How can we reasonably expect a person with that kind of start in life (which in my view is extremely common in these Islands) to be a good parent, other than by divine intervention?

I am glad to hear that the Government is committed to vocational and technical training. That will certainly address persons in the situation I have just described. After all, if that young person were equipped with a tangible skill, had gone through a proper mentoring and work experience programme . . . he should have been equipped to take up his rightful place in society. In fact, once we have the proper interworking within Government with Labour and Education (which I am glad to see housed under the same Ministry), then we can have young people able to come out of high school to take up their rightful places in society, get their lives off to a positive start, have self-esteem—all because they will have a tangible skill to offer this world and will get paid a fair wage for that skill. That would seem to be a decent start for the majority of our young people.

Mr. Speaker, in section (e) on page 14 of the National Youth Policy, we find that roughly 58 per cent of the households in Cayman have both parents present. In other words, 42 percent—four out of every

ten young people—do not have the privilege, as ordained by the Holy and Living God, to have both parents raise them. How can we reasonably expect the situation to be anything other than it presently is? I think it is unreasonable to expect.

I think that if we do not act now, if we as a community do not stop putting our heads in the sand exposing the rest of our bodies, we will continue to go down this road that everyone fears so much: increasing crime, gang activity. We are a tourist destination. Everything in life is interconnected. How can we reasonably expect to maintain and enhance our position in the tourism marketplace if there is talk and the existence of real live gangs in the Cayman Islands?

If we are not going to properly equip our young people to take up their rightful place in society, nothing chases away tourists, nothing erodes a tourism product more than crime. You do not have to travel far in this region to see countries that as far as natural beauty is concerned are heaven on earth. The Cayman Islands pale in comparison in a lot of instances in terms of natural beauty. But, when you walk around and get haggled on the street . . . when you do not feel safe, that is probably not a place you are going to frequent.

We can talk about unmatched diving; the Seven Mile Beach; the Bluff; the parrot reserve and the tranquillity on Little Cayman. But crime will chase tourists away from anywhere, I do not care how beautiful it is. If people cannot go to a destination and feel safe, they will probably not come. We must address this issue. We cannot commit the sins of the past. And I am not blaming anyone. As said by earlier speakers, this has been festering for years as this country developed. It is now time for us who are in the here and now holding these high offices to do something about it.

But, the citizens of the Cayman Islands must realise that change starts in every home. The Government can only do so much. Some believe that the Government has a magic wand and when waved it can simply come up with some law and cure the ills of society. The ills of society are born in the homes of society. So, we must cure the ills at home.

We have to intervene where we see fit. We must put proper policies and infrastructure in place that will help our young people and all citizens. But as the old saying goes, *"You can take the donkey to the well, but you can't make him drink"*. The cure starts in every household in the Cayman Islands, not in the Legislative Assembly! We are here to aid and assist. We are here to ensure that those who 'fall through the cracks' have a safety net in which to land so that we can turn lives around and try to get them back on the path towards being productive members of society.

We have to recognise as a community that we are going to be accountable to each other, not looking across the road thinking *'That's their children. It was them that did it. Boy, his girl bad and his boy wild.'* His wild boy could break through your bedroom window tonight and do something bad. We have to be-

come accountable to each other in this society. I am shocked at the lack of accountability within this society. I can remember going to John A. Cumber Primary School and seeing children causing trouble by fighting and disrupting classes. Yet, their parents came to the school wanting to beat up the teacher!

*[Interjections by Members: Preach on brother!]*

**Mr. Rolston Anglin:** And they would come here and lick us for saying it! Mr. Speaker, we can talk a lot. But, we need to realise that we must all be accountable to each other and seek ways to change our behaviour: there is room for improvement in every one of us.

*[Interjection by Member: You got that right!]*

**Mr. Rolston Anglin:** When I go to church and I see fidgety children, I can tell you this much I am not going to shy away whether or not the parent is sitting next to the child. In some fashion I will say "be still." But, Mr. Speaker, that does not happen any more. I have gone to functions, where adults watch children do all sorts of mischief and nothing is said or done because the parents are not there and everyone is afraid to say something to somebody else's child.

I say that if an adult in this community chastises a child (and I do not mean by beating) by correcting him for something he knows is wrong, that person should be commended. But we live in an age where that parent may want to come and fight you for saying something to his child: "*How dare you say something to my child?*" That parent feels his child is perfect and can do no wrong! Or, if it is wrong, it is just '*cute*' they are just *being children*'. It is not that they are challenging authority—it is just that they are children.

I would say something else, but then it might be said that I am fascist or something like that.

*[Inaudible interjection]*

**Mr. Rolston Anglin:** Yeah, they might really throw licks at me, Mr. Minister.

Mr. Speaker, I think this is a convenient point to adjourn because I have more to say.

**The Speaker:** I will entertain a motion for the adjournment of this Honourable House as we have reached the hour of interruption.

The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

## ADJOURNMENT

**Hon. W. McKeever Bush:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Monday.

**The Speaker:** Before putting the question, I would like to remind Honourable Members that debate on the Throne Speech and Budget Address will commence on Monday. I ask Members to come prepared to participate in the debate.

I shall now put the question that this Honourable House do now adjourn until 10 am Monday, March 26. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.29 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 26 MARCH 2001.**



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**26 MARCH 2001**  
**10.14 AM**  
*Ninth Sitting*

*[Prayers read by the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development]*

**The Speaker:** Please be seated. Proceedings are resumed. Item 2 on today's Order Paper. Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies for absence from the Honourable Second Official Member who is on other official business and from the Honourable Minister for Health and Information Technology who is back on the Island and hopes to be back in the Assembly on Wednesday 28 March.

Item 3 on the Order Paper is Questions to Honourable Ministers/Members.

Question No. 21 stands in the name of the Third Elected Member for George Town. Since the Honourable Second Official Member responsible for the Portfolio of Legal Administration is not here, I would appreciate a motion to defer this question.

The Honourable Minister for Planning, Communications and Works.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS  
OF GOVERNMENT**

**QUESTION NO. 21**

*Deferred on Monday 19 March 2001*

**Hon. D. Kurt Tibbetts:** Due to the unavoidable absence of the Honourable Second Official Member, I move that this question be put on the Order Paper on Friday, if possible.

**The Speaker:** I shall put the question that this Question No. 21 which was previously deferred until a later Sitting to be determined by the Business Committee. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED. QUESTION NO. 21 DEFERRED TO A LATER SITTING.**

**The Speaker:** Question No. 35 standing in the name of the Fourth Elected Member for West Bay.

**QUESTION NO. 35**

**No. 35: Mr. Cline Glidden, Jr.,** Asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development what has been done regarding Private Member's Motion No. 11/2000 passed by the Legislative Assembly on 17 July 2000.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Since taking Office, the Government has agreed to establish a Public Utilities Commission to pull together the various matters relating to public utilities into one body.

Honourable Members will be aware that electrical rates and their method of determination are established in the existing franchise agreement between the Government and Caribbean Utilities Company Limited (CUC). The Government therefore, considers that the best way forward in dealing with electrical rates is to review this agreement with Caribbean Utilities Company Limited and this is the line the Government intends to take.

I now move on to the matter of interest rates. This is now under review and once an approach to dealing with this matter has been decided, I will inform all Honourable Members.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Third Official Member inform this House of the format of the review, and by whom it is being carried out on the interest rates?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** This is a matter that has been discussed in Executive Council. But with the myriad of matters now taking place, especially review of legislation and other issues that connect with the Monetary Authority, it is a question that an appropri-

ate time will have to be determined as to the best way forward in terms of having this discussion.

It was initially felt that it would be useful since there is no provision in law at this time for the Monetary Authority to participate in discussions with the clearing banks in the setting of interest rates. A procedure will have to be developed whereby this is taken forward. But the specifics as to how this can be done cannot be articulated fully at this time.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Third Official Member say if a public utilities commission is only for CUC?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** It will not be limited to CUC only, but the parameters and terms of reference are being developed by the Ministry of Planning.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Third Official Member confirm that the utility companies on the Sister Islands will be included in this review and subject to this commission?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Yes, Mr. Speaker.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Third Official Member say if guidelines have been started as to how a utilities commission will be set up?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As I mentioned earlier, guidelines and terms of reference are now being developed by the Ministry of Planning.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I know CUC was specifically mentioned in the answer. Can the Honourable Third Official Member say who is going to perform the independent audit of CUC?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** A decision has been taken that this activity be carried out, but the specific firm to undertake this review has not been decided upon as yet.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Is any consideration being given to have the Cayman Islands Monetary Authority as the body that will regulate and set interest rates in the Cayman Islands in the future?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As I mentioned earlier, this matter is under review. Part of that process will include discussion with Honourable Members of the Legislative Assembly. Until we get to that point, I am not in a position to go into any further details.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** For the benefit of Members who are not familiar with the Resolve of the Motion 11/2000, would the Honourable Third Official Member read it?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** It reads: "**BE IT NOW THEREFORE RESOLVED THAT the Government has an in-depth discussion with relevant banking institutions and Caribbean Utilities Company Limited with a view of reducing the impact of these recent increases on their clients.**"

**The Speaker:** Are there any further supplementaries? If not, we move on to question No. 36, standing in the name of the Fourth Elected Member for West Bay.

#### QUESTION NO. 36

**No. 36: Mr. Cline Glidden, Jr.:** To ask the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development to state how the amount of stamp duty, due from cheques, is accounted for; and what stops printing companies from using this stamp without paying Government the required fees.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The banks submit, through the mail, a cheque to cover the stamp duty on cheques issued to their customers. These funds are

accounted for under Government Revenue Head (postage stamps) by the Treasury Department.

Up until now, there is no specific measure that has been put in place to prevent printing companies from preparing cheques for their clients without the required stamp duty having been paid. The reason underlying the absence of any such control was that it was less than a month ago that the Portfolio of Finance became aware that persons were able to order their cheques directly from printing companies without going through their banks. This practice will soon be corrected by an amendment to the Stamp Duty Law that will require the payment of stamp duty on all debit transactions by banks. This will be supported by the need for the filing of quarterly returns.

**The Speaker:** Are there any supplementaries? If not, that concludes Question Time for today.

Item 4, Government Business, Bills, Second Reading of the Appropriation Bill, 2001. Commencement of Debate on the Throne Speech, delivered by His Excellency the Governor on Friday 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday 21 March 2001.

I would like to remind Members that there is a long debate ahead of us, and I do not want to deprive anyone of his or her right to speak, but I will not be able to wait too long between speakers. The floor is open to debate.

The Second Elected Member for Bodden Town.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE APPROPRIATION BILL, 2001

##### COMMENCEMENT OF DEBATE ON THE THRONE SPEECH, DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

##### TOGETHER WITH

##### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker. It is at times like this that I remember clearly my time in this House prior to now that all participants in the business of this Legislative Assembly claimed the right to leadership and everyone attempted to lead from behind. Some believe that it is right to debate matters of the magnitude of the Throne Speech and Budget Address. They rise to do so. Then those who come behind speak to the largest extent on what the one who spoke first had to say as if there's little

thought of their own. Things have not changed much for me; I have been in this position dozens of times.

I wish to thank the voters from the district of Bodden Town for electing me in November 2000 to be one of their representatives. It is a great honour and I shall do everything possible to earn the confidence they placed in me by electing me. I might add that there were many who "knew" that I would never be here and I guess there are some who are sorry that I am. But I owe a great debt to those persons who worked very hard to assist me in the past election. Of course, I represent those persons as well as those who did not vote for me. And when it comes right down to it, we do not know who voted for whom—that is the beauty of the election process.

As you said, Mr. Speaker, there are two matters before the Legislative Assembly: the Throne Speech, which is supposed to set out Government's policies, presented by His Excellency the Governor a few weeks ago; and the Budget Address, which is the estimate of revenue and expenditure for this year on into next year. I propose to speak first on matters related to the Budget.

Firstly, I would like to mention matters related to the business of the Organisation for Economic Cooperation and Development (OECD). The Honourable Third Official Member has referred to this matter and said that substantial progress has been made in dealing with harmful tax competition—that is the child of the OECD and the Financial Action Task Force (FATF).

I am of the opinion that it is not in our best interest to take up the hymn of the OECD regarding harmful tax competition. What tends to harm us the most is the matter of taxation. If there is competition in tax, then I cannot see it being harmful. If it is harmful, perhaps those who claim that may have an excuse. But if taxes were not so high in their countries, people would not look to jurisdictions such as the Cayman Islands where there is some tax relief.

It is an attempt by them to make it look as if countries like the Cayman Islands exist wholly and solely to hide, smuggle, and assist criminals and drug dealers which is absolutely not true. They will not admit that their tax regimes are so harsh that their people try to find jurisdictions to give them a break from taxes.

Of course, there is another side in that it suits companies (even from the US) to have an overseas jurisdiction from which to carry on certain business.

I think there is much to be said for little Islands such as the Cayman Islands, with only 39,000 people (if we believe the latest census), that can find ways and means to assist themselves financially in order to survive in this big harsh world of money and money dealings.

The Cayman Islands have led the way in many instances of dealing with matters, which could have allowed some people opportunities to slip through a legislative loophole. These Islands have responded through various legislation—The Proceeds of Criminal

Conduct Law, prior to that The Narcotics Agreement, the Government of these Islands has signed various agreements over the years showing that it is prepared to create a legislative framework, which does its best to hinder criminal activity and encourage foreign investment.

The OECD countries, particularly those in Europe, are the same countries that profited from slavery hundreds of years ago. While no slaves are being moved by ship now, they are using similar tactics to browbeat and batter small economies like the Cayman Islands. That is my belief and up until now I have no cause to change it.

It is more threat than any standing in law what they are demanding other countries to do. It is not just the Cayman Islands or Turks and Caicos, or Montserrat, or BVI, the so-called Dependent Territories. They are also going after independent countries. If some of those independent countries such as Barbados or the Bahamas dare tell France, or even suggest that England should do this, or Liechtenstein should do that . . . well, if they did not drop one of their bombs right on us, they would certainly bomb us with bad publicity in international media. That is what is happening right now in the present scenario with the OECD.

They are creating "grey" publicity, a mixture of truth and lies. Those who study politics know that can be done. Every time a crook is captured in the Cayman Islands he is wined and dined back in the US (at least one comes to mind whose name I will not call), and the more he sings the more it scares would-be American investors. The more he sings the lighter his sentence. It is the game that is played and they are playing it to the hilt!

Mr. Speaker, it goes to show that when countries have harsh tax systems their people will try to get away from them. It is about their taxes. They have created these harsh taxes but no matter how hard they try, they cannot get the machinery in place to cover every loophole. Since they cannot deal with their own nationals in their own country on many of these issues because they are illegal, they pick up on small states as they are doing with Cayman.

I admire the stance of Barbados. On the international scene, Barbados has shown that what they are attempting to do has no standing in law. They have ganged together (that is the OECD countries) attempting to challenge the territorial integrity of independent countries. Some of the legislation I hear about definitely takes away the territorial integrity of a country.

If countries like the United States, Canada or England can sit thousands of miles away and demand to know about the account of X or Y, what kind of world are we now 'arriving' in? They want us to become tax collectors! They cannot do the job they are supposed to do with their citizens therefore we must become their tax collectors. The worst part of it is that even if we take the job we will not be paid for it!

I believe that this OECD thing has gone too far. If members of the OECD, the industrialised nations in

the largest part, have a problem relating to an individual, they have the right in international law to make demands to find out information in Cayman and otherwise. Cayman has certainly cooperated in this. But I do not believe it can be right for any country in the world to be able to tarnish another by making blanket statements and accusations.

Mr. Speaker, again I say I think the OECD nations want countries like the Cayman Islands to go back to the situation of master and slave. I, for one, do not believe that is just or right. I think it affects the fundamental rights and freedom of the people of the Cayman Islands. We have not knowingly supported situations where criminal activity goes on in our banking system. Our laws hinder such a thing from happening whenever it is discovered. It is no different than when \$10 billion was funnelled through one of the major banks in New York by the Russian Mafia. We did not say that the US Government was encouraging that. It just happened! And the US Government moved to do something about it through its agencies dealing with such matters.

One thing that gives me serious concern (because it is so irrational) is what is the role England plays in relation to the Cayman Islands? England is one of the main countries of the OECD—one of the first! How is it that we can possibly believe that someone is setting out to destroy what we have and is helping us at the same time? I am unable to rationalise that. We see press releases stating that they will be representing our views to the OECD. How are they going to represent our views? And what position will they take when the decision is made by the OECD? Will they take ours or their own and their colleagues? It is a ridiculous situation.

I personally believe that Cayman rolled over and played dead too quickly in the whole process. I do not really believe that we are negotiating in a way where we are saying '*No, we cannot do this or that.*' My suspicion is that we are agreeing with a lot of things that are ultimately going to not be in our best interest down the line not too long from now. That can well put an end to us being a financial centre. I do not believe we should do that.

Included in my view is the fact that I believe the process by which we should negotiate with the OECD countries is to hire persons from their countries, consultants or experts in the field of finances that the OECD countries are complaining about, and have them represent us in forums where actual bargaining is undertaken. There could hardly be anyone better to deal with French law than a Frenchman who is an expert in French law. I think that we should largely be the ones to say to those people we hire, '*Here is what we can do. Here is what we cannot do. Advise us. What is the state of affairs in these various countries? Represent us in these forums.*' And, if they decide we will be starved to death; if they shut off all air service; if they stop shipment by sea or whatever; or if they block us on the Internet . . . well, then let the world stand in judgment about that particular condition.

Somewhere along the line we have to take the courage to take a stand and do what countries like Barbados are doing. I wish them great success and hope it has a little spill-off effect on us.

One thing we have to bear in mind (that is, if we believe the Bible) is that we cannot serve God and Mammon. Therefore, we have to have a clear position where we stand with the UK Government in this particular issue. I think right now it is rather cloudy. How do we go signing agreements, undertakings and all the rest, not knowing what the ultimate requirement will be, or not knowing up front the true implications?

The situation of the White Paper is a living example. We hear about "partnership." I guess we are in a partnership something like what the Minister for Women's Affairs has to work against, that is, domestic abuse. We seem to be undergoing some sort of domestic abuse in our efforts here.

*[Member's interjection: And violence too!]*

**Mr. Gilbert A. McLean:** Yes, there is violence too if they are taking away all our money. I cannot think of anything more violent!

So much for the OECD at this time.

I would like to speak on the domestic economy as mentioned by the Financial Secretary.

I agree with him that our economy has slowed down. Generally speaking, I believe we are a people extremely versed in the psychology of denial. I can recall many instances listening to debates in this House on tourism and otherwise that everything is just fine, things are buoyant, things are happening. But they are happening in a negative format. I believe we have to understand that the boom we have experienced must slow down, as it is Nature's way of check and balance. The question is, what is this present Government going to do about it? We know what the past has done, and now we ask what the present government will do about it.

I do not believe that we can boost our economy by simply continuing to issue work permits, as I heard it suggested that we need revenue from work permits, therefore we have to continue to issue work permits. I think it is an ideal time for a trimming process because if we can find our own Caymanians to do jobs it means that we are giving opportunities to our own people. Their finding employment will mean that the money will stay here, rather than leave our shores.

The Honourable Third Official Member responsible for Finance and Economic Development also spoke about the growth of the listings on the Cayman Islands Stock Exchange. Let me say that I believe the Cayman Islands are a jurisdiction offering the best environment for doing business. Those who would work against us admit that we find ourselves in the fifth position in this particular world of finance. My question has been, and continues to be, what are we getting out of it? To what extent are we benefiting? Some jobs, yes. No question about that. But the fact that so many billions of dollars (that we hear about)

move in and out of the Cayman Islands freely on a daily basis; what do we get from that movement?

I suggest we do not get what the accounts get and what the lawyers get for handling the movement of those funds. They charge fees. The Government charges a little measly fee to the banks/trust companies/lawyers/accountants and reaps nothing from creating the environment in which these businesses thrive. I think the time has come for government—this Government—to look at creating a system whereby we will charge fees as the managers of these monies do in order to benefit all people of these Islands.

When there is a bad story about the Cayman Islands financial ill repute, it reflects on us right down to the man on the street who does not have one clue what is going on, what is being talked about, and he certainly is not benefiting from the transfer of billions of dollars through this country as do the people who manage it. The time has come when the Government has to stop taxing the poor, the middle-class people of this country to create an environment where the wealthy increase their wealth while paying little or nothing.

I saw where the Financial Secretary said, "**Growth in insurance licences was more modest, increasing from 529 in 1999 to 545 in 2000 or by 3%. However, gross assets increased significantly from US\$12 billion to US\$14.9 billion or by 24.2%.**" What did we get out of that?

Company registration had similar growth. But I remember way back some years ago when we had the 'Dream' team who went to London, Hong Kong, and New York. And to prove how powerful we were, we attempted to change the fees of our laws somewhere over in Hong Kong to put them below our competition's fees. Of course, they have had to increase them since that time because we did what we said we were not going to do: We said we were a destination of best choice; therefore you had to pay for that. We were not going to get down into low fees and all the rest of that. These are the mistakes we should not repeat!

There has been a drop in tourism. And the numbers are not good this year either. I think it will get worse if we do not do something about it. That something is to charge less for the goods and services. It is being driven by greed. Greed is affecting the tourism industry in the Cayman Islands. That is the main cause. When we compare our safety factor with any of the other islands, ours is the best. It is the greed factor: making things too expensive, living outside of the world of reality. It is allowing three or four large hotels to dictate what the terms are going to be and everybody sits down and sings what a wonderful job we are doing. It is ridiculous! Something needs to be done about it.

At most conferences attended in the Caribbean through the CTO and otherwise, there is a constant reminder that what makes tourism in the Caribbean what it is is the small hotels of 100 rooms or under. We are also told at those conferences that what might



be good for the big 500 room hotel is definitely not good for the small one because they can pull people in in big numbers leaving less to spill off. They have advertising dollars to an extent that the smaller ones do not have and, therefore, they have an advantage.

When the Government has advertising programmes that do not focus attention on the smaller guesthouses, hotels, apartments and so on, but focuses on the smiling faces of some of the managers, it does not help those who really need the help. Wholesalers and travel agents like to deal with the big hotels because they can get more persons booked into larger hotels and get larger commissions. So, they automatically get a larger part of the pie.

The Government needs to intervene by saying to the people offering accommodation, food and beverage services that their prices are too high. Government cannot tell them how to reduce them, or what areas they need to cut, but Government can insist that we make Cayman a little less expensive. Other countries, our competitors, are doing it.

Most recently the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport made a statement regarding a summer package. I bet if we looked at the amount of the people's money is being put into that advertising programme compared to what the five big hotels—who are going to profit the most—put into it we would be absolutely shocked. It is a milking of the revenue with little return.

A good example is in a release I am thinking of. It was said in that statement that if they stayed [four] nights they would be given an extra night. But at the beginning of the journey Cayman Airways in effect was supposed to give them half price. Forget about the Government. Forget it is owned by the people. The ones who want the money and seem to get the money all the time are those who are offering the accommodation and food services.

Some of them tell their guests that going anywhere else is not good because the food is not good, and otherwise. They use all sorts of tactics to keep it all in house. Other than the few jobs, the money is collected here and sails back overseas because we import virtually everything used in those hotels.

The time has come for Government to realise that it has some harsh and hard decisions to make. Coming here in this Legislative Assembly talking about the past government does not help the present. We know about the past. We have to deal with the present.

There is certain expertise in government in dealing with revenue measures. But if we look at our various revenue measures, some are penny-ante.

I recently sold my car. I got approval from the bank to sell it. I went to the police station and learned that I had to pay the Government \$10 for taking the lien I had on my car out of the computer . . . the bank did not charge me anything, and it was really theirs. But I had to pay government \$10 to have it transferred. That is what we resort to when we talk about

"billions of dollars" that pass through and are handled in the Cayman Islands. Where do we get off? We had better get wise.

Everyone has something to say about consultants. I do too. But there are times when consultants are needed. I believe that we need to hire a two-person team versed in financial management with ideas of ways and means of generating revenue to come and look at the situation in the Cayman Islands overall and advise us. I think we would first look to England to assist us in this regard. We need an objective examination of our situation done real soon because this year's budget clearly points to the need.

I think we need to struggle with agriculture. The Financial Secretary spoke about agriculture and its role. We need to get self-sufficient as quickly as possible and stay self-sufficient.

The most recent outbreak of foot and mouth disease in Europe shows how important it is for us to have our own cattle, not depending upon importation. Perhaps this will make us focus on buying things grown here, as our few farmers keep hoping we will. While it will cost a bit more, it is healthier for us.

I believe that one thing government can do is educate every household about having a home garden. It will reduce cost and provide food for the household.

If we want a barometer that tells us what is happening in the economy, we only need to look to the construction industry. I have heard from several persons that there is really a downturn in the construction industry. The Financial Secretary has made a comment that I think is very truthful and factual. In the section dealing with construction, he said, **"Rising interest rates also had a negative impact on commercial property approvals, which fell to their lowest level in the past five years."**

I think it was Shakespeare who said that a rose by any other name is just as sweet. If take that to be truth, we better get a central bank and call it by any name to see if it can bring something sweet to these Islands.

I have never understood how we (and when I say "we" I mean successive Governments in this country) talk about us being "giants" in the financial world. And we are not able (that is the Government) to manage the business of interest rates. It is given up to collusion between the banks that profit from it to charge basically anything they want in no relationship to foreign currency or the supply of Cayman Dollars. They sit down, collude, set an interest rate and that is it. They say we do not need a central bank, that it would be too restrictive. How can we claim to be big shots in the financial industry without having the regulatory benefit of a central bank and also give ourselves a direct vehicle for collecting fees from the banking that goes on here? That is something that needs to be dealt with immediately.

Government has said for years that it has various measures in place that sees to the collection of taxes and the management of funds but that is really

not proving to be too accurate at this point in time. We hear of horrendous amounts of money owed to Government—

**Mr. Lyndon Martin:** Mr. Speaker, may I just interrupt to inquire if we have a quorum in the Chamber?

**The Speaker:** *[addressing the Serjeant-at-Arms]* Please summon the members to come back in.

**Mr. Gilbert A. McLean:** Since I do not have a quorum, Mr. Speaker, I will give my throat a break. In fact, the whole Government is absent! I hope my speech is not all that bad or so overwhelming that they prefer to hear it in the Common Room on the monitor.

**The Speaker:** Please continue, Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I was speaking to fiscal management in the Government—

**The Speaker:** Can I just interrupt you for one minute? This is the normal time that we take a break. If you are going into a new subject, it may be convenient to give your throat a break.

We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.19 AM

#### PROCEEDINGS RESUMED AT 11.41 AM

**The Speaker:** Please be seated. Proceedings are resumed.

The Second Elected Member for Bodden Town, continuing his debate on the Throne Speech and Budget Address.

**Mr. Gilbert A. McLean:** The Financial Secretary mentioned the fiscal performance of this country between 1991 to 2000. I believe in this decade we have seen many changes, which should point us to reality. We have been in good times, boom times, and those times must slow down, or come to an end. In the figures he put forward, it clearly shows the trend that things were slowing. Last year, the estimated revenue did not happen. It is my understanding from his speech and the Budget before the House that there is expectation that this is going to continue therefore the reason for such huge borrowing.

I think a lot of things have caught up with us—a lot of expenditure in all areas, uncollected bills in all areas, perhaps the most recent being millions of uncollected dollars from the [health] insurance provider for the civil service. There is the wild spending that took place—which I believe favoured certain political expectations—increased handouts from Social Services and other exgratia payments right down to the present time when we are told there was expenditure for recent roadwork not estimated.

There is one good thing about that—we have the roads. Therefore, the Government of the day will not have to expend more money on roadwork, at least on the major roads, too soon!

I believe there is bloating in the civil service. It is the impression I get. While I have observed in answers given during this session of the House, there appears to be a move towards differentiating persons who are permanent and pensionable as being civil servants and those in the wages group as not. I don't think that is accurate. There are persons in the wages group who have been there for decades. They certainly fall under the same personnel regulations. They must abide by the same rules as others. These are some of the areas that have been causes for increased expenditure and the revenue was not keeping pace.

I will quote what the Financial Secretary said in this regard, **“In summary then Mr. Speaker, not only did the growth in Recurrent and Statutory expenditure outpace the growth in Recurrent Revenue for the period 1991-2000, but more importantly this divergence in growth rates got larger during the latter half of the decade.** [And this is what I think is most important] **Mr. Speaker, this pattern of divergence between what the country collects and what it spends on its day-to-day operations is clearly not sustainable.”**

We do not have control over what we collect as revenue. But we must exert as much management prudence as we possibly can over what we spend. That is my interpretation of what was implied by that particular statement. Generally speaking, I think Government can get better value for money. The public at large is tired of hearing about over expenditure and overruns on projects where nobody is responsible. One good thing that the people who are responsible for these things can count on is that they are not responsible—or so it seems.

There needs to be some strong medicine taken in regard to financial management in this country. I am aware (as far back as 1995) that the United Kingdom Government had serious concerns. In 1995 and 1996, when I had occasion to go to the Foreign and Commonwealth Office (FCO) along with the present Minister of Education, we were told quite bluntly by the officials we talked with that they had concerns about the finances, expenditure, and growing debt of this country. I believe that as sensible people we should all be concerned about it.

We do not want to reach a point (as did some of our neighbours) of asking for handouts from the UK Government (which I am sure they are not that anxious to do), or, worse yet, going to some of the other international lending institutions that demand our life and soul, to say nothing about dictating what we do.

I have a pamphlet issued by Deloitte & Touche (world renowned accounting firm with great financial standing in the world) on the Cayman Islands Budget of 1999. They made a few observations. If we took the contingent liabilities of that time, they said, **“the**

total government debt and contingent liabilities was therefore \$396 million. Servicing the direct debt represents an increasing proportion of the government's budget. According to the 199 Budget public debt of \$111 million will create a debt service of \$17 million or 6.3% of total budgeted expenditures." It has been growing. It did not happen overnight. We have to become more stringent in how we spend.

They also made some recommendations that I think are as relevant now as they were then. I will quote three: "**Commission a current actuarial valuation of the pension plan, following actuarial suggestions for contribution to pension plan assets, and change to a defined contribution pension plan; Continue to encourage and accelerate reforms in fiscal management and financial reporting.**" I believe that needs to be intensified. I understand Government is working towards that to some degree, but I believe it has to come in place as quickly as possible to arrest the current situation.

Thirdly, "**Provide an independent review of the efficiency and value for money within the operations of the public sector and establish a timetable and priorities for reform.**" I understand plans are in place and are being worked towards even now. How fast they go depends to a large extent on the political will and the general acceptance within Government of these changes. I have heard that is not too much an open deal. If that is the case, somebody has to make that happen. It will cost money, it will require man-hours but someone has to make that happen quickly. So, I agree with the Financial Secretary that changes need to come, and they need to come real fast.

It becomes interesting when it comes to what is proposed in this Budget for the year 2001. The proposed budget includes both borrowing and taxes.

I did not vote for the taxes and I do not intend to do so when it is put again. I have as a guideline for this action from what has happened in the past. I refer specifically to Private Member's Motion 24/99 which is captioned, "Review of Measures Imposed Under the Finance Law 1998."

It reads: "**BE IT RESOLVED THAT, due to the hardships being experienced by both consumer and trader in the Cayman Islands as a result of the recent revenue measures imposed under the Finance Law 1998 (Law 20 of 1998), Government review the measures with a view to easing the burden imposed upon the people of the Cayman Islands.**" The motion was moved by Mr. D. Kurt Tibbetts and seconded by Mr. Roy Bodden, both of whom are now ministers of Government.

The imposition of taxes now worsens the situation that existed in 1999. Everywhere, I hear the average citizen complain about the cost of living in Cayman. I believe the tax package, while assisting the people who provide purified and desalinated water, will directly impact all other areas in the cost of

living for the average person. An avoidance of taxation is what I believe more appropriate.

It goes back to what I said earlier: why is it that the average citizen is constantly taxed to provide revenue for Government that in large part goes to expenditure that benefits the rich with the rich hardly having any cost of living in this country? A means must be found to place relevant fees in the areas of wealth to benefit the areas that are not wealthy. I am not here to say to Government how that can be best achieved. I have offered some suggestions. I believe there should be a fee on the money that passes back and forth in this country that lawyers, accounts, banks, and so on benefit from. We have to find a way other than taxing the average citizen.

The other thing that is very alarming is that approximately \$56 million is to be borrowed—the largest single borrowing ever. Some of this money will go to finance recurrent revenue. That is really of great concern. Borrowing in the past normally went to capital expenditure. We now have to resort to borrowing for recurrent revenue. The problem has obviously become greater because, among other things, there are only approximately 39,000 people in the country. How long can the working people pay money to provide sufficient revenue to pay for the day-to-day expenditure and service Government's debt?

The United States is in a slump, perhaps brought about for political reasons. I am not here to say. It is affecting us now and I believe it will continue to affect us through this year. There seems to be no magic formula for their situation right now and we are reaching a point where alarm bells should go off that something is wrong. I suggest that for a country of 39,000 to have expenditure of CI \$362 million is a serious situation. How can such a small population spend so much money? Where are we spending it?

Something has to be done. I believe the Government needs to do something about it. I believe that the UK, with her interest in the Cayman Islands, ought to take a look at it too, at least provide expertise to review the whole situation because we are all caught up in this particular debt vortex.

I am aware that Government pointed out there was a \$10.7 million deficit, and that there were other bills to be paid from last year, along with the retroactive cost of living to civil servants. But I have also seen that the cost of living increase due for this year will be deferred until 2002. So, it is the same thing over and over again. My point is that it does not help to hear about the past, we are dealing with the present and the same costs will exist in 2002, when it might well be harder to pay that money.

Our country is at very serious crossroads. We have to remember that the outside pressures on us from the Organisation for Economic Co-operation and Development (OECD), the Financial Action Task Force (FATF), and all the other Task Forces (TFs) we hear about, is making it more difficult for us to survive. That is why I say that those in Europe want to put us in the master/slave situation again. We are too much

of an upstart, we have too much money, we are not poor enough, and we have to be put in our place. We have to be seriously careful of what is happening to us and do something about correcting it. We cannot go into long projections envisioning the future. We need to take control of our expenses and seek means of creating revenue that obviously we do not have, at least not to the extent we want to have it.

The question has been asked as to where the money for the loan will be coming from. My own guess is that four or five of the banks will each take a part of it, spreading the risk and making it easier to manage. I do not know but I do know that \$56 million is a lot of money. We do not know what interest rate is on it. Add that to the national debt and the repayment of the debts we have is what will be extremely significant. I do not see any statement as to what percentage of recurrent expenditure paying such a loan will create. That is of concern to me, and I believe it should be of concern to us all.

I imagine that there are other means available for producing revenue. But the one the Government has come up with is largely through borrowing. I know that is one of the ways of finding money, and I guess that most of us in here are borrowers. So, that is the way they are looking at things. I believe that another way has to be found to get revenue other than borrowing and without taxing our people any further. As the Private Member's Motion I referred to stated, it was unbearable in 1999, it can't be any more bearable now.

I would now like to comment on some areas of the Throne Speech.

The Royal Cayman Islands Police (RCIP) fall under the Portfolio of the Honourable First Official Member responsible for Internal and External Affairs. We have a large police force, although those in command will always tell us there is a need for more. There has to be an acceptable ratio. I cannot say that I know what it is. We do not have the money to get all of the officers that I have heard we need, therefore, we have to get to the best possible deployment of police officers.

From the perspective of the district that I represent, we have wants and desires for police presence 24 hours per day and sufficient in number to not leave the station unattended. I daresay the Commission would say that does not happen, or if it does it is rare.

Crime seems to be on the increase against the Government's very best efforts to help the situation. However, I get the impression that we tend to over exaggerate the crime situation to some extent, not trying to downplay the fact that we do have murder occurring too often nowadays. We have to find our own people to do the job of policing as much as possible because only they can know as much about our country as they do. We cannot expect persons other than our own to understand the culture, nuances and so on, like they do. We are very short of such persons. We seem to regularly import police officers from the UK, irrespective of what anybody else thinks they

are different from us socially and culturally. No disrespect to their professional training or ability to enforce law and order, we have to look at the expenditure in this area. Not only is their passage to Cayman paid, they are given the contracted officers' supplement. So, it is costing us money it would not cost us if we were able to recruit locally.

I hear of too many instances where Caymanian police officers are retiring long before the age of retirement. I am told it is out of sheer frustration. If that is the case, I believe something needs to be done to find out what the situation factually is. We should not rely on reassurances from the police high command that everything is all right. I must say that our present Commissioner is very reassuring and that is very good but we need more than reassurance in the situations where we, the people, feel a need for safety and protection and it is believed that it is not what it should be, or that it could be improved over and above what it is.

We have so many problems resulting from our own success, the growth of development, the growth of people coming into the country, the growth of drugs in the country that it is a never-ending story.

I would also like to comment on the judiciary. I see that His Excellency the Governor said, "**In the year 2001 the judiciary intends to consider new procedures to improve the management of civil cases.**" We do not know what these are, hopefully we can find out when the Budget comes.

What seems clear is that things are not well in dealing with cases as quickly as they need to be dealt with and there is also a serious need for space.

I was in this House for eight years (my first time), and out four years, and still the problem of a courthouse is a major problem. I wonder if it does not strike anyone that it is necessary to create a place that can deal with all of the problems.

I wonder if legislators would be so minded to go to the courthouse. Go into the bathrooms, for example, and realise what is existing right in the middle of town. Persons from every strata of society might end up there. There is need for more courtroom space, need for lawyers, there is need for everything else.

I recall a time when two people had a problem one would threaten the other with '*We'll settle it in court.*' Everyone in this country looked to the court as the final authority never to be questioned. They felt they would walk away with justice in most instances. In the past few days I have seen where a number of law practitioners wrote a letter about the judiciary, reaffirming their belief in it and the separateness of it. But I heard of a recent case where I had to seriously wonder what was happening.

I heard on the news about a woman who came here, gave a false name, was caught by Immigration, and was incarcerated. Shortly thereafter, this woman was taken from jail without being formally charged and taken to court on a Sunday. A Justice presided over the court finally charged her and she moved on. She left the Island supposedly on a private jet. I also

heard from legal circles that it was a most unusual thing for that to occur on a Sunday.

I know that if it had been a Caymanian hoping to get his or her case heard on a Sunday . . . it sure would be unusual!

I think a formal statement should be made about that particular case. We need to know more about that because as it happens in law a precedent has been created. I am sure lawyers would love to be able to summon a judge on a Sunday and get that kind of alacrity.

A legal statement says that justice must not only be done, but it must be seen to be done. I think that is something that needs to be dealt with and the public needs to hear more about it as many people have spoken to me. It is also becoming a favourite on the talk shows.

I have always had a high regard for the people who work at Government Information Service (GIS). They are hardworking, and understaffed. I believe they are doing a good job and I think the staff there is as dedicated (the newer ones) as those of the past. I believe that this is an area that should be developed because any government need to have good Public Relations (PR). It need to explain to the public what it is doing and why. Certainly, I believe that we need to develop this in order to be able to respond to external forces that would accuse us of things that are not true. Part of GIS (at least in other countries) is to get news articles from different parts of the world, keeping up-to-date, calling the necessary Ministers, and suggesting and recommending certain responses.

I do not want to forget Radio Cayman in this regard, because if there is a department of Government that has performed to the benefit of everyone in this country, it is Radio Cayman. I still believe that it should be a statutory authority allowed to make its own way. In fact I understand that it pays its own way. Just about everyone in Cayman listens to Radio Cayman at one time or another because of the variety of its programming and because it is an official arm of Government.

In concert with Radio Cayman Government would be well advised to have a television broadcasting station operating from the building if possible. I know that the second floor was designed with that in mind, but that is now occupied by staff dealing with the radio station. But I believe Government should seriously look at producing local programming of public education, including what Government is doing, should do, can do and all the rest of it.

I think it is also appropriate to comment on a broadcast last week on the local television station. I seconded a motion brought before this Honourable House regarding broadcasting from the Legislative Assembly, and I made certain comments about my concern for television broadcasting in Cayman Brac and Little Cayman. I pointed out that the first television franchisee (Mr. Desmond Seales) had that as a requirement. I know that because I was the Member of the House who brought a motion here when televi-

sion franchisees were going to be awarded. It was unanimously approved that more than one should be granted. There were three at the time.

But the owner or managing director (Mr. Colin Wilson) chose to particularly name me on Tuesday after the news. He had everybody's attention and stated that he was "mystified" and that what I was saying was untrue, or a lie. I would like to take a moment to demystify him.

I wondered why he would come on as personally as he did. I had a sneaky feeling that someone from the Government told him to do that. But I am sure that did not happen.

*[Members' laughter]*

**Mr. Gilbert A. McLean:** There were three franchises given. We know that the one with Mr. Seales fell away for legal reasons or otherwise. So, I was not wrong in saying that.

I was told by various persons on the Brac that they were not getting Channel 27 news, which they should be getting. I understand it was started, but that there was a fall off. But he said on Tuesday evening that Channel 27 was there the day after.

Now, I am not trying to refute what he said but my main point was that the larger part of the business of that station is capturing what is available to all of us on satellite dish and re-broadcasting in which they insert certain advertisements. There is nothing wrong with that; that is business. But he really went out of his way to give the impression that I was trying to misinform, which I certainly was not. And I certainly made this point too: I do not believe that it is conducive to competition here or anywhere when one management company supposedly operates two or three television stations in virtually the same spot with the identical audience.

How do you decide which one gets the advertising? How do they compete? Does the management undersell one against the other? This is what I mean when I say it is not conducive to competition.

In the US it is a crime to not allow competition and if he is offended by my remarks, then so be it. I rely on the statement made by the Leader of Government Business that the Government of which he is a part will accept other television applications that might come and that his Government does not see television limited to the way it is now. Mr. Wilson said he welcomed that. I hope that the Minister will call on his Permanent Secretary and the relevant people to dust off those applications that have been sitting for many years unattended and that new ones will come in to make use of the new wireless technology to give some competition there. I hope he welcomes that, as he said. I certainly will. I believe all the people who will get television service here would welcome that too, as we will most likely find a reduction in cost.

**Hon. D. Kurt Tibbetts:** Let the applicants decide on their own financial viability, not the Government.

**Mr. Gilbert A. McLean:** Absolutely!

The Minister said Let the applicants decide on their own financial viability, not the Government.

We hear much about the prison. I have had occasion in recent times to visit there with the Honourable First Official Member responsible for Internal and External Affairs, as did all Members of this House. There was one thing I was glad to see, and that is that security has changed. If there should be another uprising, or a riot, it seems clear to me that one person cannot leave one block and go to another and start a fire because each block is self-contained behind sturdy wire.

But I was unhappy to see the waste of young Caymanian lives. It was not a happy experience to realise the millions of dollars we are spending to keep a facility of that size to incarcerate our people. I am glad to see that the judges are finding reason to give sentences that do not include incarceration. I am told that there are too many people sentenced to hold in that prison, and that there are persons in the George Town Lock-up which is over filled beyond its capacity.

The majority of cases of persons imprisoned are related to drugs. Much of it is the use of drugs. The person using drugs is really damaging himself. They call it a victimless crime, although they are the victims themselves. They are killing themselves and I believe that we have to get to a point where we understand that smoking a stick of ganja is not something to put a young person in prison for. If anyone says that cures him—show me the proof!

I am not talking about persons who have 800 pounds of ganja selling to people, the suppliers and peddlers. I am talking about those who use a bit of ganja who are taken to court. The police tell them to give a urine sample so a case can be proved against them. We have moved into an era that is beyond the 1970s when people used to get sentenced for finding one ganja seed in their possession, or, I can see it now in the papers, .004 of a gram. That is an amount so small you can hardly see it.

If we have not gotten past that state of mind yet, we better get over it now and learn that we have to educate our people to the harm it does to them, and to society. But we need relief in the prison and that is one way I think we can do it.

Other countries cope with it and deal with it in different fashion. I am not advocating any way whatsoever people importing or attempting to supply, or those people who steal someone's VCR to get drugs that has nothing to do with use that is burglary. Let him pay the price a burglar pays. We seriously need to look at our situation and make some changes.

I would now like to speak about the Legislative Assembly, a place I respect and love. It was built in 1972 or 1974, almost one generation ago. We still have this place specially built by our forefathers where we can meet to debate and arrive at conclusions to make laws. I think that we need to seriously realise that the work of legislators now has increased immensely over that of others in the past, both at min-

isterial level and at ordinary MLA level. The demands and expectations of the country have increased and the public makes greater demands on us, and rightly so.

The salaries paid to legislators are indeed among the highest in the land. Therefore, they have the right to expect us to work for our money.

I think that the Government ought to take a look at this physical facility which is no longer coping with the amount of work, storage, or actual operational work. Something has to be done about the Legislative Assembly in terms of creating space real soon. It is becoming more difficult for the staff. Sometimes committees will come here having not called ahead, and there may be another committee meeting going on. There is a definite need for space. The need for parking has increased and the general aesthetics of this building need to be dealt with real soon.

I think we need to update our library facilities where MLAs can have greater access to information on a particular motion or subject they are debating. As you would know, Mr. Speaker, that is certainly the case in the House of Commons and other parliaments where they have librarians who can produce the information for you. The public would not understand that when we bring a subject to the House that affects them, or when Government bring a matter that we have to debate, we have to research it. If we are going to make a counter proposal or something we have to have information to back that up. While I am not saying that we should not do that, we need some assistance. We need persons who know how to find it in the library which is very limited.

I also think it is necessary for us to put in electronic format the history of this Legislative Assembly, its laws, minutes and everything else. It is on its way, and here I think it is fair to say that the *Hansard* Officers do a magnificent job of responding to us when we ask for a transcript of what was said, and in producing the *Hansard*. Nevertheless the Legislative Assembly needs to have attention. I think in the overall process, we need to look at staff.

We have heard that the Clerk is leaving her post effective in June. I would like to thank her for her assistance over the years that she has given me in her capacity as Clerk. I wish her the best in her future endeavours. However, there will be a question about filling that post and I am sure there are other needs here. In arriving at what the needs are, I would suggest that we try to get someone who is well versed in the business of parliament. I am quite sure we could get it through the CPA in London to advise us, which would be of benefit to us in reaching a conclusion.

The civil service is—

**The Speaker:** May I interrupt you?

We have reached the hour that we normally take our luncheon break. If you are going into a new subject, this would probably be an appropriate time.

We shall suspend proceedings until 2.15.

**PROCEEDINGS SUSPENDED AT 12.47 PM****PROCEEDINGS RESUMED AT 2.31 PM**

**The Speaker:** Please be seated. Proceedings are resumed.

The Second Elected Member for Bodden Town, continuing his debate on the Throne Speech and Budget Address.

**Mr. Gilbert A. McLean:** When we took the suspension, I was talking on matters relating to the civil service—something I feel very close to having been a civil servant for most of my working career. The civil service is an extremely large group of employees. In fact, the civil service has the largest number of employees.

I commented that there seems as if there is a definite effort to separate the permanent pensionable establishment from the group employees who are also paid from the public purse and under the same regulations. I think that the situation with the civil service requires a complete objective review by experts in the field who we should recruit to do that exercise.

In the past, there have been persons within the civil service who have done various reviews, particularly those related to salaries. While I do not doubt they acted in good faith making recommendations that were implemented and are ongoing, the last time I heard of an independent review from the outside would be close to nine or ten years ago. I know there was one since Ralph Waller but I do not recall a complete review of the civil service.

We know that personal emoluments and salaries, are taking 53% of the Budget. That being the case is one of the best reasons we should look at this situation to see what may be done in terms of holding it at its present level or if there is a possibility for reduction where there may be duplication of work. I think that a complete review is necessary.

Speaking of salaries, I believe a major unfairness has been ongoing in the civil service for some time. And that is the contracted officers' supplement. I raised this issue in the first Finance Committee held by this Parliament and I intend to raise it again and again. I believe it is unfair. I think the majority of civil servants would make the choice, if so given to receive in addition to their basic pay another 15% every month. As it is now, it is only contracted persons. Among those a small number are Caymanian, I am told. They receive this 15% of their salary, which is not paid to pension like the rest of us. It cannot be fair.

It certainly represents a cost to the Government that is separate and apart from what is paid in the case of all other civil servants. I believe that needs to change. It cannot be right to create two separate types of people, particularly when it comes to salary.

I understand that training is ongoing in the civil service. But I believe it needs to be intensified and greater opportunity given to individual civil servants'

improving their skills and knowledge within the job they occupy. We depend heavily upon non-Caymanians in the civil service and it is time that we went back to the mindset of the early 1970s when Caymanianisation was a real thing. From that time sprung most of our older managers who are now in the civil service. This can be accomplished with some effort, and does not take a considerable amount of money for we have in place a training unit. If it means enhancing it with one or two more trainers, I believe it needs to be done.

This leads me to a point that has existed for decades where supposedly in the civil service a person is only paid for his first degree. In the case of teachers, there are many that have a bachelor's degree and a master's degree giving them more knowledge overall and creates a better mind, when they return here they are told they cannot get an increment for that. It is absolutely ridiculous and irrational. It makes no sense. It is like somebody getting certification in book-keeping and that person is employed within an accounting process and you get a CPA who has spent 3 to 5 years then you tell them that this person has this qualification and we cannot pay you for your higher qualification. I think that is something very unfair and I believe it needs to be addressed.

I am presently involved in a process that is looking into reasons why more people are not finding the teaching profession attractive. I am discoursing with various teachers. I say now that that is one of the things that have come up time and again—not from one, but from many. What is the use? What sort of respect is that for someone who went on to improve himself? He cannot get one more increment let alone two.

I want to speak briefly about the Cayman Islands Monetary Authority. I believe there should be a Monetary Authority with full autonomy. I have seen the recommendations made by the auditing firm KPMG. While there are a few things that I may disagree with, in general I think the adoption of those recommendations would make a whole lot of difference. It would give it the authority it needs and make it a better functioning body. I cannot subscribe to the view that Executive Council made up of Ministers and Elected Representatives, can be the best judge in determining whether banks should exist, whether they meet the various criteria or whether should be closed. I think that we have to have a specialised body doing that.

In 1995 and 1996, when I had opportunity to go to the UK and meet with officials of the FCO, they were specific that they wanted to see a body that was exercising authority, similar to a mini Bank of England, to regulate, supervise and even now there is ground that has not been covered in that regard. I think it is unfortunate that we should linger on this exercise giving those people who work against us in the OECD, the FATF and all the rest of them, reasons to criticise us because of doing something that good management sense demands. I definitely support the idea of the Monetary Authority becoming an auto-

mous body supervising and regulating the banking industry.

I do not agree that the biggest role should be reporting on people's accounts to external forces, particularly when requests could amount to fishing expeditions.

I also believe that they should have an inspection duty and responsibility rather than only reporting. Let me say that the people of this country should not be taxed any further in penny ante form to find money to pay for inspectors. The banks and the companies that have to be inspected will have to be charged to pay for any increase of staff necessary to carry out the exercise that is being required.

I have heard statements like, *'Oh, we have to be careful how we raise fees on the banks. They will pick up and go.'* Well, to where will they go when it looks like the OECD is standing by with a big cannon pointed at everybody who attempt to set up shop as we have here in the Cayman Islands offering financial services. If they go back to these countries, I am sure they would love that. So, it makes no sense whatsoever.

I think that bringing the Monetary Authority in line with the things happening around us makes a whole lot of sense. If we move the situation from where Ministers of Government are also directors of banks (as has happened in the past) making decisions about banks . . . therein lies a major problem and opportunity for all sorts of grief as we have seen in the past.

We will undoubtedly have to recruit a number of overseas people in various specialisations to work at the Monetary Authority. And that brings me to the point of immigration a never-ending story for us in the Cayman Islands.

I will not try to go into it in any great detail but I would like to make a few points as I see and understand them to be. Immigration, in its truest sense, is a deliberate action by someone leaving his or her place of domicile to go to another country to live indefinitely. That is real immigration. When we go to the United States, we have to show our intentions if we want to go there to become a resident or a citizen because it carries certain requirements including paying US taxes.

The majority of people in the Cayman Islands that we hear so much about related to immigration, have come here and worked for many years, some 15, 18, 20 years. They, by long and unbroken residence, and by the fact they have come to see this country of ours as home—some of whom have had children here—feel more at home here, and consider this their home, although that was not their intention when they started out.

We have to deal with that situation so that persons who have been with us for a very long period can indeed get the legal right to do so. Those who have had children here must also be given consideration. However, unless we have enough sense to put in place what existed before and hurt no one, but helped many including employer and employee to

plan, that is a rollover period, we are not going to solve the problem.

Since I have been in the House again, I have seen some of the recommendations that came from the business sector about the rollover idea. As I read that, I was astonished to see what would be committed to paper by a self-interest group as to why they should have persons come to the Cayman Islands indefinitely to work for them. I have seen ridiculous suggestions as to why there should never be a rollover concept in this country.

That would suggest a few things. Every time a labourer, the best labourer that ever was, the best teacher, the best doctor, the best lawyer, the best accountant, and the best everything . . . and we all know that cannot be so. Persons recruited to come to the Cayman Islands are chosen with whatever information is available on that person at the time. And they should come with the knowledge that they are coming for a specific period of time. That way, the employee can plan his future, or he can refuse to come and the employer can plan the succession of his employees and plan to train during that period.

The recommendation of a five-year rollover was made in 1991/1992. This matter was raised in the Common Room with the visiting FCO officials and the Governor on 13 February. When I raised the question, they promptly said that five years was the timeframe used in England. If they see the sense of it—and anyone can see the sense of it, except us it seems—then why can't we as legislators, a new House, see this and realise that the only way we can put an end to people always being here ten years and fifteen years, feeling this is their home, is by putting in place a rollover period? I think it has to be done or we will forever be dealing with the situation over and over again.

The Immigration Board has a difficult task. While it has to deal with people coming in and going out, it is also required to act as a labour board and the two functions are really different. I am pleased to know that some effort is being made by the Minister assigned with the responsibility for labour to have that part of things functioning in a different manner than Immigration. That Immigration does not have to be labour officer and that the labour office does not have to try to be Immigration.

The question of labour, human resources as it is now called, is one that relates to finding and employment of a human resource. If a person is suited to a job that we want to fill, then, and only then, is it necessary to involve Immigration. In fact, it is a matter of advising Immigration that *Tom Stokes will be coming in to do such and such a job and is travelling with the necessary documentation.*

Most of us make the situation more difficult for ourselves and the board entrusted to deal with the many complicated matters that naturally result when dealing with human beings, and handling them in the best form, but not understanding a lot of the true dynamics of the situation. That is why there is mounting



resentment and criticism from our own people, many times unfairly, where generalised statements are made that are not true and not fair. But my duty is to find that which is fair to all concerned and to verbalise what I hear from the people who elected me.

I do not want to know that Government is attempting any situation where Executive Council is going to sit down to try to determine how many people and who should have residence or Caymanian status. I believe the only way we can reach some conclusion, if the courage is there to do it, is for us to meet as a Select Committee of the whole House where every Member has input into what happens. I know there was a select committee that fell away without making a report. I think that needs to happen again. I hope there is the will to bring it to a conclusion and to act upon the recommendations.

I believe that the people who have been with us over long periods of time should be given the opportunity to apply. If the requirements are met, if they have been good citizens, if there is cause to believe that they are not falling as charges on the state they have a right to be given approval to remain. But we have to come to a point where we are going to count time from that point forward and put in place requirements that the same situation cannot keep reoccurring. As in the past the rollover did not prohibit anyone from returning to these Islands, but there was a break. They had the choice to return or not, and the employer had the opportunity to find someone as perfect as the one they had.

Immigration has impacted heavily on Social Services. I remember in 1991/1992 when we were dealing with the Select Committee on immigration, we were astonished at the number of people receiving money here in Cayman because they could not supply themselves with sufficient earnings and children getting in trouble had some quasi-connection with the persons living here. I understand similar still exists. From the perspective of social services, I think we need to look for some solutions. I do not believe the solution is setting up a welfare state to give handouts to anybody and everybody.

We should not do anything to snatch the pride of a very proud people that we are, particularly our older folks. Many of them want opportunity, many are ready and willing to work but cannot find employment simply because of age, not that they are lame and dying. There are other instances that I have heard where persons find all sorts of excuses, throw up their hands and say Government needs to help them. I think Government can help by creating opportunity and where there is genuine need, help. But it is something where we have to reach a point where we can courageously say to our people *'Listen John, listen Jane you can work. Get out there. You've got to work. You can't live each day to get rum to drink and just give up on life.'* We need to do that because it seems to me to be a growing situation. Every year in the estimates more people are coming to Social Services and the country has to find more money to fund it. It has become a

problem that we need to address as a matter of priority.

The Governor also spoke about Cayman Brac. I will forever have a warm spot in my soul for those two Islands. I would like to assure the two Members who represent Cayman Brac and Little Cayman that I will support them in any way that I can in their efforts towards getting a piece of the budget pie and needed services in the future.

I referred to Cayman Brac and I will now refer to Little Cayman. I had the honour of getting the reference to those two Islands as "the Lesser Islands" removed from all the law books of the Cayman Islands, and having their names recognised. I must say that I find it rather distressing, having done that, that someone has tagged them "the Sister Islands" and everyone is supposed to figure out who that is. A foreigner might have difficulty. I encourage us to refer to Cayman Brac and Little Cayman as Cayman Brac and Little Cayman. I would not want to walk around this earth with someone who just keeps calling me "brother" without having a name. I see it happening in the same way if we do not.

The two Islands of Cayman Brac and Little Cayman have come a long way in their physical development and from what I understand, it now needs some business. Things are in place for them to move forward, but of course, jobs and employment continue to be a problem. I trust that Government will have plans in place or be formulating plans to assist the situation.

One of the items needed everywhere is money and one of our chief areas to raise money for Government is through Customs duty. I suggest that Government look at having a flat tax, be it 15 per cent, 18 per cent or 20 per cent. Choose one level of Custom duty and let it remain there. You might say that does not make sense because suppose someone brings in watches and jewellery. I know for a fact that the taxes levied on those were not on the high side. It has increased over the years, but I think it is possible to take an average out of what is charged, make it easier on the Customs officers who have to go through these schedules of 10 per cent, 15 per cent 20 per cent every time a trailer load of something comes in. Why not come up with a realistic flat tax amount that will allow us to make the same amount we are making now with all the variations so that it can be easier for everybody?

Obviously, the Customs Department is doing a good job because they keep on collecting the taxes. That is fortunate for us because from that comes most of the Government's revenue.

Hand in hand with Customs goes statistics So that we are in a better position to know all the items coming into our country. We can know if the majority is foodstuff or building materials and we can separate it. We know how to manage and plan. I think the Statistics Department needs to be used more than it is presently being used. My idea of a Statistics Office is one where every Member of Government should be

able to get statistics about the particular subject they are dealing with. The Americans turn everything into statistics. If someone gets a homerun they can tell you it is the ten-thousandth-homerun hit across such and such a field, hit by such and such on whatever day. It gives them a management capability that I think we need to work towards.

I think like me, other Members are also waiting to get the statistics related to the census. We have heard varying reviews of whether those statistics are true in relation to population. I have my own views as well.

Education cannot be overemphasised. Most of our troubles socially and economically can be traced back to certain lack of education. We spend large amounts paying for education and seriously, I wonder if we are getting value for money. If we take the money we spend in this small population to educate 4,000 or so students and translate that into what is spent by some of the other islands in the Caribbean, we would seriously wonder if we are getting value for money.

I think there are many problems within the education system. I have recently heard from people who know, and they are all fixable. It takes the will to do it. It takes breaking the mode we have been working in where I gather to a large extent the main thrust is to contain criticism and keep denying such and such a thing happening. That has to be changed. We know there are problems. We know what the problems are. We have to resolve to fix them.

The new Minister of Education has a major challenge on his hands. He has taken certain steps to find out the facts and the figures on it and in concert with another Minister he has appointed a commission to deal with matters relating to youth. We know that most of the youth who do not make it and get into trouble are those who do not get the opportunity of education to get technical skills or academic skills. It is not that they do not go to school; they go to school but do not come away with the necessary skills needed to make it in life. Thus, one of the reasons they turn to crime and mischief.

Youth has to be an area that we pay greater attention to because when we have moved off planet earth, they will be the ones who come to fill the spaces and if we do not prepare them, sad will be our fate and theirs. One thing we can do to help those who tend to fall by the wayside, or the wayward ones, is to use the achievement of those who succeed in a good and positive way. I hear so much about those who are in gangs. Fortunately it is 10:1—ten being those who achieve and are law abiding people. I think we need to give them more praise and use them as examples. In fact, utilise them as best we can to help the others who do not succeed or those who take the wrong pathway in life.

In life, we have to make choices. Certainly, this Government, like those of the past, is faced with the choices relating to Cayman Airways. I hear from some quarters that the best thing we can do is to sell

it, get rid of it and cast our fate into the hands of the foreign carriers. I do not subscribe to that view and until I am shown good cause to believe that Cayman Airways is bad for us, I will continue to believe it is good for us.

I had the privilege of being involved with it in its early years, when it was made into an entity by the late James Manoah Bodden. It became a company that no longer leased from LACSA. While tens of millions of dollars spent on Cayman Airways, it has certainly assisted in bringing tens of millions to the Cayman Islands. It is my belief that we are still the smallest country in the world to have an airline that succeeds as well as it does. By making that statement I am not saying it does not have problems.

I look forward to the report that I understand has been commissioned by the Minister responsible for the airline and I will look with interest to see what the recommendations are.

On the matter of us giving up our route and selling the company to a foreign entity, I would draw attention to something a former attorney general said to me in his office years back when I used to be in the Portfolio that was responsible for the airline. It was his last evening in office and we were talking about certain contracts so he called me and said "I would just like you to know that a contract can always be broken for cause." The big deal at that time was that we could not change certain contracts and those were his parting words to me. At that time I was the corporate secretary.

I do not know what contracts need to be made, or what contracts need to be broken, but I do know that if we hand over contractual agreements to foreign carriers, they will have the right if they are not making any money to break them and leave us sitting down here with no means to get out of here. Of course, the money they have to fight their cause would outgun us 1000:1. I would advise the Government and persons involved to tread very carefully in any move from pundits who say that the best thing is for us to have no airline.

Mr. Speaker, another area that I feel very strongly about is health services. I believe that if we have an educated and healthy population we have two of the major things in life going for us. In fact, getting education helps one understand more about his health and the likelihood of taking better care of oneself comes through being educated.

I am distraught to know what has happened in recent times to the health insurance which Government subscribed to to cover civil servants. I know that by that no longer existing millions of dollars have been added to the Budget that Government is going to have to find. I believe it was right to hand this matter over to the legal department. I trust that one of the top priorities of the legal department is going to have the matters resolved in relation to this insurance. I am one who does not want to hear any flimsy excuses about this, that and the other.

**Hon. D. Kurt Tibbetts:** No *pyaw-pyaw*.

**Mr. Gilbert A. McLean:** No *pyaw-pyaw*. That is right.

I do not want to hear that. We have to get away from that. How is it that the Government, the entity which licenses all insurance companies is going to do a deal with an insurance company and that insurance company is going to leave it stuck with millions of dollars? For one thing I think Government should be looking at closing it down. I do not know if you close it down if you can still sue it, but if you cannot then I guess you would have to make that decision to leave it running so you can get the money.

I think it is deadly serious. Legislation in this country mandates that every person has to have health insurance coverage and what is happening now is absolutely incredibly unbelievable. Every one of us is paying—including the Government. When we call upon that insurance coverage, in too many instances the hospital says pay up and then you must go collect from them. The doctors are saying, *no I do not take that card you pay me and go collect from them*. I am wondering if anything is going to be done about it.

I would suggest without hesitation that the Minister (who is not here today) that he should seriously look at suspending that requirement in the law or suspend that law so that is not a requirement until the matter can be fixed, unless there is going to be positive action taken now to correct it. And for those companies that are not paying . . . do not licence them. Put them out of business.

Another matter where I see letters in the paper is the registration of doctors. I do not understand what is trying to be achieved. I heard of an instance of a doctor on the Brac two or three years ago. But I really want to find out about this registration business. I hope the Minister of Health will make some statement about that because as a representative in this country I will not support any action to put doctors who have been here saving lives, helping people, who have become good citizens of this society, from practising medicine for some flimsy excuse about registering.

I do not understand exactly what is being attempted. I have been told that qualifications are in question, so forth, and so on. But if I do not know I guess the wider public does not know. I would just make a statement that I do not intend to sit quietly by and watch any such thing happen. I cannot believe that these persons who have been here are not qualified to practise medicine. If it is a case of different specialisation, I can understand that. I understand that credentials has to do with specialisation, a surgeon, an orthopaedic, whatever. But to lose the right to practise general medicine . . . I could never agree nor accept that that would be right and proper. This is of major importance and needs to be addressed.

Of course, our hospital, which we thought was large, but now I understand is proving quite small . . . I guess the stress of living is just making us all sick.

So, we find a greater demand on our hospital than we estimated. If I recall correctly, it was a ten-year projection that it would be adequate to provide for our needs. It is obviously not. We need to expand our service in that area. But before we do that, I say to all and sundry that we need to put our health services back into a health authority prescribing what it can and cannot do, allowing it to function like our other statutory authorities. I think that gives it a certain vitality to go on and do what it has to do, leaving it largely in the hands of professionals.

If we allow it to continue as it is, under the direction of a health ministry, there will always be a situation where persons who are our supporters and friends of ours will beat a pathway to the door and say, *'Look, I cannot pay for this. I have to get time for this, I should not be charged for this'* and so on. Let the health services function as it should. Let us find a means through health insurance whether or not the Government sets up a captive insurance and handles it. We have to find a solution. I am convinced that a solution can be found. But we have to work at it post haste.

It is has been said to me that we have about six Caymanian doctors who have qualified and are ready and able to come back to Cayman to work. There is a question of whether or not there are jobs available for them. If that is the case, I hope Government will look into this and address it immediately. Such is too hard to believe. Indeed, it has been said to me more than once, by more than one person.

It is inconceivable. I have heard that they have their MDs and they have to work under doctors in England or the United States before they can come back here. How nonsensical can it get if that is the case? When they have completed there is only one place for them to come to and that's back home here because we need them. I understand there are those who have had assistance from Government scholarships.

Under the Ministry of Health falls Cable & Wireless. The latest thing—

**The Speaker:** May I interrupt you for one minute? Maybe before you go into Information Technology we can take the afternoon break?

**Mr. Gilbert A. McLean:** Yes sir.

**The Speaker:** We shall suspend for 15 minutes.

### PROCEEDINGS SUSPENDED AT 3:33 PM

### PROCEEDINGS RESUMED AT 4:01 PM

**The Speaker:** Please be seated. Proceedings are resumed.

The Second Elected Member for Bodden Town, continuing his debate on the Throne Speech and Budget Address.

**Mr. Gilbert A. McLean:** Backtracking a little, I wish to comment on the matter of the environment and the Environmental Ministry. There is growing concern worldwide about the damage that mankind is doing to the environment.

Last night I was watching CNN Headline News and I saw there is growing concern about acid rain, that even though much is being done and money is being spent in the area of improving the environment in the US, they still have problems.

From our perspective, we have concerns here. I represent a district that is seriously impacted by certain views and beliefs related to the environment, namely the wetlands. The largest piece of wetlands left fall within the North Sound area into Pease Bay. Recommendations have been made to make this land area an environmentally safe area.

A few weeks ago, a meeting was held in Bodden Town where the Acting Director of Planning and other Planning officers came to hold a public meeting. During the meeting, the question of this zoning came up again. In recent years I have given greater thought to what I have heard for many years (talk about the environment) and the necessity of saving the environment and how saving the environment is a holistic concept that when you touch one side it affects another and so on. I suppose I did not pay much attention or accept the theory I heard espoused. However, at this stage I do give considerable credence to all of it.

In this area, I strongly believe that what is being suggested is indeed too much to be taken in and zoned the way it is proposed. The representations made to me last year when a group of landowners in that area made representation to Government, it was that the buffer zone of 1,000 feet, which is the deepest of any other area left in the North Sound should be retained and the landowners should have the opportunity to use the land, including passing it on to the next generation as it was passed on to them.

Up until now I agree with that concept. I believe it is possible to develop land in that area to an extent that can be agreed by all and accepted that it is possible, including, at some point having access to the North Sound where a place like Bodden Town could reach the North Sound by taking that particular road. I understand a committee has been set up and that various landowners have been invited to be a part of the committee. One thing that I strongly believe is that the people who profited immensely on the West Bay peninsula, Red Bay, Prospect and other areas that the people who own property in the Bodden Town district and adjacent areas including into North Side, should have the same opportunity to do so.

We saw what happened on the West Bay peninsula, and we need not repeat the mistakes done there. We can learn from it. In this regard there is an ongoing study CH2MHILL where Members have seen the part relating to dredging and aggregate and building material. Before someone should come down with a sledgehammer from Planning or any of its associated departments on persons who own land on the

eastern side, that Planning has suggested should be made environmentally sensitive, serious thought should be given to stop the dredging in the North Sound. If that is the ecosystem we hear it is, and if that is the place where the juvenile fish are born and travel to other areas, I think that is a much more compelling reason to intervene and see that dredging stops in the North Sound.

This has been a subject for many years. Since I was here before, I know that a Motion has been brought to the House regarding this matter. One only has to look at the time of a nor'wester to see what happens in the North Sound when it is blowing. The sea is churned up it turns the colour of milk and the study we have before us supports the view that further dredging there really will create damage to the extent where it is irreparable.

That study did not say you cannot do it. They put forth the proposition that says if you do, you can get X amount out of it and you will create X amount of damage so we can make up our minds if we really want to do that.

The thing we need to avoid even the appearance of is that anything can be had if the money is there backing it. If certain people own the wetlands on the Seven Mile Beach area, then this, that and the other can be done, whereas the persons in the district that I represent and the adjacent area do not have the same resources. They are land-rich, as such, but they cannot use their land to the maximum benefit. There is a growing feeling in that regard with the way some development goes in this country.

That brings me to the question of planning.

I think it is very important that the Planning Department does as it is presently doing, get a head start prior to next year when it is required to review our development plan. I found the meeting in Bodden Town very relaxed and open. No one from the Planning Department made any attempt to hedge or work around a question they answered forthrightly when questions were put to them. I think that when we are looking at our development and utilising the environment, particularly the land in the eastern districts, we need to bear in mind that we have land there other than agricultural land. We need and want, particularly the district of Bodden Town, which is the biggest land mass; opportunity for development there for hotels and tourism related development. The people on the eastern side of the Island should not be given less of a chance to benefit from having a particular type of zoning applied there and elsewhere there is commercial land and otherwise.

If one looks at the map, it is clear there is disparity in terms of zoning in this particular area. Why we could not have industrialised zoning I am not clear, since we have so much land. We have industrialised zoning here to the north of us in the middle of George Town. So there is no good cause why we should not be able to do that. I trust the Government will take this into account including for roads, as all roads lead to

George Town, and as they lead into George Town we need not go into the congestion it causes.

It is also necessary to look carefully at the Planning Law. I believe it is better to prescribe clearly parameters that the Planning Authority needs to deal with rather than leaving areas open to discretion by that board. Certain changes were made in 1998 where it is implied that the Planning Board may determine which part of your subdivision they want designated as open space. That has been a significant change. I think it was slipped in because in speaking with some surveyors . . . it was a requirement for larger lot sizes on which to build apartments. We recall that at the time there was an outcry in that it limited the poorer person who had less land to build on.

I believe that a person must be left to determine how best their land can serve them to maximise their profit. And simply because someone on the Board thinks it should be lot A or lot B, which could be the prime lots you are attempting to sell . . . there needs to be some serious thought given to that one. I look forward to that getting closer to that time and making representation in that particular regard.

I have more to say. I want to go back to the Budget side of this. I am having a bit of difficulty with my throat. I do not know if the House would be minded to miss the next seven minutes or so and take the adjournment.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

## ADJOURNMENT

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 10 AM Wednesday.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 AM Wednesday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.20 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM WEDNESDAY, 28 MARCH 2001.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**28 MARCH 2001**  
**10.16 AM**  
*Tenth Sitting*

*[Prayers read by the Third Elected Member for Bodden Town.*

**The Speaker:** Please be seated. Proceedings are resumed.

Item 2 on today's Order Paper, Statements by Ministers and Members of the Government.

Before calling on the Honourable Minister for Health and Information Technology, I would ask for the suspension of Standing Order 14(1)(f) and (g) in order for Statements to precede Question Time.

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**SUSPENSION OF  
 STANDING ORDER 14(1) (F) AND (G)**

**Hon. Edna M. Moyle:** I move the suspension of Standing Order 14(1)(f) and (g) in order for Statements to precede Question Time.

**The Speaker:** I shall put the question that Standing Order 14(1)(f) and (g) be suspended in order for Statements to precede Question Time. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 14(1) SUSPENDED TO  
 ALLOW STATEMENTS TO PRECEDE QUESTIONS.**

**The Speaker:** The Honourable Minister for Health and Information Technology.

**STATEMENTS BY MINISTERS  
 AND MEMBERS OF THE GOVERNMENT**

**RECENT SURGERY IN MIAMI**

**Hon. Linford A. Pierson:** Mr. Speaker, Honourable Members this is the first opportunity I have had to speak in this honourable House since my recent surgery in Miami.

Thank you for allowing me to make a few personal remarks. I wish to take this opportunity to firstly thank Almighty God for taking me safely through and for His continuing care and protection of me, and to also express my thanks to all my colleagues and indeed members of the listening public who offered a prayer for my successful recovery. Though the doctors attributed my rapid recovery to the physical con-

ditioning of my body, I strongly believe that it was mainly the power of prayer that was responsible, and that all the praise must go to God.

Secondly, Mr. Speaker, I wish to thank His Excellency the Governor for his kind remarks in his Throne Speech for my speedy recovery, and you, Mr. Speaker, and all of my friends inside and outside of this Honourable House who telephoned and through cards, flowers, and otherwise expressed their kind wishes for my good health.

I am not completely out of the woods yet, and have received strict instructions from my doctor to take it easy at least for the next few weeks. I am only now running on six cylinders, but will hopefully be running on an eight very soon. It is certainly good to be back with you all.

Before I close, Mr. Speaker, may I also take this opportunity to encourage my male friends and colleagues within this House, and indeed all of my male friends in the wider community, especially those 45 years or older, to have a regular PSA check done. It is a very simple and painless procedure and, Mr. Speaker, it was through my regular PSA check that I discovered I had a problem. Prostate cancer is very deceptive. It did not give me any warning—I did not feel an ache, and had I not picked it up in the early stages through my regular check-up, it could have been much worse.

Again, thank you, Mr. Speaker, for allowing me the opportunity to say these few words.

**The Speaker:** Moving on to Item 3, Questions to Honourable Ministers and Members. Question 37 is standing in the name of the Third Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
 MINISTERS AND MEMBERS**

**QUESTION NO. 37**

**No. 37: Capt. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Community Development, Women's Affairs, Youth and Sports if there is any networking between the Education, Labour and Social Services Departments with regard to finding employment for persons receiving aid from Social Services.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The Social Workers from the Department of Social Services and the Labour Department work very closely together to find employment for employable persons who receive aid from Social Services Department. All aid to such persons is temporary in nature. Once a person becomes a client, the Labour Department is contacted immediately. Referrals are made to Labour Officers and a job search begins. In addition to this, clients are supplied with job search forms which they are required to take to places of business after they and the Social Workers have perused the classified advertisements. These forms must be signed by employers as a means of verifying that the client has visited the place of business. Social workers also accompany clients to interviews when necessary.

Networking with the Education Department usually takes place at the Community College level. It is a policy of the Department to pay fees for clients to attend the Community College to pursue courses in order to improve their skill level or to acquire new skills to make them employable.

Every effort is made to return teenage mothers who attend the Department's Young Parents Programme who are below the school leaving age to mainstream education. If students in the programme are studying for external examinations, arrangements are made by the programme staff to collect work from the John Gray High School for the student and to return completed assignments.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 38 standing in the name of the Fourth Elected Member for West Bay.

#### QUESTION NO. 38

**No. 38: Mr. Cline A. Glidden, Jr.** asked the Honourable Minister responsible for the Ministry of Community Development, Women's Affairs, Youth and Culture what is the status of the Cayman Brac playing field in regard to the proposed completion time and budgeted cost versus actual.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

#### MOTION TO DEFER QUESTION 38 *Standing Order 23(5)*

**Hon. Edna M. Moyle:** I beg to move a motion that the answer to Question 38 be deferred to a later sitting, as we are still in the process of getting information from the District Administrator's Office.

**The Speaker:** I shall put the question that Question No. 38 be deferred until a later sitting. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION 16 DEFERRED TO A LATER SITTING.**

**The Speaker:** Question 39 is standing in the name of the Second Elected Member for West Bay.

#### QUESTION NO. 39

**No. 39: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Health and Information Technology if for each staff member in the Computer Services Department, there is –

- (a) job title;
- (b) nationality;
- (c) qualifications; and
- (d) number of days spent in training during 2000.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The answers for questions (a) to (d) above are listed (See Appendix I). In the interest of time, I do not propose to read out this lengthy list unless you direct me to do so. There are about 56 individuals in the computer department and I have provided (a) job title; (b) nationality; (c) qualifications; and (d) number of days spent in training during 2000 in the answer being passed out.

**The Speaker:** I think it is sufficient to circulate it. I will just give Members a few minutes to look it over.

Supplementaries? The Second Elected Member for West Bay.

#### SUPPLEMENTARIES

**Mr. Rolston M. Anglin:** Can the Honourable Minister say what is being done to get Caymanians into the more senior posts in the Department? For example, there are five applications project managers—none of whom are Caymanian. Again, there are six analyst/programmer positions—none of which are Caymanian.

Can the Honourable Minister say what efforts are being made to get Caymanians into those positions, especially in light of the fact that the Director and both Deputy Directors are Caymanian? It seems as though we do have Caymanians in this field who have the capability to rise through the ranks to the more senior positions.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The process in place to ensure that Caymanians can be sure of upward advancement in the department is as follows: The standard practice is to promote or advance Caymanian staff before hiring non-Caymanian staff. Not only is it

cost effective, but it is also better for the department and indeed the Cayman Islands.

It is also our practice to look at our existing staff for in-house promotion before seeking to hire new staff. Upon every vacancy and renewal of contract the relevant deputy director and director review the training, performance and interest of staff against the needs of the position, including years of experience and related job skill and qualification of Caymanian staff, along with feedback given by the employees' manager over the last performance period.

Further, performance appraisals are used to highlight individuals and training required by the job. On the job training and short-staff job rotations are used to highlight the best individuals for the job.

The Manager and Deputy Director would then discuss who is the best-suited employee for immediate promotion. The Deputy Director or Manager gives feedback to the Staff on decisions and additional experience and training needed for advancement at each performance level.

It is quite clear that Caymanian staff are given the first choice.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Can we get some kind of explanation for the qualifications required for some of the positions? For example, I see the fourth down 'applications project manager' the nationality is British, and the qualifications are 'post high school certificate in computer programming.' Then another applications project manager has a MBE.

There seems to be quite a discrepancy in the qualification requirement from post high school to an MBE. I wonder if there is some criteria.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Staff are hired not just on qualification alone, but also on their relevant years of experience or expertise in the subject. In the first case, the individuals have over four years of Oracle development experience and are on local contract as they are on the Island. This reduces the need and associated cost to hire from overseas.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say, other than different hiring dates, why would there be what appears to be wide disparities in the number of training days for certain individuals at the same level? For example, on page 2 of the answer, "Support Administrator grade 2." All three posts are filled by Caymanians, however, one person had two days training and another had 55, and one had 29. I just

want to find out why. Is it in relation to people having time off to go to school, or what?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** We do not seem to have the full details for that supplementary. But, with your permission, I will give the undertaking to provide it in writing.

**The Speaker:** The Elected Member for East End.

**Mr. Arden McLean:** Can the Honourable Minister say whether all this training was done locally or overseas?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is my understanding that it was really a combination, depending upon the need at the time. Both local and overseas training is carried out in that department.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say whether this training was specific for application training or was it in the interest of succession planning?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is my understanding that it is training required for individuals on the job and also for succession planning.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Can the Honourable Minister state the makeup of Caymanian versus non-Caymanian employees in the department? I see the listing of nationalities, but I am not sure if it is a complete listing of all employees. If so, I can go through and do the math, but I just wondered.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe that the details of nationality as already listed in the answer covers permanent employees, temporary and group employees. If you wish I can go down this list, but it is already in the answer.

**The Speaker:** That is not necessary. Are there any further supplementaries? If not, we move on to question 40, standing in the name of the Elected Member for East End.



**QUESTION NO. 40**

**No. 40: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology to explain what measures have been, or will be, taken to ascertain the possible causes of the extremely high degree of cancers in these Islands.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** My Ministry, through the Health Services Department, will be pleased to conduct and report to the Legislative Assembly a study on the incidence of cancer in these Islands and seek to determine the possible cause. The results of the study will, hopefully, enable the Ministry and other Departments/Agencies of the Government to introduce any remedial action which may be necessary.

The Health Services Department is now working on a project proposal that will set out what needs to be done and how we will go about it. We hope to get started later this year, and I shall be requesting Finance Committee, during consideration of the 2001 Budget, to provide me with some funds to enable this to happen.

I think it might be of interest to Honourable Members if I provided them briefly with some deaths from cancer from statistics.

Our death rates from all causes in the Cayman Islands have been static at around 3.5 per 1,000 population for the last six years, with an average of 3.9 over the last ten years. The corresponding figures from some of our neighbours are United States—8.5, Canada—7.3, Barbados—8.1 and the Bahamas 5 per thousand population [*Source: Health Situation in the Americas—Basic Indicators 2000. Pan American Health Organisation (PAHO)*].

On average, 20 per cent of our annual total deaths over the last nine years are due to cancer. In the year 2000, 26 per cent of our deaths were due to cancer (these figures do not include a very few residents dying overseas).

This suggests that the incidence of cancer in the Cayman Islands is not dissimilar to that of some of our neighbours.

Nonetheless, I respect the fact that there are concerns in the community that there has been an increase in the incidence of cancer in the Cayman Islands and, as reported above, my Ministry, through the Health Services Department, will be reporting to the Legislative Assembly on a study to be done on the incidence of cancer and possible causes.

**SUPPLEMENTARIES**

**The Speaker:** The Elected Member for East End.

**Mr. v. Arden McLean:** Can the Honourable Minister say when this study is expected to be completed?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** At this early stage we are in the process of identifying competent authorities that can define the scope of the project to our satisfaction, and who can carry out the necessary research. We shall be seeking the advice of bodies such as PAHO, Caribbean Epidemiology Centre (CAREC), the Commonwealth Fund for Technical Cooperation (CFTC), and others to assist us in identifying the appropriate body to carry out this scientific study.

This study will be a wide-ranging one that will take some time to put together and complete. It is difficult to estimate the cost in financial terms, but I think everyone will agree that the results, whatever they are, will have justified the expenditure.

I just want to further say that some time ago Mr. Roy Bodden, MLA (the Third Elected Member for Bodden Town at the time), brought a Motion [on 14 June 2000] along these same lines. It covered a wide area including a request for the Government to consider commissioning a scientific study on what effects, if any, long term aerial spraying has on the flora, fauna, environment, and people of these Islands.

The second resolve section of that was, **“Whether there is any scientific evidence to support the notion that there is an abnormal cancer rate in the Cayman Islands which emanates from aerial spraying, hazardous leaks from the George Town landfill site or any other environmental cause.**

The purpose for including this information is to indicate that the study will have to be a wide-ranging one when it is undertaken, and that it might take quite a few months for completion.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** That’s why I asked this question. Am I to understand that the Motion that the present Minister of Education brought in June of 2000 will be encompassed in this study?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is the Ministry’s intention, to include the Resolve section of that Motion in the study.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 41 standing in the name of the Elected Member for East End.

**QUESTION NO. 41**

**No. 41: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology why regular ambulance service

for the eastern districts has not been available in recent times.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The ambulance in question, registration number 70 016, is stationed in North Side. No major repairs or breakdown resulting in interruption of service was recorded for the month of January.

In February and March, however, the ambulance experienced some operational difficulties as follows: -

19 February - The vehicle experienced a loss of power while transporting someone to the hospital. It was out of service from 19 to 21 February.

5 March - The vehicle was out of service for most of the day due to problems with the horn, speedometer and steering. These were partially repaired and the ambulance was in service for the night shift and the repairs were completed the following day, 6 March. The ambulance was out of service on 6 March until 17:00 hours.

7 March - A temporary failure of power was experienced, but this was restored and the vehicle was not out of service.

8 March - The vehicle was out of service for two hours while batteries were being charged.

14 March - The brakes were found to be defective so the vehicle was taken to the Department of Vehicle and Equipment Services (DVES). DVES sent it to a non-government garage for repairs and it was out of service from 14 to 16 March.

Although regular ambulance response on these occasions was delayed, it has always been available. In such situations, the Fire Service allows the Emergency Medical Services crew to operate out of Frank Sound Fire Station using their emergency vehicle. This reduces the response time of medical personnel to the scene of an emergency and they can stabilise the patient until the responding ambulance can arrive.

We need two new ambulances and I am pleased to say that one has already been provided for and the other has been requested in the 2001 Budget.

#### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I would first like to thank the honourable minister for his very informative and detailed response, and to merely ask if he is in a position to say where the two new ambulances will be placed.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am informed that they will be placed on the longest runs, that is perhaps from

the North Side and the next one is to the George Town Hospital.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** One of my questions was to ensure that one went to the eastern districts.

My interest in this has been sparked because of the amount of time the Fire Service has used its ambulance. Can the Honourable Minister say what is the current status with the ambulance? Is it stationed at the North Side Police Station or at the clinic in North Side? And is there any intention of reviewing that to see if it is necessary to keep all the emergency vehicles in that area under one roof?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I can give an answer in regard to the ambulance. It is stationed at the clinic in North Side.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if the ambulance is operating on a regular basis now?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is my understanding that there are still some problems with the old vehicles. Hopefully we will get the new ones in place as soon as possible to rectify that. But at no time are our people in any danger. There are always alternative methods to assist these individuals.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I want to make it abundantly clear that I did not think at any time that any lives were at risk.

Can the Honourable Minister say when the ambulance will arrive, and will that be used for the eastern districts?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The new ambulance is being ordered this week. Delivery is expected in four months. It will be stationed at the North Side Clinic. There is provision in the 2001 budget for a second ambulance, which will be ordered once approval is given by Finance Committee.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say, since there has been so much trouble with the one that currently takes up the East End route, what provision is being made in the event we have problems with the one currently there?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** In the event of one of the ambulances being out of operation, then we would use the fire service or make other suitable arrangements. I would also mention to the Member that I have been informed that the new system being put in place now by the Health Services Department will establish a rolling maintenance and replacement programme so that we can keep the state of the ambulances under review and be proactive about replacing them when the time comes rather than being reactive when a problem occurs.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I thank the Honourable Minister for that response.

Can the Honourable Minister say how old these ambulances are and when are they taken out of service?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** There are five ambulances, and I will give the information as follows: Medic I, which is registration 70016 (the one we were referring to earlier) is a 1995 Chevrolet. The mileage is 149,119.

The principal concerns about the status of the vehicle and frequency of being off the road with unplanned maintenance is that the body is rusting, there is problem with the transmission, steering, brakes, electrical, and it leaks in the rain, and the doors are unable to close properly.

We can see the need for the replacement of this ambulance.

Medic II, registration 18782, 1990 Chevrolet, it has 55,954 miles. It was taken out of service one year ago as it was no longer considered economical to repair by DVES. It is now being used for parts.

Medic III, registration 69956, 1998 Ford Powerstroke Diesel 350. It has 39,100 miles. It requires routine maintenance only.

Medic IV, registration 69957, 1998 Ford Powerstroke 350 Diesel, with 42,049 miles. Requires only routine maintenance.

Medic V, registration 40960, 1993 Chevrolet, with 71,173 miles. It was involved in an accident and really not considered economical to repair.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I thank the minister again for that detailed answer, but I wonder if he can say if there is a rule of thumb in the industry as to when ambulances must be taken out of service? Or is there anything in place to rollover vehicles? What is the life of these vehicles based on? Is it mileage? Is it based on physical needs?

**The Speaker:** Before asking you to answer the question, would you move the suspension of Standing Order 23 (7) and (8) in order for Question Time to continue?

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

**Hon. Linford A. Pierson:** I beg to move the suspension of Standing Order 23(7) & (8) to allow Question Time to continue.

**The Speaker:** I shall put the question that we suspend Standing Order 23(7) & (8) to allow Question Time to continue beyond the hour of 11 o'clock. Those in favour please say Aye, those against No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time will continue.

### AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** There is really no government policy in place, as such. But I understand that the system in the private sector is that emergency vehicles should not exceed anywhere over 80,000 to 100,000 miles. After that they should be taken off the road.

**The Speaker:** The Elected Member for East End. I will allow two additional supplementaries.

**Mr. V. Arden McLean:** Based on the Honourable Minister's previous answer on the condition of the vehicles, it appears there are a few that have reached that 100,000 mile limit, certainly two of them. Can the Honourable Minister say what the plans are to replace the others?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** There is at least one vehicle that exceeds that, but that is why we are looking into the forward planning I suggested earlier so that we will ensure that this will not occur in the future.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** There is at least one vehicle that exceeds that, but that is why we are looking into the forward planning I suggested earlier so that we will ensure that this will not occur in the future.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Is the Honourable Minister telling this House that 100,000 miles on the odometer is going to be the new policy or rule of thumb to remove ambulances from service?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is the information we have received. But we will be looking at developing our own policy within the Health Services Department which will not be at a lesser level than what now exists.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for today.

Moving on to item 4, Statement by Ministers and Members of Government. Statement by the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development.

## STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS

### CLARIFICATION AND CORRECTION TO BUDGET 2001

**Hon. George A. McCarthy:** Mr. Speaker, I wish to take this opportunity to provide two clarifications and one correction in respect of the 2001 Budget.

The correction relates specifically to the section entitled "General Reserves, Accumulated Surplus/Deficit, and Other Funds, 1991- 2000." In the third paragraph of that section, the following corrections should be made:

- Replace 15.5% with 10.5%
- Replace negative 4.6% with positive 2.2%
- Replace 10.9% with 10.6%
- Remove the phrase "only a year before", and
- Replace 1999 with 1998.

Mr. Speaker, the first of the two clarifications relate to the proposed increase in total government spending over the years 2000 and 2001.

The total expenditure for 2000 as set out in the un-audited accounts of the Government was \$341.4m as compared to the total 2001 budgeted expenditure of \$360.3m. This represents an expected increase of 5.6% in total expenditure between the years 2000 and 2001.

Mr. Speaker, the second clarification relates to the proposed revenue measures set out in the 2001 Budget. There are no retroactive taxes or fees proposed in the 2001 Budget. I hope that these three points will assist the debate. Thank You.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

### SHORT QUESTIONS

*Standing Order 30(2)*

**Mrs. Julianna Y. O'Connor-Connolly:** Just a short question as to whether we will be able to get a copy of what he just said so that we can make accurate amendments to his Budget Speech.

**The Speaker:** Certainly, it will be circulated.

**Hon. George A. McCarthy:** Yes, Mr. Speaker.

**The Speaker:** We move on to Government Business, Bills, Second Reading. The Appropriation Bill 2001.

Continuation of Debate on the Throne Speech, delivered by His Excellency the Governor on Friday 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday 21 March 2001. The Second Elected Member for Bodden Town continuing.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

#### THE APPROPRIATION BILL, 2001

#### DEBATE ON THE THRONE SPEECH DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

#### TOGETHER WITH

#### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**Mr. Gilbert A. McLean:** Thank you.

Madam Speaker, when we took the adjournment on Monday, it left me to speak on a few other subjects. At this time, I would like to comment on the utility companies in the Cayman Islands.

First of all, I wish to comment on the situation that affects us all, that of the cost of electricity. As we know Caribbean Utilities Company (CUC) is the only company in the Cayman Islands providing electricity.

services. The cost of electricity affects everything in any country in this modern world. I seriously believe that as a priority, Government needs to change that clause in the licence with that company.

I am not suggesting that it be done with the stroke of a pen, but I believe that as a national priority, negotiations should be started in the Cayman Islands in regard to renegotiating that particular licence.

The Cayman Islands, Grand Cayman in particular, cannot continue to guarantee CUC 15 per cent profit. Just like every other business in this country, it must take its natural course of sometimes making an appreciable profit and at other times making less. I stated that I would advocate during my campaign in this most recent election. I stated that I would advocate this and I am now doing so.

I think a motion was accepted to set up a utility commission and I believe that in this meeting there has been an answer in that regard. I believe this is something that needs to be done immediately. Recommendations were made for this as far back as 1978 by a power utilities consultant who came to the Islands and looked at both CUC and Cable and Wireless (C&W). In my opinion this needs to be given power by law to investigate, supervise and approve increases in fees within these two utilities. It needs to be able to audit, inspect, and analyse the conditions that exist.

The Minister responsible for utilities has said that there is to be an audit of CUC. I trust that it will be most comprehensive and will ensure that the books are open, that they look carefully into all its operations and perhaps from that point will be a good first step towards making a difference in this matter. Again I say that Government guaranteeing a 15 per cent profit to this company or any company is unrealistic with life in the modern world.

Cable and Wireless is another monopoly that has been created by governments of the past and continues on into the present. There have been major revolutionary changes in the world of telecommunications. It is my opinion that we in the Cayman Islands are not benefiting as we should from these modern technologies via our telephone provided. If our telephone provider is providing these services, then we are undoubtedly being charged too much for that service. Businesses and individuals keep complaining about the cost of telephone service in the Cayman Islands.

We know that the Government is looking toward creating e-commerce in Cayman because that is the modern thing in trading. However, it has been pointed out time and time again that the cost to customers does not make the Cayman Islands competitive with other jurisdictions. That is another reason why we need to see changes in our rates.

I was at a luncheon where three persons made a presentation about ongoing businesses in Bermuda which made major changes in its telecommunication services. In that particular meeting, people in attendance were told some of the ways that wireless technology can work for the benefit of the consumer and

businesses alike; and that by using these modern technologies the way costs can be reduced but yet the volume can increase keeping the provider in profits. Mr. Speaker, we have to move to this.

Let me say right now that if C&W wants to move to this, I believe they can. Certainly, it is not a penny company; it is a major multinational company. I see no reason why, since it is said that Cayman, compared to its size, has produced some of the largest revenue in its whole net worth, why we should not have the first and foremost opportunity to utilise the newest technology. It is my understanding that that technology can be found in other Caribbean islands which do not produce as much revenue for this particular company.

Terminating all the employees of C&W in Cayman must not be seen as the solution to this company providing newer technology and cheaper rates for this contract. What we have seen in the past week is an announcement that there are going to be major cut-backs in staff. This has happened in the past, and it is my understanding that some of the staff being laid off offer some of the services back to the company that they were providing while working there. But to, simply with the stroke of a pen, wipe out all the operators or other technical persons who are being laid off so that they can supposedly realise savings to reduce the cost is not really acceptable—particularly when I understand that the calls will be routed through other jurisdictions that supposedly have newer technology to deal with it. That does not say much about what has been happening in Cayman all these years that we have been paying through our noses.

I think this situation poses a great challenge to the Minister of Labour to look into and enquire into this situation. I know that worldwide, particularly in the United States, the buzzword is 'lay-offs.' Everybody is laying people off. I can understand that. But I must also look at that condition within the sphere of the Cayman Islands. I do not think we can afford such a trend.

Moving a bit from the question of C&W, I do know too there is a situation with the utility company in Cayman Brac, one where the opportunity should be taken to examine when the Minister looks into establishing a utility commission. I would think such a look would include the working conditions and the cost, and to see if anything can be done to reduce those prices be it by lessening the taxes on fuel or whatever. We are talking about savings where it is possible.

In looking at costs, we need to look at the department of Public Works, which carries out most of Government's operations. They are our technical advisors to a large extent and over and over we hear of situations where it is said that if the Government undertakes a particular project through its PWD there are always overruns, and always so much more than if it were contracted out to private enterprise. I am not saying this happens in every case, but I know there have been major overruns in various areas over the years. I think this has to be stopped by making a more

accountable process, holding that department to the same measurements we would a private contractor.

I am aware that at certain times plans for buildings, et cetera, are fielded out to local companies where they are put out to bid. I am aware that PWD also draws a lot of the plans for government buildings. It is my understanding that any building can be made to cost more than necessary, depending on the aesthetics and other requirements. I believe we need to minimise the dressing and get close to coming up with buildings that take on a more Spartan-type of structure where we build for strength and not necessarily for beauty, because we can have a beautiful place that is not structurally sound (not to say that's the type of building PWD designs).

I want to say this morning that I think in the future any schools built in the Cayman Islands should be in multi-storeyed buildings that are self-contained, not planned and built and thrown all over a piece of land to give it a supposed tropical look. One problem right now that I believe is causing some of the problems with the schools is the inability of teachers to control and visually see the children because the buildings in which they teach are thrown all over a piece of land. I know that to be the case.

I believe that if the Minister of Education and other authorities are going to deal with some of the behaviour problems that education is having, we had better start a reconstruction process to take down some of the buildings that are existing and replace them by phases in such fashion where teachers can realistically hope to control the movement of children. And they need to begin at the two high schools by removing some of those buildings and building multi-storey buildings to prevent children from running around corners to do whatever mischief. I think that this is something that needs to be addressed immediately, Mr. Speaker.

The matter of labour continues to be a serious problem. We cannot afford any more disasters such as the one which happened at the Hyatt Hotel in respect of gratuities and the Colony Beach Club where employees are not getting their due pay from gratuities, where their terms of employment are not fair and just.

We cannot have any more cases going to court and being systematically lost because of technicalities in the law. If we have to change the law, then we must change the law quickly. And we cannot have any more a situation with our legal people where they are bringing cases outside of time and losing them in major fashion.

We cannot go on making appeals that are being lost. It is costing us money.

One of the latest I heard of is that there may be an appeal on the definition of 'cocaine' in a particular case. I would think that what we need to do is move to change the law rather than appeals in Privy Council. We do not have the money, or if we have it, then what we are hearing from the Financial Secretary cannot be so. I tend to believe more the figures that I see than to

believe that we need to be going to court losing cases one after the other. It has proved to be an embarrassment to the country, not just the Government; and it has become harmful and grossly unfair to the employees who suffer the fate they have in these Islands.

We cannot go on creating minimal requirements and conditions of service in these Islands, because we have over-employment. We should use this opportunity to upgrade those conditions of service. We cannot continue to allow employers to flaunt our laws, laugh in our face, and make mockery of us, which brings doubts to the minds of all working persons fearing for the safety of their jobs in terms of losing them or not being fairly paid.

I want to comment again on the matter of the OECD on a point that I did not make on Monday. I believe it makes sense for the Cayman Islands, and I urge the Elected Government (certainly the Financial Secretary) to look at becoming members of the CARICOM group of countries. We have the benefit of countries like Barbados now, which is going out of its way and certainly taking an admirable stance to challenge the legality of what is happening by the OECD. And playing to be 'Goliath' when we are not 'David' does not set well for us.

We need to get along with our neighbours in the Caribbean and help them fight the fight in this regard. We are fighting for our survival. If we do not survive the onslaught of the OECD, we are going to pay the price of not having a financial centre because no one has been able to convince me that they just want us to fix laws. They want to fix us out of existence.

I certainly suggest that to the Government and hope they will look into it. I understand that BVI is a member, and that Bermuda has applied to become a member. So, there is little reason—except, apparently, the political will—to keep us from getting into that particular body.

Regarding tourism, I hear about a combination of the Cayman Islands Condo and Hotel Association and the Cayman Tourism Association, and that that is supposed to happen by the end of this month. My view on that is that it is but a move of the big hoteliers and the bigger restaurants to have their way to control what is happening in the Cayman Islands in regard to tourism.

I am personally aware that when the first spilt came about it was at a point back in the latter part of 1998 when a Caymanian (and I will not bother to call his name, he is a well known Caymanian businessman) was voted to the Board of the Cayman Islands Hotel and Condo Association. It brought a flare-up among other foreign managers who just did not want that man there. As far as I can determine, his greatest fault was that he did not go along with everything that was said by the others. He questioned and challenged things. I think he had a problem too because he was tagged as a Caymanian who reached that level working in that industry.

I had a clear feeling that the foreign people who owned most of the restaurants and hotels also have the right to own the Cayman Islands Hotel Associa-

tion. That is a body that has been in existence for 35 years. The fact that that should run with its tail between its legs to join a new body that is coming about made up largely of managers of the big hotels and restaurants is questionable to me.

I draw reference to it also because its present head, Mr. Rod McDowel, was invited to Government House to lunch with the head of the FCO when we, the Members of the Legislative Assembly, did not even have the opportunity to see him. I am wondering what is really going on. Did that head of that organisation have some special privilege or does he perform some special function on behalf of the British Government or what?

I did not hear that by the by, it was on all of the country's media that he was dining with the Governor at Governor's House. I would assume that those funds are provided by revenue. We have to get some things in perspective because they are way out of perspective right now.

This brings me to the observation of protocol. All of the members elected in November were elected by the people of the Cayman Islands. Certainly, I believe the Governor understands that. I know that the FCO recognises that. I know that is the way that this country legally functions. And we must get certain respect because we are the ones charged by the people to speak on their behalf. So, I could not let that pass without commenting on it.

Another concern I have is bills or matters that we hear Government is dealing with. We hear that the Law Society might have a copy of it in draft, the Bar Association, the Chamber of Commerce, the whatever society, and it is not until it comes here before us that we are privileged to look at it. Why should it be so hard for Government to allow us to see it? Are our ideas any worse in the initial stages than they are when it comes to the House where we have to pass it? It does not make sense.

Two other incidents I can cite are: 1) a checklist regarding the Constitution which we were told by His Excellency the Governor on the 13<sup>th</sup> of last month had been made available to him and that he was going to make it available to us. I have not seen a copy of it until now, but I have seen the papers printing what are supposed to be extracts from it. I have heard that the FCO sent a paper here regarding a guideline for environmental development and planning. I see it in the newspapers, but we have not been privileged to it. I think something really has to be done to get things straight as right now they are rather crooked.

One of the things the Governor spoke about, and we know will happen, is the review of the Constitution. I believe that is necessary. I thought so from ten years ago. When it comes about, I hope the usual propaganda that has gone with that process since 1972 will not come to the forefront. The thing about 'if you have a chief minister who he is going to become the national thief, because he will have all the power, and his deputy and everyone else— (pause)

And unfortunately by not accepting the Constitution we could have had in 1991/92, the very authority and power Ministers now need to be responsible for what happens in their Ministries does not exist and we are paying the price for it ten years later. And I have heard Ministers talk about it, and it's a fact.

I hope we are going to seriously get down to modernising the Constitution to create what posts need to be there and that the usual propaganda will not immediately come out in the forefront.

I look to the new members of this House who have to make their way and blaze the trail to be the antidote for the old political pollution of the past that has hindered our progress. I hope their input and participation will be such to drive away those duppies.

I want to refer to expand a bit on what I said about our public finance and that of raising revenue. We cannot continue to tax our own people the way we are doing. The average citizen is being taxed while those who have the most among us—both local and foreign—pay the least, or what is a little amount to them, which makes a most enjoyable ride where they are concerned. It is really a contrast. When we look at the number of our people who are poor, who have difficulty each day of their lives making it just to live each day, another truth is (and this is in every society) the poorest in any given society tend to have the largest numbers of mouths to feed.

We have to take these things into consideration. If it is okay for the wealthy to come here to buy land to develop, to live in gated societies, but they too make use of our roads, of our utilities, of our hospital, of our schools. They are in a better position to pay for that particular service by living in a society where they feel freer and more comfortable and safer than in the country from which they came. We have to find a means of revenue collection that is fair and reasonable, getting more from those sources than we are now.

It is good that we have one or two billionaires. We do not want too many of them because they can literally buy the whole country. If it was up for sale, they could buy it for a billion or two. We would not want to sell, of course, but I am just drawing an illustration of the magnitude of their money. But for heaven sake, let them participate by contributing to the society that they have chosen to live in. When that does not happen it is like we are a candy machine loaded with candy and bubble gum and everybody comes, but nobody is putting in a quarter. They are just taking the candy out! If they do not put in the quarters, it means there will be no money to refill the candy machine. We cannot afford to let them have it for free.

Mr. Speaker, because of the situation I will not vote for the budget that has been put before the House. I do not believe that we should tax the average citizen. As that particular Bill will form part of the budget, I will not support that particular Bill.

Having reached that point, I think it is well for me to say that it is very clear to me by the outcome of the

election that took place in November and the formation of the Government as it is, that it places me in the role of an opposition member. I so accept that position.

However, I understand what the role of an Opposition Member is. Those in the country who believe it is only to stand here and say 'no' are wrong. I know better than that. In fact, I said 'yes' to everything the Government has done since November to now. I do not recall one instance where I voted No. But I am in this particular instance. And there will be other times when I will say 'no.'

In this country an opposition politician does not get a lot of credit or respect because there is propaganda put out about opposition legislators that, '*All they do is say no—they vote against everything*' which is a lie. For those who may be critical of me in this regard, I would ask them to get together and do a circular, write a letter to the press and put their names to it, saying they wish to be taxed for the \$20 million to see how their courage stands on this particular issue. If they like the idea of paying these additional taxes, then what can I say? I do not believe it is in the best interest so I will not vote for that.

Having made that point, I wish to say to you and to this House that being aware of the role required of opposition legislators, I will do all that is required of me to the best of my ability to ensure that this parliamentary process continues to be democratic and be like what my colleagues from West Bay call 'balanced.'

In closing, I think that some of the priorities of Government should be to see to it that interest rates in the banks of this country are adjusted downward. I believe that health insurance overall in this country needs to be examined quickly and dealt with to stop the way it is presently performing. I think that the Government should, as a priority, look to making changes in regard to the Caribbean Utilities Company and the cost of electricity. I believe that Cable and Wireless needs to be examined with the view to saving our people who are there as employees and to have their charges lowered.

Also, I believe we need to find new revenue measures. I believe we need to have experts in this area from outside come in and look from a distance at what is happening to us and make recommendations for us.

Labour in the country needs to be cherished, nurtured, trained and have its rights upheld and honoured.

Education is virtually the medicine for all ills. It needs to be pursued with great intensity in all areas and at all levels.

And we had better deal with that entity outside of our shores called the OECD as soon as possible to guarantee our financial survival in the marketplace.

Needless to say, we had better rescue fast our tourism product that is not seeing the best of times.

Mr. Speaker, Honourable Members, I thank you.

**The Speaker:** Do members wish to take the morning break? Or shall we continue. I am in your hands.

We shall suspend for 15 minutes, and please be back in that time.

#### PROCEEDINGS SUSPENDED AT 11.53 AM

#### PROCEEDINGS RESUMED AT 12.22 PM

**The Speaker:** Please be seated.

Continuation of Debate on the Throne Speech, and Budget Address.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

I would like to begin by saying what an honour it truly is to have been sent here to this Honourable House to represent the people of the district of West Bay, those who voted for me, and those who did not. It is even more of an honour to be the youngest Member of this House, after all, only I can say that because I am the youngest person here.

And yes, I do not forget to remind Members of that. I am quite proud of it. And I can promise the people of these Islands that as with most things, the harder I work the younger I feel. So I may be getting older day by day like everyone, but I am invigorated by the fact that what we do here is meaningful and in my view the noblest of callings, that is to serve the people of one's community.

Having said all that, I must say how disappointed I am at the way in which certain business is carried out in our little Island. After all, we were sent here as of 8 November 2000, and to date (I cannot speak for the rest of the Members here) I have never been officially introduced to the Governor of our Islands.

*[Interjection by a Member: Hear, hear!]*

**Mr. Rolston M. Anglin:** Never been introduced!

I would also like to echo the words of the Second Elected Member for Bodden Town, to say how disappointed I am that a senior FCO official could be sent to these Islands, and it is my understanding that he is in charge of all Overseas Territories, and not have him introduced to the Members of Parliament.

Nevertheless, that only gives me more energy. These things will no longer go unnoticed. These things cannot just be accepted as the way things are done. This is a new era. His Excellency has called for a Constitutional review, and so we must mature as a society, as a government, and as a legislative body.

I begin my contribution by concentrating on the Throne Speech as delivered by His Excellency the Governor on the 9 March 2001. When I look at all the topics covered and I think of all the major issues facing the people of these Islands, it is difficult to pick a starting point. It seems that everything I look at, uncover and investigate, are not just problems, because that is just life. There will always be problems. But there seems to be serious problems in all major areas



of life in these Islands—education, training, women's issues, youth, immigration, our constitutional status, the police, international initiatives, such as the OECD and FATF, Cayman Airways, the Civil Service, the Monetary Authority, Social Services, Agriculture. There is an old saying, 'If you cannot say anything good, do not say anything at all.' Fortunately in this case, we have certain things to build on, certain positives. However, we have to talk about these ills. We have been sent here to come up with solutions to work together as legislators to come up with new creative solutions.

I would first like to speak on education and training. Anyone who came to any of our political meetings in West Bay will know that I spoke at length and often on this topic. If memory serves me correct, I may have been the only member of our team who spoke in depth on education. It is my view that we have some serious systemic problems in education and training.

We have Caymanians, school age and adult, who quickly become disillusioned in life, even if they were otherwise optimistic and had high self-esteem. It is my view that when our people go into the labour market, they often encounter people from other countries who have what I consider a comprehensive education system. What do I mean by that? I mean a system that puts the child first, that puts the student first in the case of the training of adults; one that seeks to develop the whole child, for example, the focus would be learning, sports, art, music, community service; one that ensures that the unique talents of each individual are played upon and enhanced.

In fact, adults often say, '*Find what it is you really enjoy in life, and do it for a living. If you like taking radios apart, you would probably be a good technician, or engineer. If you like cooking, you would probably be a good chef.*' Somewhere along the way we seem to think that if our children are not in what is considered the academic realm, then their lives may as well not be lived.

I am of the view that each person is put here on this earth in a family situation that allows them, in a lot of instances, to be predisposed to certain things. I also believe that each person has within him certain born traits and skills so that we do not have a world of all doctors, or all lawyers or mechanical engineers, or accountants; life must be balanced. We cannot foster any mentality that looks down at a person who is making the most of his God-given talents and is earning an honest living.

I believe that early on our children must be exposed to the vocation and technical areas of life, not just in a passing fashion. They must be exposed to them. So educators and parents alike can determine at an early age as best they can where the interest lies within each child. Not all children want to grow up to be accountants. What is wrong with a child wanting to be an electrician or a plumber?

I have heard the view that if this is done too early one could bias the child. I am of the complete opposite view. If you do this early, you allow the whole

child to develop. In fact, the child will become better at what it is God intended him to be by being exposed to all these different facets of life. I believe we must have enhanced life skills programmes within our school system.

All we need to do is look at the statistics on things like teenage pregnancy to see the reason why we must expose our children within the system on how to deal with a lot of life's problems and challenges. I know the home is the foundation. However, I think we have gone long enough, and given ample opportunity for the home to be the training ground for all these issues. In my view, we have failed miserably. Teenage pregnancy is ever on the increase; juvenile violence is at the forefront of all our thoughts. We must have things like sex education and family planning within the curriculum. We must have it. The other system we relied on has failed, so the education system now has to do the best it can to help our young citizens in this area.

I am not saying that this will be the solution and will provide an absolute safety net, but if we have these programmes in our schools, they will be of some help. If they save one child from going down the road of motherhood or fatherhood in their early teens, when they are nothing but children themselves, it will be worthwhile.

We must have a proper comprehensive way in which to re-train adults in our society. I am of the view that we have a lot of talented people within our community. There are those who would like us to feel otherwise. And I suppose a less confident person would start to believe that Cayman does not have talented people, so we need to bring people in to do everything. That is not my view. I have great faith in my fellow Caymanian.

However, we have to recognise that in life and in an economy things change. We may get a certain number of people wanting to go into one area, let us say construction. And as time changes, there may be a shift in demand in the labour market, and more people may need to go into the hospitality area and become a Maitre de, waiter or bartender, night auditors, front desk managers. We must have proper training and re-training of our adult population.

It must be provided in ways that disrupt their family life as little as possible. After all, we have to be careful when we talk about these things because if all of a sudden all the adults are spending three or four evenings away from home, away from their children, then other problems sprout up. So, we must be comprehensive in the way in which we deal with the issues. Everything affects everything. There are no vacuums in life.

We also have to ensure that people, who have been or are incarcerated, are given every opportunity to lead productive lives upon release. I had the opportunity to go to Northward Prison a few weeks ago to see two West Bayers I have known since I was a little boy. They are both in prison for drug offences. Two weeks ago I saw one of them on the street. What was

he doing? Nothing. No job. He was released from prison, has a problem with drugs and has no job. He was just riding up and down. It will not surprise me if he lands up in Northward again. I can assure this House that he has spent the better part of the last ten years (that I know about) in Northward.

Just yesterday, I saw another ex-prisoner. I asked the same question, 'Any job?'

'No, but if you could help me find one, I would appreciate it.'

Not only do we need to ensure that our education and training programme extends into the prison to build up a skill and feeling of self-esteem on many downtrodden citizens of this country. We have to ensure that upon release they are given the opportunity to get a job. After all, what usually happens is that they get out and make an application for a job. In those first two weeks, a prisoner really feels like making a change in his life. So, he looks for a job. He stays off drugs. He wants to utilise his time productively.

But what happens? If prison is on that application, you can be sure he is not going to get the job. If he does not state that he served time in prison and it is found out that he did, you can be sure he will not get the job because then he is a liar. That is a situation that scares me. It tells me that in our society ex-prisoners are so looked down upon and castigated that we may as well keep them in jail for life.

Why release them if we know they will not get a job. Most of them have families, and they have to live. Crime becomes inevitable in these situations. It is my view that we must provide more training and educational opportunities for our prisoners. And we have to have our departments work in tandem. We have a labour office, we have an immigration board, we have a prison. Is it so difficult to expect the three of them to work in tandem to try to ensure that our ex-prisoners are given an opportunity at life?

Most of our crimes are drug related, in particular drug use, or crimes that spring up because of drug use, such as robberies. We must have proper rehabilitation programmes and facilities in this country. I know there are those who say '*Yeah, but the prison only has two hundred and something people so why go spend all that money?*' Deviant behaviour can sometimes graduate from smoking a little spliff to hitting crack cocaine, to stealing. Once people are involved with hard drugs, who knows what else will come about?

Just from a safety standpoint in our community it is worthwhile to do this. For the hardhearted that should be enough reason. But for those who truly care about each individual in society, it is simply the right thing to do. We must ensure that our citizens have every opportunity to make a decent living, to have a productive life.

What about early childhood development?

**The Speaker:** Could I interrupt you for a moment? If you are going on to a different subject, maybe this

would be a convenient time to take the luncheon break.

**Mr. Rolston M. Anglin:** Mr. Speaker, I am halfway through education, so I feel I can give way for the break.

**The Speaker:** We shall suspend proceedings until 2.15 PM.

#### PROCEEDINGS SUSPENDED AT 12.48 PM

#### PROCEEDINGS RESUMED AT 2.28 PM

**The Speaker:** Please be seated.

Continuation of Debate on the Throne Speech, and Budget Address. The Second Elected Member for West Bay, continuing.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

I will pick up where I left off before the break. I was speaking about education and training. I was just about to make the point on how critical it is to have early childhood development programmes in place.

These are the formative years. We recognise that in our society not everyone starts off from the same point. Not everyone has the privilege to have both parents in the home to provide a high degree of stability. It is good to note that government at present does provide funding for pre-school for any individuals who qualify in terms of financial need. I think it is critical that in the schools we ensure that all the students that come through Year 1 are availed the necessary early building blocks to serve them for the rest of their school life.

I remember very early on in my school career students (and I can remember them by name) who showed definite signs as to what would happen to them. I am a firm believer that our present system caters to the academically inclined. I went through the system. I think it is an excellent one in regard to people who will go on to do a formal tertiary education.

Looking back, I can easily identify the students who struggled in this area. I say this in the context that in my time in school (not very long ago) there was not what I would term proper vocational and technical training embedded in the education system.

I now turn to the digital age in which we live and its impact on the education system. It gives me great joy to hear about schools that have computer labs where five- and six-year-old children are being exposed to computers. It is also heartening to hear the Minister of Education recognise the need for computers in schools and the need to have computer equipment similar to what people will experience once they enter the work force. It is very important in my opinion, that we have equipment and programmes in our schools identical to what will be experienced in the workplace.

These days, when we look at word processors, spreadsheet tools, database programmes, you will

find that only two or three dominate the market. For example, Microsoft Word and WordPerfect dominate the word processing market. It is very important that our children get exposed to one of those two products. Again that is insight that is paying attention to the small details.

I believe there should be a mandatory minimum amount of computer study time required for every year in school in every school in this country—government and private. It is critical that we equip our students to be able to succeed and excel in this digital age we have now reached.

I believe that we have some work to do in regard to our scholarship programme. I clearly remember going to university, speaking to a young lady and gentleman from Trinidad. The first thing we asked each other was how we were in university. I explained the system as it worked in Cayman. Of course, I had a private sector scholarship, so they quickly asked me about the government school scholarship programme.

They were amazed that once you had five 'O' levels that you were pretty much guaranteed a scholarship. If you had three 'A' levels you were absolutely guaranteed a scholarship unless there was something extraordinary within your record. Of course, I am not crying that down. I think it is very important that we provide as many scholarships in this country as possible. Of course, we have to find ways to work with our private sector partners to ensure that they keep up their end of the bargain.

The thing that struck me about this conversation was the fact that they revealed to me that to get a full scholarship from the government of Trinidad you had to have five 'O' levels and also three 'A' levels at an average grade of B. On the academic side it was forcing people to be the best they could possibly be. I knew that once I passed my three 'A' levels, I would get a scholarship. Therefore, what incentive was there for me to average a B? There was none!

I studied exceptionally hard for accounting because that was my true love and I wanted to go into the accounting field. So, it was no surprise that I got an A in 'A' level accounting. The grades in my other two subjects were far lower. I still passed, but with a D and an E. Just for the record, those are passes at 'A' level, because of the difficulty level of that course. I always use myself as an example, because I know I will not offend myself.

I think it has come time that we stagger the dollar amount of scholarships to correspond to the grades of the students. After all, in my view it is a disincentive to do as good as you can do when everyone is going to get the same scholarship award. In my view, if a student passes 8 'O' levels, or CXC's, and averages a certain grade, this should be required for a certain dollar amount. If you average another grade, that also would be eligible for a lower dollar amount.

Of course, I think the current standards are the base from which you build. I would use the current system and build on top of that and use that for people who have the equivalent of a C grade average for

their 'O' levels and CXC's and then increase the amount incrementally just so you award those students who do much better.

The same thing should happen when we have our vocational and technical training in full stream. For those students who excel there should be opportunities to go overseas to train. They should be afforded the best possible experience once they excel above and beyond the norm. We should find ways to send them, in the case of one studying to be a chef, to work in the finest restaurants in other countries to broaden their minds, to make them the best they can be. We must build good people. It is good, educated people that build a good society. And when I say 'educated' I do not just mean academics, I also mean vocational and technical areas.

I am a strong advocate of the 'A' level programme. I am extremely disappointed that it is no longer a part of our high school system. I thought it was an ideal complement to the academic side of that system. It provided persons who went on to double as prefects, to assist teachers within the schools. It built leadership within those individuals.

It also allowed the younger children on that high school campus to want to wear blue pants, or skirt. It gave them something right in front of their eyes to work towards. Education and training are critical. We must enhance both of these areas.

I will now turn to Women's Affairs. I am encouraged to hear that a national policy on gender equality will be coming soon. I think it is greatly needed in this country.

It is also encouraging to see the advent of a family protection unit and a place of safety. I believe that there must be equal pay for equal work. I know there are those who would say that is the case. But in many instances, I would beg to differ. It has been my experience that that is not necessarily the case and I have lived and worked in two countries. I have worked in two others for short stints.

This has always been an area of interest to me. Wherever I go, I always probe in this area. I find it to be extremely gross injustice, that women with the same qualifications, doing the same job as a man, will bump their heads into the glass ceiling so many times until they are left disillusioned and frustrated. We have to ensure that entrepreneurship is available equally to women and men.

There is no rule in nature that says men are going to be better business people than women. Yet, the very systems that dominate in most societies, dictate that men move up the ladder quicker in the corporate world, they get paid more and they dominate the entrepreneurial ranks. This is not right and we cannot allow it to happen in our small island.

The issue of child maintenance is a touchy one. But so far, touchy issues have not stopped me from speaking what I feel is right. We must find ways to ensure that the fathers of children contribute financially to raising them. The ideal (getting back to education) is to have life skills as a predominant part of

the educational system to help equip our people. However, there will inevitably be those who wind up on their own; and when a woman winds up on her own, there would have been a father.

We must ensure that we instil in our males the fundamental responsibility of taking care of their children, of raising them and being good fathers. But at the least, they must support them financially. This is cause for a large strain on the Social Services Department in this country. We have males who go around this community and they father children, and expect all of us to pick up the tab.

This cannot continue. It must be stopped. There are things like garnishment of wages that can happen. But once it is proven that one is the father, the judicial system has to be user friendly to the single mother to ensure she at least gets financial help with the children she is raising. After all, it did not take just her to bring those children into the world. So, I feel there are numerous issues regarding women. The ones I outline are by no means comprehensive.

I am very confident that we have a Minister in charge of this area who will do her best—and then some!—to ensure that the rights and freedoms of women are enhanced in this community.

I now turn to our youth. Last Friday I spoke for well over one hour on this topic. So, I do not intend to go into this in any great depth today. A lot of the people in the community heard my views on young people. But, I would like to share a prayer that I got at a CASA (Cayman Against Substance Abuse) graduation ceremony last Thursday night. Eleven young people all under the age of 13 graduated from an eight-week class geared toward a wholesome drug free life. It reads: "A Prayer for the Young and Lovely."

*"Dear God I keep praying for the things I desire.  
You tell me I'm selfish and playing with fire.  
It's hard to believe I am selfish and vain,  
My desire seems so real and my needs seem so sane.*

*"And yet you are wiser and your vision is wide.  
And you look down on me and you see deep inside.  
You know it's so easy to change and distort,  
And things that are evil seem so harmless a sport.*

*"Oh, teach me dear God to not rush ahead,  
But to pray for your guidance and trust you instead.  
For you know what I need; that I am only a slave  
To the things that I want, and desire and crave.*

*"Oh God, in your mercy look down on me now,  
To see in my heart that I love you somehow.  
Although in my rashness, impatience and greed  
I pray for the things that I want and don't need.*

*"Instead of a crown, please send me a cross*

*And teach me to know that all gain is but loss.  
And show me the way to joy without end,  
With you as my Father, Redeemer, and Friend.*

*"And send me the things that are hardest to bear  
And keep me forever safe in thy care."*

Mr. Speaker, the youth are our future, and our future is our youth. We must address the inadequacies in the education system. We must offer parenting classes and workshops. We must encourage two-parent homes. We must encourage discipline. It is at home that generations are strengthened or lost, so we must address the issue of teenage pregnancy. We must ensure that we turn some of the staggering statistics around.

I read from the National Youth Policy, "**In the study of the family in Caymanian society in 1997, it was approximated that only 58% of households have both parents, which means an excess of four out of every ten children come from single-parent families.**"

I now move on to the topic of Immigration, an area that needs much addressing. We cannot bury our heads in the sand. We must deal with this issue in a fair manner. It is my view that the Vision 2008 Immigration Roundtable did a commendable job. If that vision is the wish and desire of Caymanian society, I think it is a decent place for us to start in terms of grappling with our immigration nightmare.

We must deal with people with deep Caymanian connections. We have citizens in this country who have two and three grandparents (four in some instances) who are all Caymanian. But under the law as it stands, other things being equal, my understanding is that they do not qualify for the grant of Caymanian status. What often happens is that those of us who do not have to deal with this issue at all, sometimes do not become aware of the hardship this can cause on Caymanian families.

I will give you an example: I spoke to this young man, and he was happy that I would use him as an example. For anyone who does not know his situation, they would look at him and think 'He is one of us.' People do not think of Mr. Ricky Bodden (that is Mullie Bodden's son) from Northwest Point in West Bay—who has been here for 30 years, and yet was told some two or three months ago that he had to get a work permit. Everyone considers Ricky one of us.

Yet, as the present law stands, there is no way he can get Caymanian status. This is a travesty. A person can live here from the time he was a baby, have deep rooted Caymanian connections, grow up to look, to talk, to act, to dance, to feel like one of us. After all he is one of us! He is a Caymanian! And to be told a few short months that he has to get a work permit . . . because he has been here so long, he talks like a Caymanian, and everybody knows him as a Caymanian, they never thought otherwise.

This situation came about because he moved his child from private school to government school at

which point he had to produce evidence that he was Caymanian. People in this category—and there are a lot of people on this Island like Ricky—have to pay school fees for their children because they are not Caymanian. Says who? Says the law!

I beg to say that I can safely assume that there would not be any Caymanians who would look around at people like Ricky Bodden (Mullie's son) and say he is anything other than a Caymanian. So, when we deal with the people in our community who fall into this category (and I understand there are quite a few), this would shift the balance. And what an ideal way to do it—with people who are Caymanian for all intent and purposes.

I will give you the example of Dalvin Ebanks. Dalvin has been running barefoot in Cayman longer than I have probably been alive. Same situation.

We must address this situation. It cries out for addressing, and it is incumbent upon the government of the day and all of us to ensure that this happens in short order.

There is also the issue of long-term residents. I think it is safe to say that on this issue our community becomes a bit more divided. There are those who say if a person has been here X number of years (whatever that is—20 or 30 years) that they deserve some rights within Cayman.

In my dealings with people in the community I have found that most people feel that we have to deal with that situation and that there are certain rights that accrue to people who have been resident, living and working in this Island, for over a certain period of time. Of course, the caveat most people use is 'once they are desirous.' These can be very subjective things.

I have heard people talk about a test, that people would have to pass a test, it would not be *carte blanche* issuance of residency or Caymanian status, whichever route the government chose to deal with long term residents. While I agree that we have to come up with some form of measuring stick or criteria we all have to recognise this area will always be inherently biased through the eyes of someone. We will not get it perfect, but we must deal with the situation. We must address it in a fair and comprehensive manner.

Once we have gone through the exercise of trying to sort out our immigration mess, we then have to ensure that the immigration process becomes transparent. Everyone likes to talk about transparency, but transparency does not only relate to MLAs; transparency relates to everything in life. We must have a transparent immigration system. That is, when people move here to live and work, they know what the expectations are and they know the rules of the game so that there is no built in desire and wish that is not that of the people of the Cayman Islands. We have been told that we will be our own gatekeepers, and every country has some form of immigration policy. Most countries have a rollover period.

I know there was a lot of kicking against the report of the select committee of this Honourable House in regard to a rollover period. There now seems to be

fighting as to how long it should be. We have to come up with what we feel is a right and justifiable number of years. But we have to have a system in place. If we do not do it, 20 years from now we will have legislators in this country talking about the same issues. We have to deal with it now. The time is at hand.

I can tell anyone who wants to argue with me about this rollover and whether or not it is needed, they are barking up the wrong tree. As I said earlier, I have lived and worked in two countries. I am at home in Cayman, but when I was in the US, I was an expatriate. I know what it feels like to be an expat. I can tell you that I had three years. After that, I had to go. I had to leave the country for at least six months and reapply if I wanted to return there to work. And obviously, they clearly tell you upon reapplication that it becomes more difficult to come back and work after your first stint.

We had the privilege to sit down with representatives from the Foreign and Commonwealth Office later in the year (not the one I referred to earlier in my speech). I thank His Excellency for letting us have a forum with them. When we brought this issue up, the gentleman looked at us and said, 'What is the issue of a rollover? We have it in the UK.' He revealed that they have a five-year rollover policy. But there are certain interests in this country that want to run things.

I am not going to get carried away, Mr. Speaker. I will refrain. Being young, one can often become excitable.

It is critical that the Immigration Board moves forward with its business plan model. This has to be part and parcel of the new immigration regime, one which is transparent, one where people who come into the system know the rules by which they can apply, and exactly how long they can stay; but also, from Government's standpoint, we have to see a clear demonstration of effort on the part of employers to Caymanianise themselves. We cannot allow this Island to be used by large or small employers and Caymanians be pushed aside and marginalised even though they have the skills and talents required for the job. That cannot happen.

After all, what I am talking about is not radical. This is what every country does for its own citizens. So, anyone who wants to argue this point, I will simply say to them, '*Look where you come from. I think you will quickly see that I as a Caymanian cannot go to your country and dictate policy to their government.*'

We must have legacy plans. We must ensure proper legacy planning and that Caymanians are given every opportunity towards upward mobility. The model has to be that if there are two equal candidates for a job, equal in terms of qualifications and experience, the preference has to be given to a Caymanian for that post. But, as it stands, Immigration is one big abyss. No one seems to know exactly what's going on. And matters don't come to light until there is a complaint. We must ensure that we are able to manage our immigration process.

One of the travesties of late (the last decade in particular) is the fact that government (that is, the civil service and elected officials) have told the private sector it has to Caymanianise, it has to give Caymanians an opportunity. Yet, we hear of instances of injustice within the civil service that are far greater than those occurring in the private sector. This legacy planning I am talking about not only applies to the private sector it also applies to the government. After all, we have to practise what we preach.

Mr. Speaker, I now turn to the constitutional review. I will begin with a quote, **“Let us resolve to be masters not the victims of our history, controlling our own destiny without giving way to blind suspicions and emotions.”** John F. Kennedy.

I know there is one part of that quote that will never apply to the Cayman Islands, that is, unless the people of these islands wish to go independent—which is not my view. So, we must resolve to be masters and not the victims of our history. We cannot give way to blind suspicions and emotions. We must be rational. This is an area that a lot of our people become very irrational about.

They feel that the Constitution is a document that is to be feared, leave it alone. It is taboo. Do not touch that! Do not talk about it! If you talk about it in some circles, you might not see another day. The Constitution has to be a living document. It has to be one that evolves with people.

As society evolves, the Constitution must evolve to meet their desires. This must be a reality. I can tell anyone that I support the constitutional review wholeheartedly.

I would like to touch on political advancement. I feel that we must have transparency in our political system. We can no longer expect our citizens to vote for candidates in any district without knowing who those candidates are going to support for Executive Council. We cannot expect our people to vote blindly.

I am under no disillusion. I know what happened last November. We all lived through it. And I was right at the middle of the storm. I know that people in my district will look at the current government and say, *‘Had I known Rolston would support these candidates for Executive Council, I would have given him a vote.’* And, on the other hand, there would be those who would say, *‘Had I known Rolston would support this current Executive Council, I would NOT have given him a vote.’* It goes both ways but Caymanians deserve the best, and this is what they deserve. After all, do you think people in the US would go to the polls and vote Democrat or Republican without having a name to put to that title? I do not think so. That is what our people did—they voted on district levels without knowing who would be the Executive Council, the policymakers. There must be transparency in the political process. That leads me to my next point.

Our people may wish to have a chief minister. I feel like the constitutional review must involve broad public consultation. But at the end of the day, it has to be taken to the people by referenda for them to

choose. I do not think that 15 people can make this choice alone.

There may be those who look at the system now and say they want more accountability, so they want a chief minister. As I told the Governor and the two colleagues from the FCO, I could not support any move toward having a chief minister if there was no transparency in the political system. The people of these Islands must know who each candidate they vote for is going to support for that position. They must! We cannot expect our people to blindly vote and not know who the Chief Minister is and come out the other end. We have to have transparency in the political process. This must be part and parcel of our constitutional development and modernisation.

I also feel that it is time in this country that we had a minister of finance. I think it is high time that be a reality. I know this one is a bit less controversial and that most Caymanians would agree with that. The people I have spoken to, in terms of the Constitution, desire to have a minister of finance. But we must have increased accountability in our country.

I know there are lots of people out there who like the bottom line, so let me just state the bottom line from my point of view. I, in no way, shape, or form, seek or desire these Islands to be independent. I am just saying that for the record. I do not advocate independence. But I am saying that it is time as a community that we look at our Constitution and ensure that it meets our needs, desires, and aspirations as a people.

I also feel, as my team’s manifesto said on page 12, that we must have a Bill of Rights in this country. That too, is something that you find a lot of Caymanians supporting. They believe they would be gaining by having a Bill of Rights.

It is clear that we have reached a stage in our development where we need to have a statement of fundamental rights and freedoms that are agreed upon by going through the constitutional review process and having a referendum, where the people will have input into their Constitution.

There is a price to pay for everything. And, as legislators, we must endeavour to educate our people about the prices they pay along the way. I know that there are a lot of Caymanians enjoying the lifestyle that development has brought. But there are other parts of it that they want nothing to do with. However, that is not how life works. There is no free lunch in this life. And with everything comes a price and a consequence. One has to look at the pros and cons and make an informed decision. So too, we need to ensure that our people recognise everything that goes along with a new Constitution and things like a Bill of Rights.

I want to share something I received by e-mail on Monday. I thought it was quite interesting. It’s titled “The New School Prayer” and it’s written by a teenager in Arizona, USA. I read:

*“Now I sit me down in school,*

*Where praying is against the rule.  
For this great nation under God,  
Finds mention of Him very odd.*

*"If scripture now the class recites  
It violates the Bill of Rights.  
And any time my head I bow,  
Becomes a federal matter now.*

*"Our hair can be purple, orange or green,  
That's no offense, it's a freedom scene.  
The law is specific; the law is precise,  
Prayers spoken aloud are a serious vice.*

*"For praying in public hall  
Might offend someone with no faith at all.  
In silence alone we must meditate.  
God's name is prohibited by the State.*

*"We're allowed to cuss and dress like freaks  
And pierce our noses, tongues and cheeks  
They've outlawed guns but first the Bible  
To quote the good book makes me liable.*

*"We can elect a pregnant senior queen,  
And the unwed daddy our senior king.  
It's inappropriate to teach right from wrong,  
We're taught that such judgments do not belong.*

*"We can get our condoms and birth control,  
Study witchcraft, vampire, and totem poles  
But the Ten Commandments are not allowed,  
Not a word of God must reach this crowd.*

*"It's scary here, I must confess,  
When chaos reigns and the school's a mess.  
So, Lord, this silent plea I make:  
Should I be shot, my soul please take.  
Amen."*

The e-mail said, 'If you are not ashamed of this, please pass it on.'

As I said, we must ensure that our people know what it is they are asking for. As legislators, we cannot campaign, and push concepts only showing the positive, glitzy part—without demonstrating all the ramifications, and then let the Caymanian people choose. Once you have done a thorough job of explaining exactly where we are headed, and the people make a conscious decision, then we have done it as a society. And that is how I feel this constitutional review process must go. If that is what the people want, that is, a modernised constitution, then it has to be.

As I said earlier, I support the constitutional review. I think it is high time. I think it is greatly needed. We must not be scared of our Constitution. Everyone in this country must look at it as a live document, something that has to progress as we progress as a people.

I now turn to the Royal Cayman Islands Police.

**The Speaker:** If you are going on to a different subject, maybe this would be a convenient time to take the afternoon break. We shall suspend for 15 minutes.

### PROCEEDINGS SUSPENDED AT 3.22 PM

### PROCEEDINGS RESUMED AT 3.59 PM

**The Speaker:** Please be seated.

Continuation of Debate on the Throne Speech, and Budget Address. The Second Elected Member for West Bay, continuing.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. Before we took the break, I was about to address the Royal Cayman Islands Police Force. Let me make it abundantly clear that I support the police officers of this country 110%. They are trying their best to combat and investigate crime.

There is something that is relatively disturbing in my view. That has to do with policing and teaching. I always question our society in terms of its ability to police itself and to teach itself. I know the Minister of Education has a committee looking into the matter of Caymanian teachers within the system. It is an area I feel confident in saying that there will be positive developments over the coming years. And it is greatly needed. It was needed a long time ago.

We as a people must have the ability to police ourselves and to teach ourselves. When we think of national security, that is not just securing one's borders. After all, countries like the US give aid to farmers. Why? Because they see the need to be able to feed themselves. They consider it a matter of national security. I say here today in this House that all Honourable Members must recognise as a matter of national security that in short order we be able to police and teach ourselves.

Mr. Speaker, I am not a policeman, I know quite a few, so I am not going to claim to know everything there is to know about policing. However, there are some matters that disturb me greatly. I represent the district of West Bay, the second largest district on the Island. While there were great boasts of crime reduction islandwide last year, and in 1999, (if my memory is correct) crime was up in the district of West Bay. That is a matter of great concern to me and to my constituents.

I am a firm believer that it is not in increasing the numbers of police necessarily that addresses the issue of policing, but the matter of police presence.

Mayor Rudolph Giuliani of New York, although very much disliked on a personal level in the City of New York, he has been successful because New York City has become one of the safest places in this world. He ensured that policemen and policewomen were on the street in tandem. That was the main strategy employed—to have a police presence. If you have police on the streets it goes naturally that you decrease the likelihood that a potential criminal will commit an act there.

I feel confident in saying that every West Bayer is frustrated at the lack of police presence in our district. You can drive around that district 20 times in a week and if you see a police car once, you are lucky. You can drive around that district and know where the drug spots are, see people who you know are drug addicts coming and going free as birds. One has to wonder where are the police.

I know it seems as though the police have done a good job on the international drug interdiction scene. There seems to be major operations. That is good because that can decrease potential drugs coming into our society so I applaud that effort. However, we must clean up the streets of these Islands. We must chase away the drug pushers in these Islands. I can think of one particular piece of land in West Bay where the owners do not have any structure on it. But every couple of years they hire a bulldozer to go in there and push it down because they know that drugs are dealt on their property.

The residents of West Bay know where drugs are pushed. They call the police, and tell them. Nothing seems to happen. As a representative from the district of West Bay, I can say that we are very unhappy with the policing in our district and are greatly disturbed that while crime is down, it is up in our district.

West Bayers are not any more likely to commit crime than any other place on this Island. And I beg anyone to show me evidence to the contrary. However, the lack of a police presence is, in my view, one of the main causes of the increasing criminal activity in our district.

Another thing that disturbs me . . . and I am no police commissioner, so I cannot tell anyone how to do his job, but I can certainly tell people when the job, in my view, is not being done adequately.

I see the beat officers. And I think that is a great concept. I applaud the police for that. Having them ride around on bicycles and walk the street is a great way for them to mix and mingle in the community and get to know people, bridge that gap, humanise them so that when they need evidence people will be forthcoming and will feel at ease to call the police. This is critical to policing, in my view.

However, what greatly disturbs me is when I see the police in West Bay who ride their bicycles around by themselves like the Lone Ranger. I would like to remind Honourable Members of this House and the community that even the Lone Ranger had a partner—his name was Tonto. I am sick and tired of seeing these 'Lone Rangers' riding the streets. Which drug area will either of them go into by himself? I can tell you which—None! In my view, that is why crime is up in that district.

Another thing: I am all for women's rights, but I see female officers in police cars patrolling by themselves. The resident beat officer is a man, he is by himself, and I am calling for him to have a partner, so I am not being sexist. I am calling for all police in this Island when on patrol to have a partner. We do not have any Robot cops. That is just in the movies. If that

is what people think our cops are made of they are greatly mistaken.

No more 'Lone Rangers' in West Bay or any district of these Islands. We must have police officers working in tandem so that if something arises and they need to investigate it, they have backup there with them. How are they going to go into the scene of a drug house, which I can guarantee you will have more than one individual there? You do not see any of these homes that we know of in our communities where you only see one person in the yard. They have their backup, the police must have their backup as well.

I can tell you today, I find it difficult to vote for anything involving police knowing the facts as I have outlined them so far. Crime is down in the Cayman Islands, but up in the district of West Bay. It is inexcusable and it is not going to be stood for any longer.

Turning to drugs and white-collar crime. We hear of an asset confiscation account in this country. I have a few questions about it. I cannot make any comments because I do not have any knowledge of it. I beg to say that most Members of this House do not either. Who accounts to the public for this money? How much money is in the account? Who knows how much should be in the account?

We are not asking the police to reveal their drug interdiction methodologies and tactics. We are asking for transparency in all sectors of Government. God knows this Government needs as much money as it can get. We hear about all these cases . . . this one is being convicted under this law, and under that law, and we are out there in the Caribbean Sea and we are part of "Operation Riptide" and operation this and that . . . where is the money going? The last time I checked, when we have drug busts, the teams split the funds up.

(Pardon the pun), where is the pot?

I turn to the issue of Cayman Airways. I, like most Caymanians, have a sense of pride when it comes to the national airline. I do not think there are many people who can honestly say that they do not have some sense of pride in Cayman Airways.

Mr. Speaker, my view on the future of the airline is middle-of-the-road. We must be afforded the details of the ongoing audit. We must also ensure that the findings of that audit are consistent with the audited financial statements over the last ten years so that we as legislators can make informed decisions. We need to get the details of this report and we need to sit down, look at it, and be rational. We must have all available alternatives presented to us. We must be able to look at those alternatives and realistically say whether they are viable and strategies that we feel are in the best interest of every Caymanian.

I am of the view that with the amount of money we have spent on Cayman Airways just in the last decade, and with the increased competitiveness in the airline industry, that we must look at Cayman Airways critically and ensure that the road we take is in the best interest of all Caymanians.



We have a small economy and when we look at annual recurrent expenditure and revenue we will quickly see that in the last ten years . . . if we added up how much money government has given Cayman Airways by way of direct and indirect subsidies, we have spent a lot of money on the national airline. I am not convinced that we have a lot to show for it. We have to be comprehensive in our review. We have to look at the benefits. We have to look at tourism realistically and try to analyse and assess the impact the national flag carrier has on our local economy.

It is not all bad. We do not just put money into the airline. The airline also brings people here and people spend money. But that argument can almost be defeated immediately because there are many people who will automatically ask who benefits when tourists come here. But we will not go that far. We know we are a tourist destination and that we need to enhance our tourism product. It could very well be that Cayman Airways is an integral part of the future. But, we cannot just assume that.

Every person here campaigned on tough unpopular decisions. Anything we do with Cayman Airways is going to be unpopular. If the Government says it is going to keep Cayman Airways and get a new fleet, it will be unpopular. If Government says it is going to shut it down, that would be unpopular. Whatever happens is going to be unpopular. Therefore, we have to make a proper assessment and we have to make an informed decision.

I often hear people ask what will happen when a hurricane is coming. There are many companies in this country that already have evacuation procedures. They are not going to rely on Cayman Airways. They have contracts that will evacuate every staff member and their families in the case of a hurricane. Let us face it, hurricanes are not tornadoes. They do not whisk across the ocean. We see them as they come. There would be time for those who want to go, to go. I can remember in 1988, people battening up their houses and flying out to Miami when hurricane Gilbert approached. So do not tell me it cannot be done.

We cannot have fears stirred up in people, and then politicians being forced to make irrational decisions. Those days have to be past. Anyone who looks at this budget will realise the serious times this country is in, and in for, unless we make tough decisions.

There are numerous alternatives for Cayman Airways that would not involve shutting it down. There are joint ventures with other airlines, with private partner citizens. There is the possibility of having a subsidiary structure with another airline, that is, selling Cayman Airways and having it as a subsidiary of another carrier. It would be a separate company operating under the laws of the Cayman Islands. Its staff would not be a part of any airline union, so there would not be that fear. For example, if we had a subsidiary structure with a major US airline that if their staff go on strike then Cayman Airways staff would have to go on strike. We have to find ways. We have to investigate all possible avenues.

I cannot tell you which one it is. I am saying that as legislators we have to look at this issue and use common sense, use a bit of intelligence and most of all get accurate information and make an informed decision and do it as soon as possible.

Of course, there is always the alternative of a local private sale. Some might ask who would buy Cayman Airways. I do not know. I do not think any of us know. If you remove the political aspect of Cayman Airways and let it operate as a private company, who knows what could happen with that airline. We have to investigate the possibilities. We cannot do as was done in the past, and use scare tactics to evade the issue or convince our people otherwise, saying things like, 'Oh, the staff will lose their jobs'; or, 'Oh, if a hurricane comes we need the airline.' Saying things like, 'Oh, if the US carriers go on strike no tourists will be able to get here.' Those are excuses. There is nothing I hate more than excuses. We are being paid to do a job; let us do it to the best of our ability.

One thing that strikes me as a bit of a concern is that there seems to be a feeling of late from some of the discussions and materials made available to us, like the Throne Speech, that almost seem to imply that a decision has already been made on Cayman Airways. It seems the decision has been made that we are going to keep it and just look at ways to make it more profitable. We have to ensure that if Cayman Airways is going to be kept, whether or not it is reasonable to expect it can be profitable as long as it is a political animal.

I now turn to the OECD and FATF matters. This is another area where we have found that numerous people conveniently try to scare people about. I listened in horror about one week ago to one of the talk shows, when I heard a guest of the talk show say that the Cayman Islands should go independent so that we can protect our financial industry and be able to fight these larger nations. Let me reiterate this is what I heard on a talk show—Rolston Anglin did not say that!

**Hon. Edna M. Moyle:** Was it a Caymanian?

**Mr. Rolston M. Anglin:** Yes, it was a Caymanian who said that.

These thought processes are dangerous in my view. Do we not realise that there would be people in our community who would listen to this sort of nonsense and actually believe it? Okay, let us go on a hypothetical situation and say 'Right. That's the road that needs to be taken.' What in the world can the little Cayman Islands do to industrial nations? As a colleague of mine quite rightly said, it will be like a flea fighting an elephant!

I agree with what the Honourable Third Official Member has continually said on this matter: That the Cayman Islands cannot afford to go down the road in terms of *Know Your Customer* regulations, on site inspections of banks, trust companies, mutual fund administrators, et cetera, and be more aggressive and be a pioneer in this area, be ahead of all the territories

and as a result make ourselves uncompetitive. We must be diligent.

I am sure that most people in this country do not want any part of the criminal element. However, we must not be overly aggressive and try to be a Christopher Columbus, going into uncharted territory and lead the way. There is no need for that. If these big industrialised countries want to do that, let them. Let them be the leaders in this area, then have the smaller jurisdictions follow.

I think it is so hypocritical that countries like the US can demand us to have the *Know Your Customer* regulations. Yet the very bill got shot down in their House of Representatives, if it got that far. So, while we are small, we must act with intelligence.

We have had a change in the presidential administration in the United States. I do not think it was any coincidence that within weeks of the election, the Majority Leader of the US House of Representatives, or the Senate, wrote a letter to the Secretary of the US Treasury telling him of his personal displeasure of the activities of such organisations as the OECD and FATF. The US is not going to give up its tax sovereignty to anyone.

When we look at organisations like the OECD, they talk about 'market distortions.' Now, if the US gives aid to its farmers, what bigger market distortion can you possibly get than a subsidy? Where a government directly intervenes with the free workings of a market, subsidises an industry and, therefore, people who would not be productive enough to compete in that industry are made competitive simply because of the subsidy. So, Mr. Speaker, these larger countries have to get off their high horses and clean up their own backyards.

Having said all of that, we must be diligent in Cayman. We must do what is right. Yes, the operational independence of the Monetary Authority is going to cost money, but we have a financial sector that seemingly continues to grow day after day, so we have to ensure that the industry pays its own way. And, yes, we must have operational independence of the Monetary Authority.

#### **MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** We have reached the hour of 4.30, I will entertain a motion for the adjournment.

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

#### **ADJOURNMENT**

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this honourable House until 10.00 AM tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 AM tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.31 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM THURSDAY, 29 MARCH 2001.**

**PARLIAMENTARY QUESTION  
ASKED BY  
THE SECOND ELECTED MEMBER FOR WEST BAY**

**TO**

**THE HONOURABLE MINISTER RESPONSIBLE FOR THE MINISTRY OF  
HEALTH AND INFORMATION TECHNOLOGY**

**QUESTION:** For each staff member in the Computer Services Department what is the:

- (a) job title;
- (b) nationality;
- (c) qualifications; and
- (d) number of days spent in training during 2000.

**ANSWER:** Mr. Speaker, the answers for questions (a) to (d) above are listed below. In the interest of time, Mr. Speaker, I do not propose to read out this lengthy list unless you direct me to do so.

| JOB TITLE                    | NATIONALITY | QUALIFICATIONS                                                       | # OF DAYS TRAINING |
|------------------------------|-------------|----------------------------------------------------------------------|--------------------|
| Director, Computer Services  | Caymanian   | MBA in Information Systems, BSc. Computer Science, and BSc Chemistry | 6                  |
| Deputy Director              | Caymanian   | Management Information Systems Diploma First Class Pass              | 6                  |
| Deputy Director              | Caymanian   | BSc. Computer Science                                                | 4                  |
| Applications Project Manager | British     | Post High School: Certificate Computer Programming                   | 12                 |
| Applications Project Manager | Canadian    | BSc. Engineering                                                     | 0                  |
| Applications Project Manager | British     | National Computing Centre Data Processing Threshold Scheme           | 12                 |
| Applications Project Manager | Canadian    | MBA in Finance, BSc. Computing Science                               | 15                 |
| Applications Project Manager | British     | Higher National Diploma Physics                                      | 11.5               |
| Support Project Manager      | British     | City Guilds Programming                                              | 12                 |
| Support Project Manager      | Caymanian   | BSc. Management Information Systems                                  | 20                 |
| Support Project Manager      | Caymanian   | Associate Degree, Computer Engineering Technology                    | 2                  |
| Systems Manager              | Caymanian   | Post High School: Systems Management and Customer Service Courses    | 7                  |
| Systems Manager              | British     | Ordinary National Certificate Computer Studies                       | 19                 |

| Senior Analyst/Programmer    | British     | Post High School: Programming and Customer Service Courses                                                        | 7                  |
|------------------------------|-------------|-------------------------------------------------------------------------------------------------------------------|--------------------|
| Senior Analyst/Programmer    | Canadian    | Management Information Systems Diploma                                                                            | 18.5               |
| Senior Analyst/Programmer    | British     | MSc. Digital Systems, BSc. Physics                                                                                | 12                 |
| JOB TITLE                    | NATIONALITY | QUALIFICATIONS                                                                                                    | # OF DAYS TRAINING |
| Analyst/Programmer           | British     | BSc. Electronic & Electrical Engineering                                                                          | 12                 |
| Analyst/Programmer           | British     | Post High School: Programming and Customer Service Courses                                                        | 23                 |
| Analyst/Programmer           | Turkish     | BSc. Control Computer Engineering                                                                                 | 18                 |
| Analyst/Programmer           | Canadian    | BSc. Computing Science                                                                                            | 19                 |
| Analyst/Programmer           | Canadian    | Master of Computer Engineering                                                                                    | 7.9                |
| Senior Network Administrator | Pakistani   | BSc. Mathematics                                                                                                  | 0                  |
| Senior Support Administrator | British     | Post High School: MCP Certification and Customer Service Course                                                   | 0.5                |
| Senior Support Administrator | Caymanian   | Associate Degree, Computer Engineering Technology                                                                 | 12                 |
| Senior Support Administrator | Caymanian   | BSc. Computer Based Information Systems                                                                           | 7                  |
| Senior Systems Administrator | British     | BSc. Information Technology                                                                                       | 2                  |
| Programmer I                 | Turkish     | BSc. Physics                                                                                                      | 9                  |
| Programmer I                 | Caymanian   | BSc. Production & Decision Sciences                                                                               | 66                 |
| Programmer I                 | British     | B.A. Equine Studies                                                                                               | 0                  |
| Programmer I                 | Indian      | BSc. Mathematics                                                                                                  | 28                 |
| Support Administrator I      | Caymanian   | BSc. Information Science                                                                                          | 12                 |
| Support Administrator I      | Caymanian   | BSc. Information Systems                                                                                          | 32                 |
| Support Administrator I      | Caymanian   | Associate Degree, Computer Engineering Technology                                                                 | 10                 |
| Support Administrator I      | Caymanian   | BSc. Computer Science/Information Systems                                                                         | 12                 |
| Support Administrator I      | Caymanian   | Post High School: Bookkeeping & Typing, Electronics & Circuitry, Printers Management and Customer Service courses | 2                  |
| Administration Manager       | Caymanian   | Post High School: Short Hand, Typing, Accounting and Customer Service Courses                                     | 2                  |
| Central Services Manager     | Caymanian   | Post High School: Clerical, Office Administration, Supervisory, Accounting and Customer Service Courses           | 13                 |
| Support Administrator II     | Caymanian   | Associate Degree, Computer Engineering Technology                                                                 | 2                  |
| Support Administrator II     | Caymanian   | Post High School: Systems Management and Customer Service Courses                                                 | 55                 |
| Support Administrator II     | Caymanian   | Associate Degree, Electronic Data Communications                                                                  | 29                 |
| Accounts Officer I           | Caymanian   | Post High School: Accounting and Customer Service Courses                                                         | 10                 |
| Higher Executive Officer     | Bahamian    | BSc. Management Information Systems                                                                               | 5                  |
| Central Services Supervisor  | Caymanian   | Post High School: Clerical & Typing Courses                                                                       | 2                  |
| JOB TITLE                    | NATIONALITY | QUALIFICATIONS                                                                                                    | # OF DAYS TRAINING |
| Central Services Supervisor  | Caymanian   | Post High School: Customer Service, Secretarial & Supervisory Courses                                             | 2                  |
| Junior Support Administrator | Caymanian   | Post High School: A+ Certification and Customer Service Course                                                    | 12                 |
| Junior Support Administrator | Jamaican    | Post High School: PC Repair, Mass Communications and Customer Service Course                                      | 2                  |

|                              |           |                                                                                            |    |
|------------------------------|-----------|--------------------------------------------------------------------------------------------|----|
| Junior Support Administrator | Caymanian | Post High School: Practical Nursing, Customer Service, Clerical and Administration Courses | 2  |
| Executive Officer (Temp)     | American  | Post High School: Real Estate Appraising and Customer Service Courses                      | 0  |
| Central Services Officer     | Caymanian | Post High School: General Office Diploma and Customer Service Course                       | 2  |
| Central Services Assistant   | Caymanian | High School Certificate: Customer Service Course                                           | 2  |
| Senior Computer Assistant    | British   | Post High School: Technical Support and Customer Service Course                            | 0  |
| Senior Computer Assistant    | British   | City Guilds Electronic Servicing                                                           | 21 |
| Warehouse Clerk II           | Caymanian | Post High School: Hotel Vocational Certificate and Customer Service Course                 | 2  |
| Supply Clerk                 | Caymanian | High School Certificate: Customer Service Course                                           | 2  |
| Student Intern               | Caymanian | High School Diploma                                                                        | 0  |

Additionally, there were four (4) staff who left Computer Services in 2000.

|                              |          |                         |      |
|------------------------------|----------|-------------------------|------|
| Applications Project Manager | British  | HND Computer Science    | 6    |
| Applications Project Manager | Scottish | BSc.                    | 3.4  |
| Senior Systems Administrator | Scottish | HND Accounting, 2 MCP's | 4    |
| Jr. Computer Programmer      | Belize   | BSc. Math               | 49.5 |

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**29 MARCH 2001**  
**10.31 AM**  
*Eleventh Sitting*

*[Prayers read by the Honourable Minister for Tourism, Environment and Transport]*

**The Speaker:** Please be seated. Proceedings are resumed. Item number 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**HOUSE VISITORS**

**The Speaker:** I would like to recognize John Gray High School, Class 11DS who is in the gallery. We welcome you here this morning and thank you for attending.

Moving on to item number 3 on today's Order Paper, Presentation of Papers and Reports, Review of the Cayman Islands Education Department - The Millett Report, to be laid on the Table by the Honourable Minister responsible for Education, Human Resources and Culture.

The Honourable Minister for Education, Human Resources and Culture.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REVIEW OF THE CAYMAN ISLANDS  
EDUCATION DEPARTMENT**

**(THE MILLETT REPORT)**

**Hon. Roy Bodden:** Mr. Speaker, as promised by my predecessor, I would crave the Chair to lay the review of the Cayman Islands Education Department, popularly called the Millett Report on the Table of this Honourable House.

**The Speaker:** So ordered.

Do you wish to speak to it? The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The Education Department is that entity which holds responsibility for implementing educational policy which flows from the Ministry. It is the Education Department which holds responsibility for the day to day operation of the schools, as well as for the teachers and students well being.

The Department's work relates to three major aspects of the educational product namely:

1. Leadership, direction and vision offered to schools and including planning and policy interpretation and development; identification and rank ordering of priorities; the establishment and achievement of high standards and the setting and delivery of objectives.
2. The delivery of services and functions to schools: including student placement, transport and school meals, staffing and support services, provision of books and learning materials, student support services, for example, counselling and careers advice, early childhood programmes, professional development of teachers, advisory services, extra-curricular activities, co-operation and liaison with the private schools, testing and assessment, et cetera.
3. The Education Department also holds responsibility for the evaluation of services and policies currently in practice. These include the extent to which the department monitors and evaluates its own existence, acts upon these findings to diagnose strengths and weaknesses, set targets to improve both school and student performance and employs evidence and information collected from the school inspection process as a basis for school improvement.

Additionally, it is an important and essential responsibility of the Education Department to promote the highest quality education throughout the public schools of the Cayman Islands, to secure compliance with the Education Law and Regulations and to ensure that government receives the best value for money spent on education.

The Review of the Cayman Islands Education Department by Anthea Millett offers the first real opportunity in recent times to establish a modern, efficient and functional education department.

It is unfortunate and regrettable that the report which was completed in April 2000 is just being tabled at this time, approximately one year later. Honourable Members will note however that the full report has been laid on the table. This is in keeping with the political directorate's pledge to be open and transparent, and also because it is the desire of the Ministry and Department itself to publicly acknowledge the necessity of streamlining the bureaucracy, so that education can be more effective.

The Education Department is pleased to accept the findings of the Millett Report. This Report will provide a way forward for the Department to build on its strengths as well as to proactively seek to address its weaknesses.

In the same way that schools are encouraged to present a realistic self-assessment prior to inspection, the Education Department prepared a comprehensive self-assessment report, which provided some of the terms of reference for the Review.

This Review will have far reaching effects in respect of how the Department serves the schools and provides a service to the public. One of its main recommendations is to examine a more effective organisational structure. Along with this and other issues raised by the Report, the Department will begin a series of in-house action planning workshops to enable its staff to address key issues for action.

Inherent in any review is the need to examine aspects such as post titles to ensure that these fall in line with acceptable practice in this region. To this end, the Education Department will be working with the Ministry of Education and other government departments to ensure the best policy for recommended changes.

Policy development is an important part of this review. The Education Department is pleased that the Ministry of Education will support the formulation of written policy guidelines to support its work.

This wide-ranging Report is comprehensive. Its recommendations for the Education Department are made within the context of proposed changes for the entire education system. It presents advice on refining the roles, responsibilities and ways of working of the Ministry, the Education Council, the Education Department, and by direct reference and implication, the Schools' Inspectorate.

The Report, therefore, provides an important strategic thrust for the Cayman Islands Education system.

Its release is timely and auspicious at the start of this twenty-first century.

In conclusion, I apologise that the report was not laid in time for all Honourable Members to read and digest and to use in their debate on the Throne Speech and Budget Debate. I hope Honourable Members find the reading interesting and challenging, and bear with us as we adopt those recommendations which are applicable and relevant so that we may effect the necessary improvements to the Education Department and by inference the education establishment in the Cayman Islands.

I wish Honourable Members happy and informative reading. Thank you, Mr. Speaker.

**The Speaker:** Moving on to Item number 4 on today's Order Paper, Questions to Honourable Ministers/Members of Government.

Deferred Question number 22 standing in the name of the Second Elected Member for West Bay.

## QUESTIONS TO HONOURABLE MEMBERS/MINISTERS

### QUESTION NO. 22

*(Deferred on 19 March 2001)*

**No. 22: Mr. Rolston M. Anglin** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what was the complement of Police Officers and total crimes committed during 1998, 1999 and 2000, broken down by district.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Mr. Speaker, the answer:

The complement of Police Officers in the Royal Cayman Islands Police Service for the years 1998, 1999 and 2000 was 269, 269 and 293 respectively.

Appendix A shows the breakdown by district. *(See Attached)*

The total crimes committed in 1998, 1999 and 2000 were 3,170, 2,877 and 3254.

Appendix B shows the breakdown of crime for each of those years by district. *(See Attached)*

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the First Official Member give an indication if the staff complement in the Police Force has changed significantly for 2001?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** I assume that the Second Elected Member for Cayman Brac and Little Cayman is talking about the total staff complement for RCIP for 2001. Yes, that has increased by twenty-four.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the First Official Member give the current staff complement for the Cayman Brac and Little Cayman Police Force for 2001?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** The staff complement for Cayman Brac and Little Cayman for 2001 will remain the same, at ten.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Just as a follow-up, can the Member confirm that when we talk of staff complement those are positions but are they currently filled?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** The establishment for Cayman Brac and Little Cayman is ten and it is my understanding that we are up to full strength there.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** If there is a projected and desirable total amount of police officers, what is it this time?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Mr. Speaker, I do not think the Commissioner and a lot of people in this country would be satisfied with the current establishment for the Royal Cayman Islands Police (RCIP). As we think of trying to more efficiently and effectively police the territory, it is a matter of trying to weigh up the services required by police against the budgetary constraints in terms of additional police officers. I do not know if that answers the question but it is very difficult to try to give a definitive figure on what the wish list, as it were, would be.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Could the Member say if there is any ratio that is used according to population that might guide the determination of what would be a desirable total number for the force? And, if there are any areas at this time within the force that are particularly lacking where officers are necessary?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** It is difficult to use a ratio in determining the needs of the country for police officers. If we did a comparison with the United Kingdom, for argument sake, there is about one police officer for every five hundred persons in that country. In Cayman, it is one police officer for every 260.

With police officers carrying out the full range of functions it is, again, difficult because for argument sake in recent times there has been an increase in commercial crimes and the Commercial Crime Branch could certainly do with more staff.

If we look at say the West Bay district in terms of the number of staff there and the crime compared with, say, George Town, the percentage staff compared to the overall percentage of crime in West Bay is not as favourably as George Town.

It is a very difficult thing to try to use percentages and increase staff on that basis. At North Side, it is a very small district as you will appreciate and the percentage crime is fairly high based on the number of police officers. It is difficult to say justify putting addi-

tional staff based on the percentage. The actual number of crimes may not be very high but when you use percentages sometimes reality is not there, if the Member understands what I mean.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, at a recent meeting in East End the Commissioner said that he had a complement of 16 staff in the Bodden Town Police Station inclusive of East End and North Side. Could the Honourable First Official Member say what caused the decrease since there is a report for 2000 with 21 officers listed in that year?

**The Speaker:** The Honourable First Official Member.  
Do you want it to be repeated?

**Hon. James M. Ryan:** Mr. Speaker, if I understood the actual figure given by the Member it would be an increase based on the figures here. Perhaps he could just repeat that.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** At a meeting held a few weeks ago, my understanding was that to have full 24-hour coverage in East End, Bodden Town and North Side, required 23 officers. At that time (2001) the complement was only 16.

The reported figure here for the year 2000 is 17 in Bodden Town, 2 in East End and 2 in North Side. It appears as if there has been a decrease. I am just wondering what caused that decrease in officers.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** The difference is that one member from Bodden Town has actually left and has not yet been replaced. So the actual establishment is 17 but on that particular night or week, only 16. That is only a temporary thing that will be corrected as soon as possible.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I appreciate the comment made by the Honourable First Official Member in regards to looking at percentages but then having to look back at the reality of the situation . . . However, I wonder if the Member could say if there is any planned change either in the number of police or strategy for the district of West Bay. Yes, we can look at percentages however the fact remains that West Bay is the second biggest district in this Island. So the point is taken in terms of North Side because it is small, but West Bay is the second largest district.

We have consistently had 10 per cent of the police complement but consistently 25 per cent of the



crimes committed in the Island. So, one in ten police, but we have one in four crimes.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** As I mentioned earlier, the establishment for the RCIP has been increased this year by 24 and three of those officers have gone to West Bay. So the percentages should change there but also there should be better coverage in the West Bay district with the additional officers.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I understand as well and appreciate the explanation given for the statistics and the percentages.

Mr. Speaker, looking at Appendix A and looking at the NB note, it states that “OTHER” INCLUDES HEADQUARTERS, COURTS AND TWELVE OFFICERS SECONDED TO THE FINANCIAL REPORTING UNIT (FRU).” Since we do not have specifics as to what the increase was and the crime that would be investigated by the FRU, what justification was there for increasing that by some 12 officers when the increase in the areas like West Bay has shown a marked increase?

In 1998, we had 803 crimes committed and we had 25 officers. We recognised that there was a problem and we added two more officers in 1999 and it appears the crimes dropped to 772 but even though the crimes increased again in 2000 we have increased it by three officers.

I am wondering if we could get some information and the statistics for the FRU, the crimes that fall under that area, and to justify the fact that 12 officers were needed to increase that area.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Mr. Speaker, there will be a question following very soon, specifically on the FRU. I would accordingly ask if the Member could just hold his question until that is asked so the details could be given at that time.

**The Speaker:** Two additional supplementaries, the Elected Member for East End.

**Mr. V. Arden McLean:** I hate to go back to my original question but there is something that I am not understanding.

I thought the police officers in East End and North Side were attached to the Bodden Town Station. In so doing, it was my understanding to cover East End, North Side and Bodden Town for 24 hours a day, we need to have a complement of around 23 officers. Recently, there have been 16 inclusive of

Bodden Town, East End and North Side. Is that a fact?

**The Speaker:** The Honourable First Official Member. [pause]

**Hon. James M. Ryan:** I will try to clarify for that Member the situation as best I can.

There are 16 officers at Bodden Town, 2 for East End and 2 for North Side but in addition to that there are 2 community officers who make up all but one of the total establishment. We are down one and when that person is employed we will be back up to the full establishment. The two community officers – I think that is where the difference in the calculation comes in.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can I then take it from the First Official Member and the Commissioner that we will soon see 24-hour police service in the Eastern districts?

**The Speaker:** Before asking the Honourable Member to answer the question I would appreciate a motion for the suspension of Standing Order 23 (7) and (8) in order that Question Time can continue beyond the hour of 11.00 a.m.

The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

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

**Hon. Edna M. Moyle:** Mr. Speaker, I move the suspension of the relevant Standing Order to allow Question Time to go beyond the hour of 11.00 a.m.

**The Speaker:** The question is that we suspend Standing Order 23 (7) and (8) in order that Question Time can continue beyond the hour of 11.00 a.m. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time continuing.

**AGREED: STANDING ORDER 23 (7) & (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND THE HOUR OF 11.00 AM.**

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Mr. Speaker, for about a year now there has been 24-hour coverage of the eastern districts but that coverage comes from Bodden Town. In the foreseeable future there will not be 24-hour coverage from East End Police Station nor will there be from the North Side Police Station. The coverage

comes from Bodden Town and covers the three eastern districts.

**The Speaker:** The last supplementary.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I do apologise if I may seem a little pushy this morning but there have been instances reported to me that—

**The Speaker:** You will turn this into a question?

**Mr. V. Arden McLean:** Yes, Mr. Speaker, I will.

There have been instances reported to me where residents in East End have called the Police Station and it was forwarded to George Town and many hours later the police responded and in some instances the next day.

I wonder if the Official First Member or the Commissioner can tell this Honourable House if that has ever been reported to either of them and what has been done about it?

**The Speaker:** The Honourable First Official Member.  
[pause]

**Hon. James M. Ryan:** Calls will occasionally be routed from the eastern districts to the Central Police Station. While we are offering 24-hours coverage per day for the eastern districts, the Bodden Town Police Station is not open or manned 24 hours a day.

There are officers who would be on patrol or out dealing with matters around the clock but there would not be an officer physically there for the full 24 hours. Yes, the Commissioner has had the matter brought to his attention at community meetings about police officers not responding until say the following day. When a call comes in the police officer who receives the call or if responsible for that area, will try to assess the urgency of the situation. If the matter is urgent, it will be responded to as quickly as possible. The most urgent matters are dealt with first and the non-urgent matters will be dealt with perhaps the next day. The officers try to assess the urgency from the caller in responding when there are a number of responses to be answered and there are limited resources to deal with those responses.

**The Speaker:** Moving on to question No. 42 standing in the name of the Second Elected Member for West Bay.

#### QUESTION NO. 42

**No. 42: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Health and Information Technology if with the pace of rapid change in technology, all Support Administrators in the Computer Services Department are sent on training courses for all future technology, for example,

changes from Windows NT to Windows 2000, operating systems or purchase of new peripheral equipment.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Training for all support administrators' functions are provided as funds permit and where training can be done close to implementation date so as to maximise the training benefit for all core/primary functions.

The Computer Services Department has managed to secure funds in the 2001 Budget to fund training for Windows 2000 Workstation for all support administrators as well as system administrators.

Mr. Speaker, it might be helpful if I also supplied Honourable Members with some additional information, which might assist them with any supplementaries they may have.

On the question of core and primary functions for support administrators, this would include general personnel computer support, PC hardware diagnostic, provision of telephone support, installation and support of standard office automation, PC operating system software, installation and support of modems and network cards, et cetera, for PCs, installation and support of data communication cables within buildings.

Training and computer services consist of four main types:

1. Overseas employees travel to a trainee site to receive training;
2. Local - employees are trained on the Island;
3. Computer based training or CBT. Employees typically work at their own pace to complete study and test using specifically designed computer programmes; and
4. On the job, employees are trained by an expert co-worker while performing required work task.

The type of training that an employee receives depends on the equipment and new technology being implemented, availability of funds, complexity of the area of study, availability of staff experts, co-workers, availability of local experts, employee's job responsibility, employee's aptitude for learning.

Mr. Speaker, many members of staff in Computer Services are experts in their fields and it is normal procedure for these members of staff to provide on-the-job training and mentorship to more junior and less experienced members of staff.

Training before implementation of new technology is not only a wise business decision, in that it keeps overall costs down, but it is also an effective morale booster as staff have the skills and knowledge

necessary for them to perform their jobs most effectively.

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I wonder if the Honourable Minister could say where complaints by end-users within the Civil Service in regards to Computer Services Department personnel would be lodged.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, such complaints would be forwarded to the Director, who is Mr. Gilbert McLaughlin.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Minister say what happens if an end-user complains that personnel from the department seemingly feel their way around in response to a complaint? I might note, it may not be that they do not know what they are doing as a result of any lack of talent, but it could be an issue of not knowing thoroughly the software or hardware that they are investigating.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I am reliably informed that there has not been a problem similar to the one being described by the Honourable Member. And, whenever any problems arise they are dealt with internally.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** In the Minister's follow-up information he mentioned the technical staff in the training in telephone assistance and electrically, I think. Could he say whether the department actually has hired its own electrician or whether it used the electricians that are available through the Public Service?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I am informed that mainly it is outsourced to the private sector but occasionally the work is done by the Public Works Department.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** In his reply to my last question the Minister said that any such instances would be dealt with internally. I wonder if the Minister could say whether he meant by that, that the person would receive either internal coaching or some formalised training, if it is an instance where to no fault of their own they don't understand and have a detailed knowledge of the hardware or software in which they are asking to be fixed?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I had in fact covered this in the supplementary information I gave, but I will read it again for the benefit of the Honourable Member.

I will first state that the type of training an employee receives depends on the equipment and the new technology being implemented, complexity of the area, et cetera. But to answer his question directly, many members of staff in Computer Services are experts in their fields and it is normal procedure for these members of staff to provide on-the-job training and mentorship to more junior and less experienced members of staff.

Training before implementation of new technology is not only a wise business decision in that it keeps overall costs down, but it is also an effective morale booster that staff have the skills and knowledge necessary for them to perform efficiently.

So, Mr. Speaker, this training is provided internally by people that are qualified to do so.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Minister say whether or not Government has a training lab such as the wave of the technological world. If there is one, do ordinary staff members in Government use it and if there is not one, will there be one in the future?

**The Speaker:** I think this is somewhat outside the ambit of this substantive question but if the Member wishes to answer he may.

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The answer to the Honourable Member's supplementary is, yes, we do in fact have a training lab within the Computer Services Department mainly for the training of staff internally but it is also available to staff from other government departments.

**The Speaker:** Are there any further supplementaries?

No further supplementaries, moving on to Question number 43 standing in the name of the Fourth Elected Member for West Bay.

#### QUESTION NO. 43

**No. 43: Mr. Cline A. Glidden, Jr.** asked the Honourable Member responsible for the Ministry of Community Development, Women's Affairs, Youth and Culture what are the total amounts of grants that the Sports Ministry made relating to sports during the years 1998, 1999 and 2000 broken down by recipient and sport.

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The answer: The total amounts of grants that the Sports' Ministry made relating to sports during the following years are:

| YEAR                | AMOUNT                |
|---------------------|-----------------------|
| 1998                | \$398,216.64          |
| 1999                | \$505,136.00          |
| 2000 (Paid)         | \$339,752.99          |
| 2000 (Paid in 2001) | \$136,740.00          |
| <b>TOTAL</b>        | <b>\$1,379,845.63</b> |

A spreadsheet is attached with the grants broken down according to recipient and sport for 1998, 1999 and 2000. (*See Attachment*)

**The Speaker:** Are there any supplementaries?

There appears to be no supplementaries, we will move on to Question number 44 standing in the name of the Elected Member for East End.

The Elected Member for East End.

#### QUESTION NO. 44

**No. 44: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport what are the current and future development plans for the Queen Elizabeth II Botanic Park in relation to, or since, its opening in 1996.

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** The current plans are as follows:

- Final beautification in the area of the ticket booth entrance to the Park grounds is due to begin shortly.
- Arrangements have been concluded for spot lighting for the main road turnoff to the Park, for the ticket booth, and for the main building. This work is due to be completed by the end of March.

- Work has begun on a full-colour, 120-page "coffee table" book on the Park. Local gardeners and school children will be featured in the photographs in the book, which will be on sale by October.
- The Cayman "Caboose" kitchen has deteriorated badly and is being rebuilt.
- The preparation of a comprehensive Marketing Plan for short, medium and long term implementation as an integral part of the overall responsibilities and functions of the Tourism Attractions Board.

The future plans are as follows:-

#### For the Short Term:

- **PARKING** - A separate parking area for tour buses will be provided to ease current congestion and to meet projected demand.
- **NURSERY** - A major upgrade will begin shortly on the Nursery to improve the working and growing facilities. All of the shade on the shade houses need to be replaced as the current shade cloth, now six years old, is torn and is giving inadequate coverage. The shade houses need to be expanded, as the area under shade is inadequate for the growing needs of the Park. A new shade house, specifically for plant sales, will also be constructed to enhance the revenue earning potential of the Nursery. The potting shed will be upgraded into a proper building, using the existing roof, to include a nursery office, a proper storage room and a small micro-propagation lab. (The Park already has the equipment needed to outfit this lab, but no place to put it.)
- **MARKETING** - By early April a marketing programme will be launched, in conjunction with the Department of Tourism, promoting the Park overseas and on-island to cruise-ship and stay-over visitors. The marketing programme will aim to generate more visits from residents and visitors and one component will be to better educate residents about the Park. Local media will be used to raise residents' awareness of the high standard attraction the Botanic Park is.
- **SPECIAL ATTRACTION** - From January to March next year, the Park will be hosting an internationally acclaimed American exhibit of large artistic representations of insects called "The Big Bugs". The exhibit will consist of 12 pieces, some of them 20 feet long. It will run for three months, will be advertised to visitors and residents, and is expected to produce a significant increase of patronage. This exhibit is especially appealing to families and school children.

#### For the Long Term:

- **LIGHTING** - Efforts will be made to increase the Park's evening use for selected social functions or fund-raising events. Improved lighting for the

roadway and for areas of the Park will have to be provided for this purpose.

- **ROADWAY** - Chip-and-spray surfacing is needed for the roadway between the ticket booth and the Park's main building and parking lot.
- **RAINFOREST GARDEN** - A board walk is proposed to be built through the woodland opposite the Visitors' Centre where many types of orchids, bromeliads, ferns, anthuriums, and other shade-loving plants will be attached to the trees and planted in pockets of soil. The concept is to give the impression of walking through a lush tropical forest. This garden will be an added feature as an enhancement to the Botanic Park experience.
- **CACTUS GARDEN** - This display will feature cactus and other plants that require very little water and will be designed in a very pleasing manner. The purpose is to showcase those plants that are ornamental and that can survive on very little care.
- **CHILDREN'S EDUCATIONAL GARDEN** - This section of the Park will be a living laboratory where school children and families can come and learn about plants, animals, natural history and the environment in an enjoyable but educational manner.
- **PALM GARDEN** - This garden will feature many of the beautiful palms that can grow in Grand Cayman with a special emphasis on those palms that are native to the West Indies. This garden will also feature other ornamental plants that are native to the region.
- **THE UPPER POND** - The upper pond in the Floral Garden was never designed properly and is very unsightly. This area needs to be addressed as it detracts from the otherwise beautiful Floral Garden. The remedy is to use artificial rockwork with planting pockets to hide the existing liner and to add a waterfall to circulate the water which is now stagnant.
- **IRRIGATION** - Efforts will be made to have piped water brought to the Park as soon as possible. Current irrigation needs are a significant strain on the budget, and will clearly increase as more facilities are developed.
- **EQUIPMENT** - As patronage increases, it is planned to acquire small electric-powered trolleys for use on the Walking Trail. For a nominal fee, patrons who are not up to the walk can enjoy the facility in comfort.
- **PROMOTION** - Funds permitting, a 3-minute video will be produced on the Park using local talent. The video will be distributed to the travel trade and will serve as a brief but comprehensive introduction to the Park and its facilities.
- **CAFÉ** - The Park's present café, located behind the main building, is a small open-air structure which is extremely hot and rather confined. It is the eventual aim to build a spacious air-conditioned café, in the same area, where visitors

can relax and enjoy refreshments and light snacks in comfort.

## SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Elected Member for East End.

**Mr. V. Arden McLean:** I would like to thank the Minister for that long and comprehensive answer.

I wonder if he can tell us what short-term and long-term means. What timeframe are we talking about?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** Short-term should mean this year and perhaps overlapping into next year and long-term is for three to five years.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** If that is so then why do we have the paving of the roadway in 3 - 5 years?

**Hon. W. McKeever Bush:** Which one?

**Mr. V. Arden McLean:** The second one for the long-term, the roadway, chip and spray surfacing between the ticket booth and the Park. Mr. Speaker, if it is needed I think the roadway should be paved immediately.

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** This roadway is not the full length of the road to the Park and it is a very costly construction and a very costly piece of road to be built. Hopefully, we will get it done in 2003, it will not take the five years to get it done but it cannot be done this year or next year unless things vastly improve for us.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member give us an undertaking that something will be done to try and slow down the speeders along that road?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** Mr. Speaker, I will make attempts or have the Ministry write to the Police Department on the matter.

I should say anytime we put in a new road it is a problem throughout the country with people speeding on it. Sometime ago I talked about putting in speed

bumps. I tried to get an amendment to the Law. It is one thing when we look at transport in general that I am going to ask the Government to seriously consider.

Thank you.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, I wonder if the Honourable Minister could say under the current plan section, bullet 3, there is mention of a full-colour 120 page book. I was wondering whether he could say when the idea for that book was born. How much is projected in terms of cost to produce, and has any business plan been done in terms of the production of the book to have a good cage of what demand was there in terms of visitors coming through the Park for such an item?

**The Speaker:** The Honourable Minister for Tourism, Environment and Transport.

[pause]

**Hon. W. McKeeva Bush:** Mr. Speaker, the plan started last year. The cost was funded by corporate donations, and the Business Plan production was based on demand from patrons coming through the Park.

**The Speaker:** Are there any further supplementaries?

If there are no further supplementaries that concludes Question Time for this morning. I am in the hands of Members. Would you want to take the morning break at this time prior to going into debate?

**Hon. Roy Bodden:** Yes Sir.

**The Speaker:** We shall suspend proceedings for fifteen minutes.

**PROCEEDINGS SUSPENDED AT 11.32 AM**

**PROCEEDINGS RESUMED AT 11.56 AM**

**The Speaker:** Please be seated. Proceedings are resumed. Item number 5 on today's Order Paper, Government Business.

Before moving into Government Business I would appreciate a motion for the suspension of Standing Order 14(2) in order that we can proceed with Government Business on a Thursday.

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I move that the relevant Standing Order be suspended so that business can continue, as suggested by you.

**The Speaker:** I shall put the question that we suspend Standing Order 14(2) in order that Government Business may be taken before Private Member's Motion on a Thursday. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 14(2) has been suspended.

**AGREED: STANDING ORDER 14(2) SUSPENDED.**

**The Speaker:** Moving on to Government Business, Bills, Second Reading, the Appropriation Bill, 2001. Continuation of the Debate on the Throne Speech delivered by His Excellency the Governor on Friday, 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday, 21 March 2001.

The Second Elected Member for West Bay continuing the debate.

## **GOVERNMENT BUSINESS**

### **BILLS**

#### **SECOND READING**

#### **THE APPROPRIATION BILL, 2001**

##### **DEBATE ON THE THRONE SPEECH DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001**

##### **TOGETHER WITH**

##### **THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001**

*(Continuation of debate thereon)*

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

Yesterday when we adjourned I was discussing the matter of the OECD (Organisation for Economic Co-operation and Development) and FATF (Financial Action Task Force) initiatives. However, before I get started I would like to point out one quick thing from the manifesto on which I ran in the district of West Bay and was elected. On page 12 when we discussed legislative affairs, one of the things we proposed is that in order to improve the efficiency of debate within this Honourable House that we amend the relevant Standing Orders to allow speaking time per item to two hours per member.

Now, based on the time that I have received from the Chair, yesterday, I was at 1 hour 50 minutes.

The one thing that I just wanted to point out, is that, this year being an election year is different. In that, in an ordinary year we would have two hours for the Throne Speech in January and come November we would have two hours for the Budget Address. Therefore, obviously when we looked at this item and proposed it in our manifesto, we were looking at all years other than an election year. Obviously, Mr. Speaker, it is common sense that if you are going to debate two items at once that you would have four hours.

So, the Second Elected Member for Bodden Town rightly used four hours because he had two items to debate. Also, the press picked up on this and the *Caymanian Compass*, and I would like to assure the Editor that Members of this House are committed to efficiency and effectiveness. I think if you look back at the debate so far there have been numerous Motions brought where people did not get up just to say something, they refrained because what they had to say had been said, and they voted on the matter and the business moved on.

So, I think, there is good cause for having hope for the future in this regard. But I just wanted the public to recognise that every election year it is quite unique, in that, we would have the Budget and Throne Speech coming together. So debating them as one, naturally, members may need a bit more time.

And so having said all of that I hope that that will allay and clarify things for my fellow colleagues in this Honourable House and members of the community at large.

Picking up where I left off, Mr. Speaker, when it comes to the international initiatives there are those who would seek to paint them as these mystical negotiations. They almost make it seem as if it is as complex as splitting an atom or coming up with some new formula in physics that has never been known to man before.

I feel that it would serve us well to follow closely what is happening in the United States. After all the United States is, in my view, the world economic leader and now that we have a change in the presidency and the Republicans are in the majority in the House and the Senate, you find that there is now a shift in their view.

You see, Mr. Lawrence Sumners, the former Secretariat to the Treasury was a democrat (and I am not going to state any opinion on US politicians) but now that Mr. Paul O'Neil has taken over you find that the message coming out of the United States is quite different.

In fact, there have been instances of late where prominent Congressmen, such as, the House Majority Leader, Mr. Dick Armey has asked in writing, public documents, Mr. Paul O'Neil, to disassociate the US from the OECD's Harmful Taxation Programme.

You see, there is a changing of the guard. I understand that the President, Mr. George W. Bush, has not addressed this issue directly as yet simply be-

cause he found it more prudent to deal with other international matters such as peace in the Middle East.

However, I would just like to quickly indulge Honourable Members in a quick excerpt of some of what was said by a letter that was sent to the Secretary of the Treasury, Mr. Paul O'Neil from eight prominent Congressmen. Twenty-six congressional black caucus members have sent a similar letter and Charles Rangel, who is the ranking democrat on the House Tax Writing Committee, has also sent a similar letter to Mr. O'Neil stating that, *this initiative threatens to undermine the fragile economies of some of our closest neighbours and allies as well as the US Virgin Islands. These countries are already grappling with reduced tariffs and declining preferences for their industrial and agricultural products.*

*Wealthy OECD nations should not have the right to re-write the rules of international commerce on taxation simply because they are upset that investors and entrepreneurs are seeking higher after tax returns. . .*

*US tax pressure on the OECD has now built up a substantial head of steam in the Congress and it is beginning to seem unlikely that the administration would want to antagonise so many leading members of Congress when it needs their support for its domestic agenda, and that is even if the natural inclination of the administration weren't already in the same direction.*

I think history tells us that the Republicans' approach in this area is significantly different than that of the Democrats. I would like to state that it is my view that the change in the guard in the United States is one that is good for the Cayman Islands.

Also, Mr. Speaker, another leading Congressman, Sam Johnson, a Republican from Texas, also aired concerns directly to the OECD Secretary General. He sent a letter that contained six salient points on the issue and in the response none of these matters were directly addressed because they could not be addressed. The United States is not going to give up its tax sovereignty. They critique their fellow OECD member states and chide them for being some of the biggest tax havens in the world themselves, yet, talking about harmful taxation practices. In fact, any Republican, or informed American Legislator, or tax practitioner would know this quite well.

Canada is one of the biggest tax havens in the world despite the fact that on the domestic front their taxation rates are some of the highest. They offer numerous sections within their tax regime that allow foreign investors, entrepreneurs and the like, to take up Canadian citizenship for tax purposes that would allow them to save substantially. For example, an American citizen who is wealthy enough could take up Canadian citizenship and live for 66 2/3 per cent of the cost simply on a tax basis and not have to move to Canada—that is the sweet part of the deal.

America also realises that on the borders numerous of their citizens fly and drive to Canada and

shop for clothes, medical supplies because they are cheaper. And also because of the way their taxation system is structured you save a lot of money—I witnessed it for myself when I was in New York. Numerous staff including myself, would go to Canada for six weeks at a time on audits and we looked like Caymanians when we go to Miami. You come back with the suitcases bursting at the seams, almost overweight to go on the aircraft. Why? You want to save a dollar.

Mr. Speaker, a senior Republican went on to say that *the OECD will not bamboozle Republicans into supporting an initiative that runs counter to America's economic interest. I repeat that: The OECD will not bamboozle Republicans into supporting an initiative that runs counter to America's economic interest.*

My advice is, that our government seek to step up their efforts not in going to and fro, being jerked here and there, to meetings all over the globe but to start utilising our relationship in the United States more and more effectively. There is such a thing called lobbying and I can say safely that from everything that I know about this issue and everything I have read and seen on the television and the media, the time is right. We must utilise our relationship in Washington D.C. It is those relationships that will allow us to make it through these choppy waters.

On another Website there was a discussion forum on the topic, that is, the OECD Harmful Tax Competition, and there were approximately 17 pages worth of contributions on this topic. Actually the matter also covered money laundering. There were certain editors of reputable offshore investment and international finance magazines that made contributions and then there were contributions that one would not know the source, simply because there is a username and you would not know who that person would be. But it is very interesting to see some of the insight.

One of the things that struck me was that I could not find one contribution, [and a few of them were purported to be from United States' citizens.] that went on the side of the OECD. They all honoured and demanded that their country maintain its own sovereignty in relation to tax matters. Every one of them chided the OECD and this initiative. One of them made a short but enlightening comment. In fact, he said that even today more money is laundered through London, New York, et cetera, than the offshore jurisdiction. Just look at the OECD own statistics in this matter.

Another contribution also said that, as for the OECD remedy putting pressure on tax havens many thousands of miles away it is ridiculous. Europe does not run or own the world and should keep their business and tax ideas to themselves. The US Treasury Department officials should be ashamed that they are jumping on this bandwagon. Wars have been fought to rid places from taxes including the American Revolutionary way.

Mr. Speaker, I think all practitioners and citizens of this territory want to ensure as far as possible—

- 1) that we stay competitive in the financial industry,
- 2) that we seek to do business with the best of clients, with the cleanest of clients.

There is no one here and no one that I have encountered personally who seeks out criminals to do business with. But you see they have us tainted. They have us tainted as a bunch of gunrunners and drug runners down here in the Caribbean. We take all their money and we hide it for them and we do not let their home countries have access to records. My view, is that it is just another 'Pinky and the Brain' seeking to rule the world when the world is not theirs to rule.

I must say that we have to continually ensure that our lawyers in the United States represent us well and give us access to the highest-ranking Republican Congressman in the land. We need to move this process forward. We need to get them to push the agenda to ensure that these organisations . . . it is mainly made of third and fourth tier bureaucrats, who their own country wanted to get out of the system so there is not so much glut in their own Civil Services by putting them somewhere else and giving them these projects.

Mr. Speaker, I think it is clear that we have a lot going for us in this area if we utilise our connections well and we identify who our friends are.

I want to touch on expansion of the [Cayman Islands] Monetary Authority. It is my view that as far as possible we must recruit locally for these staff increases. We have a lot of people in the private sector, Caymanians that is, who have intimate knowledge of these areas and could be valuable resources for the Monetary Authority.

I said yesterday that a nation that cannot teach itself and police itself has to question itself because I see a direct relationship with the growth in our Monetary Authority. We must ensure that our people are given every opportunity in this front. This is going to be an independent and critical organisation to the proper functioning of our financial services industry.

We have to get our Caymanians in positions of seniority. I know there are a lot already. But with these expansions we must focus our efforts along with students who are currently on scholarships, and ensure that some of the people that the Honourable Third Official Member spoke of a few weeks ago about Government not necessarily having positions in Central Government for them and some of them potentially being released from their bond.

We have to funnel these people toward an agency like the Monetary Authority where we know there is going to be growth. We have projected the growth. We have a spreadsheet. We see how much staff it is going to take. Well, we have funnel resources toward filling those spots with Caymanians. It may not be reasonable to expect that we will get everyone with experience from the financial industry cur-



rently so we have to ensure that scholarships are granted in this area so that we have the groundwork, the foundation of proper legacy planning.

We cannot be wandering like nomads. We have to have a plan for everything and I feel this is a critical area. This is going to be the regulatory agency and one of the two pillars of our economy.

Mr. Speaker, I read with interest the matter of growth management in the Throne Speech. While I think most of us here and most of the citizens of this country feel strongly in regards to the need of growth management, one of the things that I would like to add is that it is a lofty concept. It is one that would allow us to better manage ourselves in theory but like in all things, anytime you are talking about an economy and the workings of what is supposed to be a free economy, we have to be extremely careful anytime you are going to try to manage it in terms of its growth.

Mr. Speaker, you cannot just turn on and off the economy like the tap of a sink. Yes, I firmly believe we need a growth management plan but it cannot be a plan that only takes into account some or almost all of the areas that affect our economy. It has to be 110% comprehensive. Education, training, immigration, development, tourism, we have to line everything up and have a national agenda if we are going to ever think about succeeding and having a growth management plan.

If we do not do that we could take our economy and cause it to contract. We could cause a depression, a recession in our economy. I think we will quickly note that if you look around at other more developed countries than us, countries like the United States, the UK and you look at how they try to manage their economy, they mainly do it through interest rates and their taxation policy.

They have what I call a real economy with the hallmarks of a real economy. You have production, local wealth, labour and capital. You have them mixing together and having economic growth. Cayman is very unique. We are mainly built on what is known as flight capital. The Financial Services industry does not have to stay in Cayman. Tourists do not have to come to Cayman. So we have to recognise our limitations as a society and keep that at the back of our minds at all times when we go down the road of growth management.

We have to do something that I have never seen done in the history of the Cayman Islands, that is, having a comprehensive economic plan. So before we can even start getting to the stage that we have been thinking seriously about—growth management—we must have a comprehensive economic plan. It must be one that is derived on sound economic principles, sound business principles. It cannot be one that is wrought with politics.

There is a reason most countries have independent bodies administering the key components of their economies. The United States has a Federal

Reserve. The President does not set interest rates; the Federal Reserve does it. We have to learn from others mistakes and in my opinion, politicians are not economists. Politicians are not economists. Whether trained or by title when you get into this round this is a completely different game and that is why we need an independent Monetary Authority. We need to start putting in place the proper infrastructure to ensure that we can manage ourselves and we can manage our economy before we can dream about growth management principles. But again that has to be our ultimate goal.

I would now like to outline my approach to my contribution to the Budget Address. Firstly, we are going to look at the political aspect as it relates to the Cayman context. Secondly, we are going to look at the fiscal strategy that has been laid before this Honourable House by the present government. Thirdly, we are going to look at a brief, historical standpoint that allows us to more appreciate where we are at. Fourthly, we are going to look at medium term and long-term financial strategies as I see them. Finally, we will look at the domestic economy.

Mr. Speaker, one of the things that has happened over the years in our Island is that we have not had, in my view, transparency within the halls of government. In fact, there have been issues of dubious governance often involving secrecy of actions. Secrecy makes comment upon actions difficult and government accountability impossible. So, what is at the heart of the issue, commentary can only be made at the facts that are known while you highlight the information deficit.

Firstly, I would like to comment that no candidate in the last General Election ran with an economic plan for these Islands. There was none. We spoke in general terms, —in terms of prudence of fiscal management, reduction of waste, no deficit spending. We had a lot of buzz words being bantered but there was no one that had an economic plan.

It is also my opinion that because of the secrecy in which Cayman operates no one other than the current Government at an election time can reasonable be expected to come up with an economic plan for they are the ones who know all the decisions that came behind the economic programme that they put in place. We see the end result. We see two inches of paper called a Draft Budget.

It is also my observation that I have never seen in our Islands' history, let alone last year, anyone run on a specific economic plan detailed with the numbers as to how they were going to effect that plan. Again, we have talked about fiscal responsibility, accountability, reduction of waste—all these things that we know voters want to hear.

To make matters worse, last year this Honourable House was abruptly shut down and so you had a redistribution of funding that the legislators at the time did not have an opportunity to debate and vote on. We had to come back as a new government and rub-

berstamp actions that were taken. So, again, even if there was someone last year who was in the General Election that had an economic plan, until you are in the seat across the way and sit in Executive Council and you have privy to everything that went on, your plan would have been a stab in the dark at best.

These sorts of shenanigans of shutting Houses down and then doing what you please afterward must end if there is going to be any semblance of sanity in the running of this country.

I purposely left out balance of budgets. Everyone talked about balance of budgets. I talked about truly balanced budgets. The reason I said 'truly' is because I know that you can pull anyone off the street and have him balance a budget. Balancing a budget, Mr. Speaker, is not a difficult exercise if you are not going to be honest in your revenue projections. So, I could easily say the country needs \$360 million and look at projections from prior years and certain areas and beef them up a bit, and balance a budget. This can be done.

So, whilst truly balanced budgets have to be the order of the day, until one goes down the road and takes the tough stance that you are not going to play around with the revenue projections of the Government, you will not get a balanced budget.

Now, Mr. Speaker, in my view the Government has spoken loud and clear. The Honourable Third Official Member has presented to us what the policy will be for the next year. Before I get started, the one thing that I want to know that was missing from all this is, what is the strategy going to be for the medium term and for the long-term? I have not seen that. So I can only comment on what has been presented before us.

I would like to start off by saying that we did not have any group in the last General Elections – I want to reiterate, no one ran on an economic plan. Secondly, I want to reiterate, the House was shut down early and there was shifting of resources. Then I want to say that on 8 November [2001] we had a new government elected. This new government went into a situation where they had to analyse it and they had to then depend on controlling officers to give them reasonable expenditure projections for the areas over which they managed. They had to learn and get acquainted with their new Ministries and staff and areas of responsibility. They had to represent their constituents. And, in all that they had to come up with a fiscal policy. All this happened, in what I term five very short months.

We will note that on the electorate side of the Executive Council there was not continuity so they did not have the benefit of that either. So I hear a lot of talk amongst Honourable Members in this House, in our Common Room, about *'Well, the difficulties faced could have been dealt with rather easily - cut services'*. I beg to say, Mr. Speaker, to just simply say, sit on this side of the fence and say you can cut ser-

vices. In such a short period of time it is easy to do. It is always easy to look and to criticise. Very easy!

What I would challenge, is to show where and what would be cut. I am not saying that there is not waste in Government and there should not have been things that should have been cut. What I am saying is that with the way we govern ourselves which is so arcane, it makes this exercise extremely difficult irrespective of how hard one tries.

I also want to note that the country has to go on. The Government must run. We cannot just say, *'Well, we are going to close down for a couple of weeks and evaluate our situation and then we will come up with some solutions and come back in six months time'*. The Government has to continue. It is my understanding that the first draft of the budget had a deficit that was substantially more than the draft that we have tabled before us.

I can only say that we have an Executive Council that has come to this Honourable House and told us as Members, that with all the constraints in terms of time, revenue, this was the best they could do in terms of a budget for this country.

So I have to take that with value in terms of alternatives. I was not there so I do not know of any other alternative and it is my view that what we have before us is the best position possible at this time.

So let me just say categorically that as a new legislator in this House, I myself, have not had time to properly assess and glean knowledge as to all the details of the financial position of this country, of all government departments, the costs to run them, the revenue they bring in and whether they are revenue generating. Without having knowledge of all these important details I have to go on what my colleagues on the Government Bench have presented to us at this point in time. So I am willing to support the Budget.

In my travels around the community the one thing that I have heard over and over from constituents and citizens, is that they realise that the country was not in the best of positions financially. So, when they look at the policy in terms of the new tax package they were willing to accept it at this point because they felt that no better could be done. However, a lot did caveat it by saying they forward to people delivering on their promise of tough decisions and coming up with new ways of running the government. I have not heard any massive public outcry against the current tax package.

Mr. Speaker, let me speak briefly about some immediate history that directly impacts this budget and this tax package that we have to deliberate on. First of all I do not see any trickery or playing of words. I see a budget that seems to say, *'Here are the facts, here is what we have to do in the short term'*.

I would like to go into the Financial Secretary's presentation and you will find on page 7 an analysis of recurrent revenue, and recurrent and statutory ex-

penditure for the past decade. Numerous items jump out at you and are pertinent to the debate of the current budget. After all the current budget cannot be looked at in isolation. No government starts at zero and then you work, for there you have inherited a situation so you must talk about what has been inherited so as to properly make informed decisions and contributions to what is.

I see that in 1991 through 2000, recurrent revenue had an average annual growth rate of 10.5%. Recurrent and statutory expenditure had an average annual growth rate of 10.9%. Let me state that again: 1991 through 2000 recurrent revenue grew on average annually 10.5%, and recurrent and statutory expenditure averaged an annual growth rate of 10.9%. However, the decade was a tale of two halves according to the information provided by the Honourable Third Official Member.

From 1991 to 1995, recurrent revenue grew at an average annual rate of 11.4%. Recurrent and statutory expenditure grew at an average annual rate of 9.2%. This was the earlier half of the decade that a lot of people talk about as an economic boom. You see Government taking in on average more than it is spending on the recurrent and statutory expenditure side.

Most countries that have an economic plan and one that is guided predominantly by economists not politicians would have had two things happen in those times:

- 1) A building up of reserves; and
- 2) A reduction of national debt.

After all that is what the United States is currently trying to do. They built up over the decade and now they are seeking to utilise what was built up to pay off some of its national debt, which directly contributes to statutory expenditure.

I move now to the second half of the decade. From 1996 to 2000, recurrent revenue grew but at a reduced rate from that of the earlier half. It grew at an average annual rate of 9.4% as compared to the 11.4% that it grew from 1991 to 1995. So we see a slowing on the revenue side of Government.

On the recurrent and statutory expenditure side we see that it grew at an increasing pace—an average annual growth rate of 13.4%. Compare that to the average annual growth rate of recurrent revenue of 9.4%! Now, you tell me, or I challenge any Member to tell me and show this House and this country that was not deficit spending.

You see, Mr. Speaker, you have to look at what got you to where you are. You cannot simply come here and say, *'Oh, this is a new government. Let's look at their policy. Let's not talk about the history. Let's talk about their budget'*. You see there is something called 'politricks' and there are those who have become very good at 'politricks' and they will follow me with their 'politricks'. The people of these Islands deserve to know the facts. I am presenting the facts as they have been presented to me.

Before the lunch break I want to just reiterate the facts. Recurrent revenue for the entire decade: 1991 to 2000 had an average annual growth rate of 10.5%. For the entire decade there was an average annual growth rate in recurrent and statutory expenditure of 10.9%—deficit spending.

A tale of two halves! We had a decade that was a tale of two halves. From 1991 to 1995 recurrent revenue grew at an average annual rate of 11.4%. Recurrent and statutory expenditure grew at an average annual growth rate of 9.2%.

However, in 1996 to 2000 recurrent revenue grew at an average annual rate of 9.4%, but was outpaced by recurrent and statutory expenditure, which grew at an average annual rate of 13.4%. It was outgrowing the revenue of this country for half a decade at an average annual rate of 4%—that is a significant number when you look at the base numbers that are hundreds of millions of dollars.

We are not talking about \$100. Yes, it would be immaterial then, but it is material with the numbers we are talking about.

Mr. Speaker, I will now give way to the lunch break. I think this a good place to break.

**The Speaker:** We shall now suspend proceedings until 2.15 p.m. for lunch.

#### PROCEEDINGS SUSPENDED AT 12.49 PM

#### PROCEEDINGS RESUMED AT 2.35 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continuing on the Throne Speech and the Budget Debate, The Appropriation Bill, 2001.

The Second Elected Member for West Bay, continuing.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

Continuing after the break I now want to move away from the point of detailing the growth patterns in the recurrent revenue and recurrent statutory expenditures over the decade 1991 to 2000.

I would like to now move into another matter that directly impacts the Budget and Revenue Enhancement Policy that is before us. That is the matter of debt within the Central Government. Again, I refer to the Honourable Third Official Member presentation to this Honourable House and I note that in 1991 Central Government debt was at \$17 million and by the year 2000 it was at \$93.7 million. An increase of some 451% and while, yes, I do recognise the need of a government to borrow to fund capital projects, one has to wonder what happened to the positive aspect of the 1991 to 2000 decade in relation to the recurrent revenue, and recurrent and statutory expenditure.

In other words, from 1991 to 1995, recurrent revenue grew at a pace of 11.4% annually. Recurrent and statutory expenditure grew at a rate of 9.2%. Yet, for the entire decade we had Central Government

debt increase 451%. I think the answer lies in a number of things that I will now cover.

Firstly, from 1996 to 2000, recurrent revenue grew at an average annual rate of 9.4% and recurrent and statutory expenditure grew at an average annual rate of 13.4%. So, because we had deficit spending, the money had to come from somewhere. You cannot spend what you do not have! Money does not fall out of the clear blue sky! It has to come from somewhere—you either earn or borrow it.

So, in the last half of the decade, 1996 to 2000, we had a 4% difference, that is, we were (as they would say) 4% in the red in regards to recurrent and statutory expenditure, and recurrent revenue. So the monies had to come from somewhere.

In a decade when we should have been building up surpluses, paying down debts, avoiding interest payments, just the opposite happened in Cayman. Within Government we had recurrent and statutory expenditure far outstripping the recurrent revenue and we had debt on the continual increase. We had projects being started, some of which were needed but, Mr. Speaker, some of which obviously, in my view were not needed. I will come to that in a minute.

What happened was, we increased our debt and so this served to feed the recurrent and statutory expenditure amount because let us remember the interest repayment on the debt forms a part of statutory expenditure. It is a legal obligation of Government. You sign a legal document called a promissory note and a loan agreement so you have to repay it to the lenders.

Another thing also happened directly connected to this: Not only are we now repaying the interest on the debt, we also have certain capital projects, which themselves were not self-sufficient. So we have what I call a highbred travesty, that is, we are not bringing enough money into the Government's coffers but instead of reining in expenditure we continued to spend at our free will and then on top of that we borrow to fund it. We borrow to feed the spending frenzy.

So we have a lot of projects that go down in the country and some of these projects were needed. However, instead of being forthright with the citizens of this country and saying, if we are going to build a new hospital here is the true cost, therefore here are the fees that will have to be charged in order that Government, at least, breaks even. We do not have a revenue base in this country that can allow us to subsidise every service or what seems to be every service within our government.

I have been told by a reliable source that at the Hospital the current fee structure only serves to fund two-thirds of the cost of running the Hospital. So here what is now happening: not only are we in a deficit spending mode and borrowing to feed it and paying the interest on that borrowing but we are also borrowing, for capital expenditure, paying interest on that, and then charging fees that are so small that we then

have a shortfall in terms of being able to pay for the capital project for which we have built.

By way of a simple example so that this point is driven home for those who are not necessarily financial-minded, Mr. Speaker, please indulge. It would be like someone going out tomorrow, borrowing \$1 million to build a restaurant. Let us assume in a perfect world, you had a 12% fixed mortgage. So, your repayment is \$120,000 in interest during the first year. Then let us assume your operating costs were \$200,000 making your cost for that project, \$320,000—a very simplistic view. But you only charge enough for your food and beverage that you collect \$200,000 for that year.

If your total costs are \$320,000 and your revenue is \$200,000 then your \$120,000 is going to have to be found somewhere. It has to be paid. And so the vicious cycle continues. Well, we have to pay it. Where are we going to get the money? How are we going to raise the revenue to get the money? Are we going to the people and say, *'well, we increased this and that willy nilly are going to borrow'*. What is it we are going to do?

I think it is obvious that we had a lot of borrowing. 451% increase in Central Government debt over the decade 1991 to 2000—that does not even include the statutory authorities. We can go on and on in terms of services that this Government of the Cayman Islands offer, for which they are not collecting fees sufficient to pay for the service. Garbage is yet another one.

Mr. Speaker, I think there are those in our community and we know who they are, we know where they live. We see the mansions. We see the expensive developments. Why is it that the government of the Cayman Islands would be satisfied to subsidise services offered to people who can afford to pay more. I am not talking about the man and woman who have a 1,000 square foot house, whose average annual salary combined is somewhere in the region of \$36,000 to \$48,000 combined for the entire year. I am not talking about people within that society status.

Not only did we have projects and services for which the fees were not sufficient, but then we also had what I would term harebrained projects, like the Pedro St. James, where as usual, Government says it is going to cost \$4 million and it ends up costing \$9 million. And then on top of that you get annual subsidy somewhere in the region of \$600,000. To compound matters even more we had borrowing for that project so you are also paying back interest. As I have pointed out, I would hope quite clearly 1996 to 2000 was not a good one in the history of these Islands.

So, that brings us to the year 2000: In November we get a completely new Government and so what is the situation faced by the new Government? We came here and increased an overdraft facility to some \$14 million, which was used, if you refer to page 10 of the Honourable Third Official Member's report. You

also have \$5.6 million in outstanding bills. You have the January to October 2000 portion of the retroactive pay due to Civil Servants. When you add all that up you come to \$25.6 million.

Then another thing happened in the year 2000—it is safe to say now after the results of the Election—you had Members of Executive Council in the year 2000 before the Election who shut the House down early and then came up with programmes (if you can call them that) where the benevolent Caymanian Government gave away money with no revenue stream to support it. That is the former Government that I am talking about being so benevolent, Mr. Speaker.

So the impact of the seaman's grant on this year's budget is some \$4.1 million. So if you add up the situation from which this budget is based you have an overdraft of \$14 million, outstanding bills of \$5.6 million, civil servants cost of living adjustment of \$6 million, seamen's grant for which no funding has been earmarked by the previous Government but now being honoured of \$4.1 million, coming up to a total of \$29.7 million.

Mr. Speaker, this is exactly what I was driving at when I said you had to look at the history in order to appreciate the situation as it was, from which this budget is derived. So 'right off the bat' if you have to try and make up \$29.7 million without, in my view, having the adequate time to critique government [and] government services, and see exactly where the country is and whether or not certain services could be cut back, streamlined, or what have you. Then we have the situation as it is, where we see a budget coming to us where some \$26 million of general revenue is being funded by borrowing.

I accept the position which we inherited because I have no choice. I accept the Budget that has been presented by the Government. In my view it is a good faith attempt. You see that one of their overriding guiding policies was to as far as possible keep expenditures to the levels that they were in the year 2000. However, the other key factor about the year 2000 is the fact that revenue under performed. So we had a projection in the Budget and we did not meet the target.

Our Government has to function. It has to go on. The country has to go on and again I accept the Budget as a good faith, and the revenue enhancement package is a good faith attempt to ensure that we carry on the business at hand. However, this is the short-term. This is one year. I can accept this position for one year. What I cannot accept and be any part of is a continuation of this trend. I campaigned to the contrary. My conscience leads me to the contrary and I will not do it.

We must come up with a medium term and long-term financial strategy in this country. I will now share some of my views on those two things.

Of utmost importance is for us to ensure that we take to our people a revenue base that is broad—one

that taxes people in a fair manner. Mr. Speaker, one of the travesties in the history of Cayman is our form of taxation. So long our people have been told, *'Do not worry hidden taxes are the good ones for you. That is what is really good for you. You cannot see it so do not worry about it. What you do not see will not hurt you,'* they say.

Mr. Speaker, we cannot continue this trend and I have all confidence that this Government will employ a medium term financial strategy that seeks to broaden the revenue base of this country and we seek and find ways to have those that are better able to pay contribute more to this country and this society. After all, Mr. Speaker, we all benefit from the relative social harmony and the relatively low level of crime that we enjoy.

Let me use an example: if a person who makes \$1,000 . . . before I go there let me share with fellow colleagues and the citizens of these Islands some of the things that I have heard popping up of recent. I have heard ideas come forward like road taxes. There are a lot of concepts that are cute and sound good. They probably sounded just as cute as import duties did in the early days in this country. I am not going to stand here and do something to the people of this country who are less able to pay. That is not right!

Let me say why I say this, Mr. Speaker. Let us say that there was to be something in my view as short-sighted as a road tax, what would happen? The man or woman who makes \$1,000 a month is going to have to use the road just as much as the man that makes \$10,000 a month. Let us say for argument sake that you wound up using the road to the effect that you had to pay \$100 a month in such a tax.

For the man who is making \$1,000 that is 10 per cent taxes paid. For the person that is making \$5,000 that is 2 per cent taxes and for the person who is making \$10,000 a month, that is 1 per cent tax. Everyone paying the same tax dollar but look at the unequal distribution; the person who is less able to pay, paying ten times as much taxes, as the man or woman who is making the \$10,000—five times as much as the person that is making \$5,000.

These sorts of tactics cannot be employed, and I am not implying that the current Government would employ them but these are things that I have heard recently. I wanted to expose them immediately and tell the people of this country that there is no way that I could accept or be a part of any government or anyone who would expect to tax people in this same old way. 'Flogging the same old dead horse' and leaving the one that is able to pay all alone to enjoy the same benefits in the society without having to carry the weight that he should have to make because of his earning power.

We look at most other countries and we see a taxation system that is quite different. We see people who are earning more, paying more in taxes and the net result is they still make more money after taxes

than the other person –than the small man, as I have heard them called so recently.

In this country we must operate in a fair manner. Our taxation system must be fair. This is a good society that we live in, relatively speaking. Let us not forget that. But the more 'well to do', and when I say citizens I also mean corporate citizens, have to realise that there is a price that comes along with the lifestyle we enjoy.

We must also ensure that we have proper expenditure management in the medium term that has to be a reality. We must be prudent in our fiscal affairs. We must be realistic when we look at the services being offered and ensure that we are delivering them at the best possible price to the consumer, which is the taxpayer in this instance.

In the long-term we must ensure that once we institute a proper medium term financial strategy and we do have truly balanced budgets or even better, which is what we need with the amount of debt that we have now built up, surplus budgets to pay the debt down, we must build up our surpluses. We must reduce statutory debt.

We have to get rid of the unfair distribution of the tax burden in this country and if we do not do it will be to all our peril because you can only push a man so far for so long. The small man in this country has been pushed too far for too long and it is now time for the citizens in this country who are better able to pay to stop shirking their responsibility and act like reasonable citizens.

Mr. Speaker, I turn now to the domestic economy. Cost of living in this country . . . let me take a step back. Employers create jobs, jobs pay salaries but it is the interplay and the correlation between salaries and the cost of goods and services that determine how better off or how bad off individual citizens are. So because of the inflationary pressures that the Central Government put on this economy during the last decade by deficit spending, and also because providers of goods and services are going to come to the market and demand as much as the market can bear and have acted unconscionable in a lot of instances we have what is termed high cost of living in the Cayman Islands.

We must deal with Cable and Wireless situation. This cannot be shirked. We must look at fuel cost. We must look at the contract that Caribbean Utilities Company has and the guaranteed return. We must look at the size of the Civil Service and the services they provide. We must look at interest rates in this country. Interest rates are the cost of money.

Most people are not small business owners but most people want to own a home, therefore, at some point in time most citizens in this country are going to have to pay for the cost of money. They are going to have to pay interest rates. So, when we look at what is employed in Cayman it is a downright shame.

We have banks that apply the overnight lending rate to mortgages and then mark it up. Currently the

US federal overnight funds rate is 8.5 per cent and the best deal most people in this country can get is that plus an additional 3 per cent, coming up to 11.5 per cent. Of course, that can rise or fall with the movement of the overnight funds rate in the United States. What no one has been able to explain to me, to date, is what correlation the overnight fund rates have to the cost of money of banks in the Cayman Islands.

Just this morning I went on to *Bankrate.com* and currently in the United States the average 30-year fixed mortgage rate, that is fixed, the most expensive type of mortgage you are going to get, is 6.7 per cent. Add into that the fact that our dollar is some 20 per cent - 25 per cent stronger than the US dollar and then you would equate that to our interest rate being somewhere in the order of 15 per cent. Yet, in the United States a 30-year fixed year mortgage is 6.7 per cent. Then we look at what the banks in the United States are paying their customers on overnight money market accounts, 3.76 per cent.

If you invest over \$10,000 you get 4.27 per cent. So you see in that market not only are banks earning a reasonable spread to provide a healthy return to their investors but their government a few years ago had enough insight to realise that they had to institute usury laws. I think it is high time that we go down that road in the Cayman Islands.

The banks in these Islands have truly gotten away with murder over the years as they have operated in Cayman. They have been allowed to utilise their clout and bully around the people and anyone else who wants to borrow some money and use their strong-arm tactics and keep interest rates at absolutely exorbitant levels. There is no justification in my view to the amount that the banks in these islands charge their consumers. It has little to nothing to do with their cost of money. It is just as I said earlier—they are going to the market and they are charging what they think the market can bare but they also know that they have the capital and they act like a cartel. Where else do you see all the banks banding together and advertising the floating portion of their mortgages? Whenever the US funds rate change they advertise together just as a cartel operates.

It is high time that we sit down with the banks and make them realise that they can make a healthy profit in the Cayman Islands, extremely healthy profits, but they have to give the consumer a better deal. This is just unacceptable in this day and age.

The last point that I would like to touch on is the matter of controlling expenditure within Government. It is high time that the citizens of this country recognise there is no free lunch. When you think you are getting something for free, a price is attached. So, when we have citizens who refuse, and we know this is the case, to take care of their elderly parents in some cases, and say, '*Oh, that is the Government's responsibility*', what they do not realise is that all that is doing is driving up the cost of living in the Cayman

Islands. All it does is increase the size of Government. It increases the amount Government has to raise in taxes and at the end of the day they are worse off because they would be a lot more efficient at spending the money to take care of their elderly parents where they can, than the Government is able to. That is a fact.

Now, we have a lot of elderly citizens in family situations where help has to be given and I do not think there is anyone in this Honourable House who has any problem recognising that. We cannot make our people go destitute. We can never make our people go destitute.

Moving on to younger recipients of aid from our Government, I saw a word in the Honourable Third Official Member's contribution, that is, a word that we should seek to ban in this country. It is welfare—social welfare programmes. We cannot have a welfare state mentality in the Cayman Islands especially when it comes to our younger citizens. It has to be an approach of workfare. Yes, people will get in situations where they need help. That happens in every country. That will happen from now until the end of time and the Government has to provide a safety net.

We cannot make our families go destitute in Cayman. But the system has to have built in it the incentive for people to provide for themselves and not just kick back and say Government will provide.

I had the horror of having someone tell me a few days ago that there is no need for him to get a job because when his child goes to primary school Government is going to have to pay because he cannot find the job that he wants. He has quit three jobs that I know of in the past year. Why? He does not want to do that!

This business of not talking about the real issues that drive at the core of Caymanian society, disgusts me. It is time that we talk about the real issues that affect us. It is time we move on them and deal with them in an effective and comprehensive manner, otherwise it will be to everyone's peril, and we will continue down the same road where we are compromising the future of our children and grand children.

Our spending patterns: we just need to look at what we have just inherited—\$29.7 million! That is a good leaving gift! We cannot have this redistribution of wealth from our generation, away from future generations. We cannot spend their money. That is what deficit spending is; we are spending the future.

How can we talk about education, vocational and technical training if we are not going to have the money to be able to provide these much needed services to our children and grandchildren? We must provide a legacy that is worthwhile passing on.

In summary I can say that I recognise the situation that this current Government was put in. I accept the Budget as a good faith attempt to address it and I have every confidence that we will move forward and not try to beat the same old dead horse for more taxes; we will broaden the tax base in this country,

and alleviate the tax burden that is unequally distributed to the poorer sectors of our community; we will control expenditure by managing wisely and will not get into any of these projects that have haunted us, that have come back and bitten us, such as the Pedro St. James project.

With the situation that persists none of us supporting this Budget feels good about the road we have had to take in the short run. What has to happen is a change of policy, a change of direction in the medium to long-term to ensure the sustainability and viability of the Cayman Islands' Government as an institution.

I thank you, Mr. Speaker.

**The Speaker:** Debate continues on the Throne Speech.

The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, I am heartened and pleased by the level of debate made by my colleague, the Second Elected Member from West Bay, who just sat down. I am pleased that after the General Elections that this House has in its Members, persons who are capable, able, ready and willing to contribute to the affairs of our country and in such an intelligent manner.

I believe that this must be a time for optimism. We do have tremendous challenges as a country but we are not a dead country.

In relation to the Budget, I have served on Executive Council before and had some challenging times but this is the worst that I have had to face. No one needs believe that this budget was arrived at just so. Many nights were spent, till late hours of night and in the morning, dealing with what was \$170 million deficit. I am pleased that I work with Members who are capable and have an interest in the affairs of the country to the extent that we did not wish to just put a budget together, bring it here and say this is the best we could do. I say this in all respect and in all seriousness to the new Leader of Government Business, that through his driving force at times we could get the Budget to the position we are in. Of course, we could have presented a much more cloudy and rainy budget.

As a government we took the position that we can no longer continue doing the same old things but we must say to the country, *'this is the position'*. This is what we can afford and this is what we cannot afford to do. However, with all those challenges we are not a dead country. This is the time to put in place our medium and long-term plans and strategies.

Separate and apart from our local and internal problems we are being monitored by an outside world. We have more pressure from the United Kingdom in regards to finances. As a country, in finances, through the financial industry and the tourism industry we have to focus on remaining competitive. We must

also closely watch developments in the national economy and our national life in general.

I believe taking all things into consideration these Islands can expect to continue to enjoy some growth if we focus our efforts on staying competitive, prioritising local policies and projects, and remaining responsive to the external environment.

In order for us to have and enjoy some growth we can no longer 'browbeat' investments in these Islands. If we believe that there are not other places for tourists to go or for investment to find then we are sadly mistaken. We have always said that there must be a balance and that is what I campaigned on and I feel that is what we have a mandate for, to find a balance. Some people in this country expect to have their cake and eat it too. They want to have business but they do not want numbers of people. Development brings people and to have a business it demands that we must have people.

I believe that when we look at the width and breadth of our country we find out that we are in a downturn in the economy. People's businesses are not doing well. In fact, in many instances it is very shabby in terms of small local businesses. But, again, we cannot have our cake and eat it too. It drives away investment. Talk about no more construction. Talk about no more foreigners and we will see where we are at.

I find that there are complaints from our people. There are people looking for work. There are people talking about how bad it is. This Government has a tremendous load upon its shoulders but I believe that we are up to the challenge.

My vision for these Islands in the 21<sup>st</sup> century is for us to be a home for our people, and those who legally live and work amongst us, are well behaved. A home where we feel comfortable with ourselves and we look after one another, whereby everyone making the country succeed by doing his part and shouldering his responsibilities. I am not speaking of a house of blocks and cement but our home with hearts and dreams of people who feel confident and secure, people who believe in the Cayman Islands and its future.

So, I am saying to Members let us work together to make these Islands our best home for all of us. As for me, *"the woods are lovely, deep and dark but I have promises to keep and many miles to go before I sleep."*

In the Ministry of Tourism, Environment and Transport there is a tremendous challenge as tourism is charged and has the responsibility to help keep Cayman's economy on course and making it work for all the people of these Islands.

Since taking over responsibility for tourism approximately 4½ months ago, I have met with representatives from all sectors of the local tourism industry and with a large cross-section of international business partners/associates. Additionally, I have received an extensive briefing from the Department of

Tourism and that information process is continuing. Despite the relatively short time I can share with this Honourable House a number of critical areas which we will have to deal with as a government and as a country.

1.) Increasing competition from other Caribbean destinations and other destinations in the global arena.

No longer should we believe that our competitors are some Islands of the Caribbean but we should believe all of them are. Beyond that, we must understand that our interest in learning about business growth in the wider global area is simply put, urgent and necessary.

2.) Growth of online travel and web marketing as an aggressive tool to communicate with consumers.

A travel web site and an aggressive web marketing programme is not a luxury rather a simple fact of life in today's marketplace.

Again, it is about staying in the game and in front of your customers. This is an area that is exploding. It is important that we do not see this as simply having a website that has pretty pictures and which talks about our Islands.

Travel websites to be bookmarked as favourites must be user friendly, service directed and able to talk with the user rapidly, personally and, ideally, close a sale.

The changing rate of technology is such that we cannot simply develop a tourism site and then rest. Constant updating, improvements, monitoring and partnerships with other brands online to drive business to our site are not just necessary but critical to stay fresh and interesting to the consumer.

3.) The changing customer profile is an area that must also be regularly monitored.

The role of research in its various forms is a mainstay requirement of tourism efforts today. We have to look at the product from the customer's view—are we delivering the style and type of service which appeals to these visitors? Is our product (hotel attraction and activities) offering such value that our visitors feel that their time spent with us was worth the cost?

What is the nature of service and development taking place within the competition? What are the trends in travel and how might they influence decisions to travel to the Caribbean and, of course, specifically to our Islands? These concerns I do not bring to this Honourable House lightly; they are all around us out there making it harder and harder for the Cayman Islands to maintain its position as a top of mind, upscale, warm weather destination.

We must stay abreast of the changing profile of our customers and what are the primary expectations which will attract them to our Islands, and which will make them want to come back here, again and again. One satisfied visitor to our shores will tell at least ten other persons how pleased they were with the Cay-



man Islands vacation experience. One unhappy visitor and they will tell, at least, 30 people of their negative experiences.

Efforts must, therefore, not simply be about getting first hand visitors but about ensuring that the total experience that we offer our visitors is such that they become our repeat guests. In the longer term it is less costly to keep connected with a returning guest than it is to attract a new one. We have to do more now just to stay in the same place.

The marketing of travel is changing rapidly and the marketing approach and the activities that the Department of Tourism historically employed are in many cases yielding lower and lower returns for each dollar spent. Simply put, some of those activities no longer work for us.

As a Government we are determined to change this. My mandate is to bring about a more efficient, accountable and productive Department of Tourism. These efforts will incorporate the relationship which the department has with its local tourism industry partners. Critical to this relationship is a commonly shared understanding of the needs from a destination perspective as well as from the industry's perspective. Within that relationship, an area that has to be addressed is the funding process for the destination's marketing activities.

The current view of the Department and indeed the Government being seen as singularly an endless money pot for the tourism industry must change. Indeed this budget just presented, I believe, speaks volumes to that reality. Successful interventions in tourism for these Islands now require that all stakeholders see the way we pool financial resources to develop and market Cayman Islands' tourism differently. Our efforts will be to bring about a true financial partnership between all players who have a vested interest in tourism in the Cayman Islands.

Mr. Speaker, tourism is not a standalone activity or industry. It is woven throughout almost every aspect of our economy, therefore, tourism planning must be fundamentally integrated into national planning efforts. My Ministry intends to ensure that the tourism strategy of Vision 2008 is reviewed and considered in the planning process for the future development of tourism in these Islands.

It is very important for us to be clear on what tourism is. One definition is that tourism is the temporary movement to destinations outside the normal home and workplace, the activities undertaken during the stay and the facilities created to cater for the needs of tourists. It follows, therefore, that tourism as an industry has a direct and indirect impact of every segment of the Cayman Islands' economy, culture and our social structure. It is vitally important to all residents of these Islands, whether directly involved in a tourism activity or not . . . and so ensuring sustainability of tourism for this and a future generation is a high priority of the national agenda of this Government.

I have spent considerably time with the Director and staff of the Department getting clarity between the Ministry and the Department on what the Government's vision is, and as a result, what the mission of the Department must therefore be.

The vision of this Government for tourism is captured in this position: The Government sees its responsibility within this sector to lead sustainable tourism development, which supports a lasting high quality of life for all who live in the Cayman Islands.

The Department's mission as a result of this vision position of the Government must, therefore, be to act as the following: The Department of Tourism is the National Tourism Marketing Organisation that seeks to optimise the benefits of sustainable tourism for the people of the Cayman Islands. I am very proud to report this level of clarity, as no longer can it be said that there is a lack of clarity and focus on the perceptive within which the Government is managing tourism, but rather that each activity undertaken by the Department from this day forth must truly be reflected within its mission. Or such activity, whatever it is they are doing, should not be carried out by the Department.

In keeping with the stated vision of the Government, the Department of Tourism has been charged to develop and implement an integrated strategy for sustainable diversified tourism, which will, 1) deliver better results for all sectors of the local tourism industry.

It is a fact that the larger entities underpin our tourism efforts, that is, the larger hotels and condos, the larger diving organisations and so on. However, we must create opportunities for and work with the smaller businesses to make sure they also benefit from tourism. That is why when I was approached by the small operators operating from the dock, the taxis and watersports operators, I encouraged them to form the Caymanian Land and Sea Co-operative Society. That has been formed and has its membership, and the Co-operative objectives are as follows:

- To promote economic prosperity among its members by affording them the opportunity to accumulate their savings.
- To seek and obtain reduced rates of cost of equipment, material and marketing.
- To promote, maintain and enhance safety standards among its members and association with other corporate societies and associations.
- To promote unity and corporate principles among its members.
- To promote fair trading and good business practices among its membership and entities involved in land and sea related activities, and the removal of unfair competition.

The Government has seen fit to assist them. One of the main problems that they have had in not obtaining business from the cruise sector is that they had no

representations, first of all, and some of them had no insurance.

The cruise ship operators require insurance and this is being worked on. I have had meetings after meetings with the Florida Caribbean Cruise Association (FCCA) and they in turn have had meetings with the leadership of the Co-operative. They are well on their way to starting business. This is not an easy matter to deal with and there are those who operate at the dock, and every Minister of Tourism, since I have been here, have had that problem but it intensified in the last eight years and nothing was done about it.

A policy of assisting a few was carried out and the tourism product must be for everyone who can operate a business successfully but they must be given an opportunity. So, Mr. Speaker, the Government supports the Land and Sea Co-operative Society, and, we are helping them with funds to get their equipment up to par, to be insured so that they operate with the cruise ship operators. I am happy that I have had the support and guidance at times of my three colleagues who are on the Backbench, the Second, Third and Fourth Elected Members for West Bay.

Mr. Speaker, of course, we are experiencing some resistance from a few out there on the dock who believe that the dock belongs to them, who believe that they can control the Government because that is what they did in the past. The past is the past, and I say to them that either they get on board and behave themselves or regulations will be used against them. I am not going to allow the disruptions that have gone on at the Port; the misbehaviour, the bad language—I am not going to allow it. If they cannot operate a business, which they have spent money on to buy their car, to buy their boat, if they cannot do this like business people then they will not operate from the ports of the Cayman Islands.

Some of them are proving to be quite disruptive and we have to spend a lot of time explaining and re-explaining simply because there are a few who have had the ears of the Government before and control things at the Port. I have had a memorandum sent to those and, as I said, either they are going to get on board and make this thing work which is for their own benefit, or they will not operate at the Port Authority in George Town.

There are far too many good operators, small business people, out there who have their buses, taxis and small boats who want to operate in the North Sound, and who are good to tourists, who behave themselves and operate in a human and dignified manner, to allow the few rebels to carry on to disrupt the orderly progress of this Co-operative. This, as I told them, is not for me. I am not in the business; this is for their good.

So, we are going to work for sustainable tourism but they have to play their part to make it help them.

They have to play their part to make sure they benefit more from our tourism product.

The second objective of that vision is to lead a new partnership between public and private sector. And, 3) lead the training and education of those directly involved in tourism activities. This is an area that is very near and dear to me. My colleague, the Minister for Education and I have spoken on ways to work together to effectively ensure that vocational and academic opportunities are available which will support the entry of more of our people into the tourism sector.

A training facility is needed, dedicated solely to tourism services and that is high on my agenda. I believe that there must be education from a primary level concerning tourism—to make them understand better how it works, how it profits and how it helps them so that they can want to be involved in what is a lucrative business and what should be a lucrative career. But I will be back to this Honourable House as this planning progress.

4) Implement and manage the education and awareness process for the entire community on the role and value of tourism especially those people who may not be directly involved in tourism.

5) Provide input to and be guided by the country's growth management strategy.

Mr. Speaker, I do not know if I am boring them or it is late in the day but it does not seem like we have a quorum.

**The Speaker:** Serjeant, please summon the Members to the Chamber.

Please be seated and wait until their arrival. While we are waiting I would like to call to Honourable Members attention that due to a lack of a quorum I have not been able to call for the usual afternoon break as the will of the House could not be expressed. So we are going to continue until the Interruption period.

The Honourable Minister for Tourism, Environment and Transport, please continue.

**Hon. W. McKeever Bush:** Thank you, Sir, for getting the quorum.

I am satisfied that in our Director we have a very capable and committed person, and a person who has some tourism development experience. I am pleased to note that our Director of Tourism is Chairperson of the Directors of Tourism for the Caribbean Tourism Organisation, a 32-member organisation of the region and has been so for the past three years. She is well-known within the region and internationally and this has, and will continue, to open doors for Cayman Islands' tourism to gain opportunities for development.

We have for the first time placed a Caymanian as head of our US Operations and I am very pleased to report this. I must also recognise the other members of the senior management team at the depart-

ment's corporate office here in Grand Cayman and the other members of staff there who I have observed are very committed to Cayman Islands tourism and are doing great work in support of our Islands. I believe they are hardworking and we must give praise where praise is due. When we have civil servants as dedicated as I see some of them, then I am pleased to be able to stand here and recognise them.

Mr. Speaker, going forward, it is necessary for two major pieces of work to be initiated, positioning the Government to be more assured of us once again becoming highly competitive within the marketplace and thereby regaining our lost market share.

The first major piece of work is that of providing the country with a Tourism Management Policy. The previous government made no effort to update the last policy. Indeed, it could be said that the last government obviously did not see any value in having such a fundamental document. For all the reasons, which I have brought before this House as my concerns, we cannot run this major aspect of our economy in an unplanned manner. These Islands have been operating since 1999 without a policy framework for its most labour intensive industry and one that we must continue to develop.

To acknowledge this, is to say that it is apparent that the past government did not have much of an understanding of the tremendous changes which took place during the past four years in the Tourism industry, nor the critical need to put in place the tool to support the sustainable operation of this vital aspect of our economy. Our Government intends to remedy this situation.

An implementation plan will be drawn up which will outline the processes to carry out a complete review of the Cayman Islands' Tourism industry and prepare a Tourism Management Policy for the next five years. The goal of this undertaking is to have a developed strategic vision for the Tourism industry ensuring that tourism is providing optimal benefits to all economic sectors of our society, improving the quality of life for the people of these Islands.

This policy document will not be one that is simply developed in a vacuum: it will be the product of numerous interventions with all stakeholders, both those within the sector and the wider community who will be affected by any developments within tourism in our small Islands' community. To complete this review it will take a considerable amount of time and I am generally of the view at this time that it could not be presented before the Budget Session in 2002.

Mr. Speaker, out of this Tourism Management Policy will emerge a clear direction of where this country, Government and primary sector, need to be heading. In effect, infusing the people of these Islands with a sense of purpose, providing long-term direction and establishing a clear mission of what needs to be accomplished in the next three to five years to ensure sustainable tourism efforts are undertaken for the quality of life for future generations.

The Tourism Management Policy will specifically address the following areas:

1. Infrastructure and product, that is, accommodation, airlines, cruise, roads and ports;
2. Global marketing, that is, promotion, public relations, marketing and sales;
3. Attractions, entertainment and services;
4. Human resource development;
5. Financial management;
6. Education and awareness;
7. Natural resources and entertainment.

In reviewing this list I must point out that while information technology is not named as a specific topic, it is a critical necessity and enabling technology for all categories which have been listed. We must never minimise the importance of information technology to our further efforts in all sectors, and especially within this sector of tourism. Later on I will share a number of initiatives, which will show directly the current efforts of the Department of Tourism and the early returns on those investments.

The second major effort will be to complete a review of the Department of Tourism. The Department of Tourism will be reviewed both from an organisation and marketing perspective over 2001 and 2002. We will assess all resources, people, funds, facilities and programmes rapidly, hopefully making realistic changes where necessary to ensure that the department is capable of delivering the required results for the industry.

Within this review process we will take a look at the market diversification efforts of the department where representation agencies have worked for us over the years and assessed the return on the investments made within these various markets, that is, Argentina, France, Italy, Germany, Spain and Canada. Where necessary, changes will be made to ensure a [better] return on the public sector investments in pursuit of sustainable tourism from all markets within which we operate.

This process, Mr. Speaker, will also take into consideration the changing behaviours of the visitors we seek to address so as to ensure that all aspects of our product and our marketing efforts are focused to deliver the right visitors.

While these efforts within this review process speak to an ongoing process over 2001-2002 we are immediately in the process of developing results, focused marketing initiatives to ensure the flow of visitors over the four quarters of 2001.

Since assuming office I have been involved with the Department of Tourism in a number of activities

aimed at maintaining brand awareness for these Islands, and creating strong reasons for consumers to buy Cayman Islands' vacations.

My first official trade activity was my attendance at both the Caribbean Hotel Association Marketplace and Diving/Equipment Marketing Association (DEMA) in January [2000]. This year's Caribbean Hotel Association Marketplace was a very busy and productive one for us. The primary objective for being at the show was to facilitate discussion between wholesalers and our industry partners as well as to network with potential new travel trade partners.

In partnership with the private sector, the Department once again had a major presence at this year's Diving/Equipment Marketing Association show, that is, DEMA.

The purpose for being at the show was to maintain high awareness of the Cayman Islands as a premiere Caribbean dive destination while supporting some 50 private sector booths for DEMA participants to visit and learn more about the dive-related products and services available on all three Islands. The show was definitely a success as our private sector has related to us that there were good contracting activities, which relate to more tourists coming to these Islands.

Significant public relations were garnered for the Islands by Jean Michael Costeau participating in a satellite media tour talking about the Cayman Islands, which was picked up by seventeen stations around the US and Canada. Major broadcast networks included CBS, FOX, ABC, NBC, news channels and other affiliates.

In early March, I visited London for the purpose of paying my first official visit to our office in London. During this visit I was briefed by the Regional Manager for the United Kingdom and Europe under opportunities and challenges, which face us in those markets. I can say that I believe we have in that person a capable man, who has these Islands interest at heart and not just a job. He has good experience and I believe is the right man for the job.

I also had opportunity to meet with British Airways and to gain insight into their future planning for the Northern Caribbean route and how a renewed partnership with us could support growth of seats out of Europe and the Cayman sector. I came away from all these meetings with positive feelings about the opportunities—opportunities which we can fully develop to grow business from those markets.

Immediately after London I attended the World's largest travel trade show which was held in Berlin and that was really an eye-opener for me. This show had 7,600 exhibitors from 189 countries around the world. In 2000, it attracted 112,000 attendees and of this number 60,000 were travel trade specialists looking to contract with the exhibitors and some 6,000 journalists from 87 countries.

The show was a busy one for us but one serious concern for me was, while there was strong interest

from tour operators throughout Europe there were no Cayman Islands industry partners out there with the Department to be able to complete the sale. What I saw was opportunity with no one to take advantage of it. It is important for the tourism partners within our Islands to be fully aware that we can no longer believe that business will just come to us.

My impression is that there is keen interest throughout Europe in our destination, however, while the Department of Tourism can create the awareness about the product within the destination, only the private sector can complete the sale. So, it is imperative that the private sector becomes involved in such trade shows.

I would like to comment briefly on conditions in our major markets to give this Honourable House a sense of the volatility of doing business within the tourism sector internationally. Within these short comments on each market, I will also report some of the activities, which the Department has in progress.

I do not know if you want to adjourn at this point or—

**The Speaker:** We can go on for another six minutes if you are able to.

**Hon. W. McKeever Bush:** In the US the market, as you know, seems to be tottering on the edge of a possible and likely recession. It is our experience that within such an environment, consumers become wary about spending and travel is one of the first areas where a slowdown is experienced.

In an attempt to drive business during the slower summer season, the Department and the private sector here in Cayman, and the Sister Islands, to some degree, have been working on the development of several strategic marketing promotions that will be sold by the travel trade and will deliver great value to consumers who visit the Cayman Islands during the summer months, May - September.

As the House will recall, I have already spoken on those promotions in details. Right on the heels of these efforts, the Department is readying itself to initiate further discussions with the private sector on other opportunities to secure the winter season and into 2002, God willing.

The transition of the two tourism associations into one continues and I believe that they are nearly to the end. I see that as fundamental to the ordered progress of the Government and the private sector in being able to be successful in efforts to maintain market share for these Islands. I am pleased to report that I took an active part in making the transition scenario come about and I am waiting to hear from the transition committee of two associations on the final efforts to become one association in the next two weeks.

They chose a new name yesterday, the Cayman Islands Tourism Association. That is good. As I said, at the annual awards for the Cayman Islands Hotel

and Condo Association on Saturday there is a dictum somewhere that says *a house divided against itself cannot stand*. So we could not have two associations bickering among themselves while efforts slowed down.

I am glad that they have been able to get together and form this new Cayman Islands Tourism Association for the betterment of their businesses and for the betterment of all businesses in the Cayman Islands.

Mr. Speaker, may I take it that it is that time?

**The Speaker:** Yes, you may move the Motion for the adjournment.

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Mr. Speaker, I am pleased to move the adjournment of this Honourable House until 10 a.m. tomorrow.

**The Speaker:** Before putting the question that this Honourable House do now adjourn, I would like to say to Honourable Members that I have received a letter from the Ministry of Community Development, Women's Affairs, Youth and Sports, advising that the closing event honouring Women's Month will be the Women's Resource Centre Third Annual 5K Walk/Run on Saturday, 31 March 2001 at 7.30 a.m. This will commence and finish at the Public Beach and all Honourable Members are invited to attend.

I shall now put the question that this Honourable House do now adjourn until 10 am tomorrow. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.20 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM FRIDAY, 30 MARCH 2001.**

**CAYMAN ISLANDS**

**LEGISLATIVE ASSEMBLY**

**PARLIAMENTARY QUESTION**

**TO THE HONOURABLE FIRST OFFICIAL MEMBER  
FROM THE SECOND ELECTED MEMBER FOR THE  
CONSTITUENCY OF WEST BAY**

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**QUESTION:           WHAT WAS THE COMPLEMENT OF POLICE OFFICERS AND  
TOTAL CRIMES COMMITTED DURING 1998, 1999 AND  
2000 (BROKEN DOWN BY DISTRICT)?**

**ANSWER:           MR. SPEAKER, THE COMPLEMENT OF POLICE OFFICERS  
IN THE ROYAL CAYMAN ISLANDS POLICE SERVICE FOR  
THE YEARS 1998, 1999 AND 2000 WAS 269, 269 AND 293  
RESPECTIVELY.**

**APPENDIX A SHOWS THE BREAKDOWN BY DISTRICT.**

**MR. SPEAKER, THE TOTAL CRIMES COMMITTED IN 1998,  
1999 AND 2000 WERE 3170, 2877 AND 3254.**

**APPENDIX B SHOWS THE BREAKDOWN OF CRIME FOR  
EACH OF THOSE YEARS BY DISTRICT.**

**APPENDIX A**

**DISPOSITION OF STAFF BY DISTRICT**

|      | GT | WB | BT | EE | NS | CB/LC | TRAFF | DOGS | USG | CCB | SP BR | DTF | OTHER | ESTAB. | STRENGTH | VACANCIES |
|------|----|----|----|----|----|-------|-------|------|-----|-----|-------|-----|-------|--------|----------|-----------|
| 1998 | 90 | 25 | 14 | 2  | 2  | 10    | 19    | 2    | 12  | 9   | 3     | 29  | 33    | 269    | 250      | 19        |
| 1999 | 96 | 27 | 17 | 2  | 2  | 10    | 18    | 2    | 13  | 9   | 3     | 29  | 34    | 269    | 262      | 7         |
| 2000 | 79 | 27 | 17 | 2  | 2  | 10    | 20    | 2    | 13  | 12  | 3     | 29  | 44    | 293    | 260      | 33        |

THE YEAR 2000 INCREASE IN AUTHORISED ESTABLISHMENT WAS CREATED BY GOVERNMENT IN JANUARY, 2000, BUT RECRUITING HAD NOT BEEN POSSIBLE IN THAT YEAR, HENCE THE LARGE VACANCY FIGURE.

NB "OTHER" INCLUDES HEADQUARTERS, COURTS AND 12 OFFICERS SECONDED TO THE FINANCIAL REPORTING UNIT (FRU).

**TOTAL RECORDED CRIMES IN 1998, 1999 AND 2000**

**BROKEN DOWN BY DISTRICT**

|             | <b>GT</b>    | <b>BT</b>  | <b>WB</b>  | <b>EE</b> | <b>NS</b>  | <b>CB/LC</b> | <b>TOTAL</b> |
|-------------|--------------|------------|------------|-----------|------------|--------------|--------------|
| <b>1998</b> | <b>1,825</b> | <b>268</b> | <b>803</b> | <b>99</b> | <b>66</b>  | <b>109</b>   | <b>3,170</b> |
| <b>1999</b> | <b>1,590</b> | <b>270</b> | <b>772</b> | <b>95</b> | <b>76</b>  | <b>74</b>    | <b>2,877</b> |
| <b>2000</b> | <b>1,786</b> | <b>383</b> | <b>795</b> | <b>68</b> | <b>112</b> | <b>110</b>   | <b>3,254</b> |



MINISTRY OF SPORTS - SPORTS GRANTS

| ASSOCIATION                       | \$ GRANTED 98     | \$ GRANTED 99     | \$ GRANTED 2000   | 2000 GRANTS PAID IN 2001 | AD HOC & OTHER GRANTS | DETAILS                                                                                                         |
|-----------------------------------|-------------------|-------------------|-------------------|--------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------|
| Autocross                         |                   |                   |                   |                          |                       |                                                                                                                 |
| Badminton                         |                   |                   |                   |                          |                       |                                                                                                                 |
| Basketball (focus sport)          |                   |                   |                   |                          |                       |                                                                                                                 |
| -Annual grant                     | 30,000.00         | 30,000.00         | 30,000.00         |                          |                       |                                                                                                                 |
| -Overseas/hosting                 |                   |                   |                   |                          |                       |                                                                                                                 |
| Body Building Federation          | 1,000.00          |                   |                   |                          |                       |                                                                                                                 |
| Boxing                            | 6,000.00          | 15,000.00         |                   |                          |                       |                                                                                                                 |
| -Charles Whittaker                | 5,000.00          | 5,000.00          | 5,000.00          |                          |                       |                                                                                                                 |
| CI Amateur Athletic (focus sport) |                   | 1,146.00          | 10,000.00         |                          |                       |                                                                                                                 |
| -Overseas/hosting                 | 50,500.00         |                   |                   |                          |                       | (ANNUAL) 99 \$27,300; 2000 \$50050 (Professional Fees) 98\$3167.52; 99\$4318; 00\$10,709. (Scholarships & Burs) |
| Kareem Sireete-Thompson - GA      |                   |                   |                   |                          |                       |                                                                                                                 |
| Cydonie Mothersill Trust Fund     |                   |                   |                   |                          |                       |                                                                                                                 |
| Cayman Brac                       | 4,600.00          | 19,000.00         | 13,500.00         |                          |                       |                                                                                                                 |
| Cricknet (focus sport)            |                   | 30,000.00         | 30,000.00         |                          |                       |                                                                                                                 |
| -Britcay Cavillars                |                   |                   |                   |                          |                       |                                                                                                                 |
| Cricknet National Pavilion - WB   |                   |                   |                   |                          |                       |                                                                                                                 |
| Cycling                           |                   |                   |                   |                          |                       |                                                                                                                 |
| Darts                             |                   |                   |                   |                          |                       |                                                                                                                 |
| Dominoes                          |                   |                   | 1,000.00          |                          |                       |                                                                                                                 |
| Fire Service                      |                   |                   |                   |                          |                       |                                                                                                                 |
| Football - CIFA (focus sport)     | 86,000.00         | 66,623.00         | 65,098.00         |                          |                       | Annual \$58000; Coach salary \$7098                                                                             |
| - Districts                       |                   |                   |                   |                          |                       |                                                                                                                 |
| - Shell/Carib. Cup/hosting        | 35,000.00         |                   |                   |                          |                       |                                                                                                                 |
| Golf                              |                   |                   |                   |                          |                       |                                                                                                                 |
| Netball (focus sport)             |                   | 30,000.00         | 30,000.00         |                          |                       |                                                                                                                 |
| Olympics - General                |                   |                   |                   | 10,000.00                |                       |                                                                                                                 |
| - overseas games                  | 75,000.00         | 62,000.00         |                   | 70,000.00                |                       |                                                                                                                 |
| Sailing                           |                   | 10,000.00         |                   | 10,000.00                |                       |                                                                                                                 |
| Softball                          |                   |                   | 10,000.00         |                          |                       |                                                                                                                 |
| - Little League                   | 50,000.00         | 50,000.00         | 50,000.00         |                          |                       |                                                                                                                 |
| Special Olympics                  | 15,000.00         |                   |                   |                          |                       | Granted 1999                                                                                                    |
| Squash                            |                   | 2,000.00          |                   |                          |                       |                                                                                                                 |
| Swimming (focus sport)            | 10,000.00         | 10,000.00         |                   | 6,740.00                 |                       |                                                                                                                 |
| Martial Art Association           |                   | 3,000.00          | 5,250.00          | 10,000.00                |                       |                                                                                                                 |
| Tennis                            |                   |                   |                   |                          |                       |                                                                                                                 |
| Volleyball                        | 800.00            | 30,000.00         |                   | 30,000.00                |                       |                                                                                                                 |
| Misc. Sporting Organisations      | 1,000.00          | 2,000.00          | 700.00            |                          |                       |                                                                                                                 |
| Scholarships - Full & Partial     |                   |                   |                   |                          |                       | 98 - \$24727.28; 99 \$14028.00; 2000 \$28403                                                                    |
| Sports Awards & Sports School     | 421.89            | 3,721.00          | 42.99             |                          |                       |                                                                                                                 |
| <b>TOTAL GRANTED:</b>             | <b>370,321.89</b> | <b>369,490.00</b> | <b>250,590.99</b> | <b>136,740.00</b>        |                       |                                                                                                                 |

\*\*Payments for 2000 end of year were paid in 2001

(P.Q. 43, 29 MARCH 2001)

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**30 MARCH 2001**  
**10.19 AM**  
*Twelfth Sitting*

*[Prayers read by the Third Elected Member for West Bay]*

**The Speaker:** Proceedings are resumed. There are no announcements or messages this morning.

Moving on to item number 3 on today's Order Paper, Questions to Honourable Ministers and Members of Government.

Deferred question number 21 standing in the name of the Third Elected Member for George Town.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 21**

*(Deferred on 19<sup>th</sup> and 26<sup>th</sup> March 2001)*

**No. 21: Dr. Frank S. McField** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration why it was necessary to have a Queen's Counsel, instructed by the Attorney General acting for Government, in the Quarry Products case in 2000 but not in the Hyatt Regency Hotel gratuity case in 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** The general rule relating to the conduct of prosecutions by the Attorney-General's Portfolio is that all cases are prosecuted by lawyers within the Department.

There are, however, instances where it is considered necessary, or desirable I may add, to instruct outside counsel to conduct prosecutions on behalf of the Crown. However, such instances are extremely rare.

One such instance had to do with the recently concluded Quarry Products prosecution. It was necessary to instruct outside counsel for at least three reasons:

1. Because of the inextricable civil aspect to the case where it was considered necessary that not only was it in the public interest to mount a criminal prosecution, but also it was necessary for Government to be compensated civilly by way of royalties for previous mining operations. This latter course requires long and tedious legal negotiations and, therefore, perhaps best handled by someone outside who could give it undivided and impartial attention.

2. By the time the matter reached a stage where it appears that prosecution was imminent, several senior officers in the Portfolio had been at some stage involved with the matter. It was, therefore, considered necessary to have someone from outside taking conduct of the matter.

3. Similarly, as far as the criminal prosecution is concerned, if the matter was to proceed to a trial it would have posed serious conflicts because at least one senior officer in the Portfolio would have been a potential witness in the matter as a result of advice that he had previously given together with a former Governor, both of whom the defence intended to summon.

It would, therefore, be inadvisable and inappropriate to have someone from the Portfolio prosecuting a matter in which a colleague would be testifying.

None of the above-mentioned considerations were present in the Hyatt prosecution and accordingly, it was in order to have the matter prosecuted from within the Portfolio.

**SUPPLEMENTARIES**

**The Speaker:** Supplementaries, the Third Elected Member for George Town.

**Dr. Frank S. McField:** Could the Honourable Second Official Member say if there were any considerations in the Hyatt prosecution?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** The supplementary question seems to be whether there were any considerations. I am not entirely clear but I will try to answer to the best of my ability. Perhaps, the Honourable Member might clarify if he wishes and I will try to give a more focused answer.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Would the Second Official Member agree that the considerations which he has pointed out with regards to the Quarry Products case are not the only considerations that are made when the Government is considering the strategy with regards prosecution?

If so, what were the considerations that were made with regards to the Hyatt case that would have suggested it was not necessary to hire someone from outside the island?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** In an earlier answer, I referred to the additional issues in relation to the Quarry Products matter: namely, the civil aspects — namely the involvement of senior personnel from within the Government. The following, indicate the basis upon which these matters are considered.

First of all, the basic premise is whether there is sufficient evidence to persuade the prosecuting authorities, who are not the Government, (if I may be permitted to say), that there is a reasonable prospect of a conviction and secondly, whether it is in the public interest to bring a prosecution. These are matters which the Laws of the land impose upon ultimately myself in respect of Section 16(a) of the Constitution as to whether to bring or undertake prosecutions.

I may say of course that in the ordinary course of events many of these matters are delegated as the Constitution permits. Indeed that is why the advice of the Solicitor General on these issues, who is as you will readily understand an experienced prosecutor, relied upon considerably by me. Jointly, we take these decisions.

Thank you, Mr. Speaker.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I guess the Second Official Member understands that I am suggesting that the Hyatt Regency prosecution case was not high on the priority list. I am now going to ask if the Legal Department was in the position to provide the expertise necessary in this case.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, yes.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** If so, what went so terribly wrong?

**The Speaker:** I think he is asking for an opinion. You may give it if you wish, Honourable Second Official Member.

**Hon. David Ballantyne:** I would prefer, if I may, to answer that part in the best way I can by seeking permission to Table the ruling of the Court in relation

to the matter which sets out the Courts reasons for declining to deal with the balance of the charges.

**The Speaker:** So ordered.

**Hon. David F. Ballantyne:** I am obliged. If appropriate I can and will make reference to the content of that ruling.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I know we are dealing with labour because no other Member will get up and ask questions. Mr. Speaker, perhaps the Second Official Member, since he is being so helpful here, would say if possible at this time what the Government intends to do in regard to the court's decision.

**The Speaker:** Again, this is outside the ambit of the original question, but if you wish to answer, you may.

**Hon. David F. Ballantyne:** Insofar as I am able to speak for Government on the matter, I believe the Government has already accepted a motion to review the provisions of the Labour Law. If I am right in saying that, it would be my view that the issues that are raised in the ruling should form part of the review of the Labour Law. There are certain views that my colleagues and I within the Legal Portfolio have about the operation of it, and some of the practical difficulties that have been encountered. It would be my view that the positive way forward in relation to the whole matter would be to input these views into that review process in order to provide a more effective scheme for the administration of such issues.

**The Speaker:** The Second Elected Member for Boddin Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, as best as I can understand, for the various reports done on this case the court ruled that the case was brought due to time. Can the Honourable Member say how is it that no one seemed to realise that that would have been an impediment in this case prior to taking it to court at the time it was taken?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** The ruling of the Court was indeed to the effect that these charges were considered to have been brought at a point in time considerably after the time at which evidence sufficient to justify the bringing of charges was available.

I can give you the opinion which I formed myself, if it will assist understanding this: namely, that the issue of the sufficiency of evidence, when it arose,

was not questioned until the matter came before the Court. It was brought on the basis that the interpretation put on the relevant provision of the Labour Law was to the effect, both by the Director of Labour and those advising, that all relevant evidence in terms of reports concerning the payment of gratuities were required to be in before there was a complete picture which would justify the foundation of charges. Among the documents which have been produced (it may be of interest to Members of the House) is a schedule of the date of reports and the date at which they were received. I believe that might make interesting reading.

I will give you an example, if I may, just to illustrate my point: Gratuity reports relating to the period 19 December 1994 to 12 February 1995 were received on 25 October 1999, according to the information provided by the Director of Labour. Reports relating to 1996 were received on 13 March 2000. I think you can begin to see some of the practical difficulties that arise here.

We do have one or two suggestions as to how to alleviate that difficulty, but it is very clearly caused by the six-month rule and the fact that the Law talks about requiring all gratuities to be paid. In order to be sure that you know about all gratuities, you have to have comprehensive information in the form of reports so that my colleagues and I ... the Solicitor General and I, are of the view that perhaps this House may want to consider extending the period of time in which reports may be adduced before the Court, perhaps having a five-year limitation period in which reports would be admissible as a basis for bringing proceedings.

The danger is that if you simply adduce evidence relating to one finite period of time, it is quite possible that gratuities might subsequently be paid quite properly, therefore, you cannot really tell. There is a real conundrum in all of this because of the scheme of the Law. You cannot really tell without having full information. I believe that is the basis upon which the Director of Labour and those advising him were proceeding.

That is one suggestion. We also would perhaps be of the view that the ordinary kind of prosecution comes to us in the form of a file for a ruling. In this instance, the Labour Department is able to institute proceedings itself. It proceeded rather differently. We would prefer to have the matter dealt with in the way the Legal Department is used to dealing with these issues so that we can see all the information at one time in one file and can give a view and advise on the issue. That is not the complete answer, however. I believe the law itself has to be examined to see how in practice these matters can be successfully enforced without running into this kind of difficulty.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, I wonder if the Member can say if at this stage there is any way at all that a prosecution could be brought, seeing that it appears the hotel did not even try to say that this large sum of money (over \$1 million) was owed in gratuities? That is such a terrible loss to the persons who should have received it. Is there some way that a prosecution might be brought at this time?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I believe that it is possible to learn from all of this and that it is feasible that prosecutions may be brought. However, I believe it would be preferable, that as the Law states, we are proceeding at the moment on the basis of regulations made under the Labour Law as to who is entitled and who is not entitled to receipt of gratuities. I am aware that there is a difference in the interpretation of those regulations as between certain employers and the Department of Labour. I think a good way forward might be (the law provides for this) for the Department of Labour to approve schemes for distribution of gratuities, which is the alternative to doing it by means of regulations. If that were done, it would be more readily established whether or not that scheme was being followed.

I believe there has been contact by correspondence between certain employers and the Department. I believe the Department would follow that up. So, it would put things on a much clearer footing if that were to occur, rather than having the uncertainty of different interpretations of regulations.

I do not pretend that there are any easy answers in this. I do think, however, that in the interest of good relationships between employer and employee, government and employers and the community in general, if I may say, that the forum in which these matters are dealt with might be reconsidered. Given that those claiming entitlement to gratuities are looking to be compensated as appropriate. If a scheme is approved then they themselves will be able to tell more readily.

Another issue is whether there is a case for having these matters ventilated not necessarily before a court in the first instance, but perhaps before some kind of labour or industrial tribunal where individuals would have the ability to deal with these issues or be represented.

There are a number of ways forward. I think what I am trying to suggest is that there are areas of uncertainty that need to be clarified. One way in which to do that is to have schemes approved by the Department of Labour which can then be monitored.

**The Speaker:** Two additional supplementaries.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** I would like to thank the Honourable Second Official Member for his clarity.

Can he say if Government will initiate the move to bring amendments to the relevant Laws in order to have a correction in the situation, or will that wait for the review process?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Government's position would be determined I think by the Minister responsible, to whom I will defer on the matter. We will act on any appropriate instructions from the Minister as to timing. It would be a judgment as to whether it should be done as part of the overall review. If there are certain things that can be done to clear up any ambiguity in regulations, they could be dealt with earlier.

The primary point needs no amendment to regulations or to the Law. That is to use the existing law to approve schemes under that Law and to allow the Department of Labour to determine whether those schemes are being complied with and to deal with any issues from employees.

**The Speaker:** Final supplementary, the Third Elected Member for George Town.

**Dr. Frank S. McField:** Thank you. I would like to get a little more clarity on that point. The Second Official Member is saying that the Labour Department needs to approve the schemes in order to have more control in regard to the paying out of gratuities. Has he made that recommendation to the Labour Department or the Minister yet?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I do not think I am required to make that recommendation because I think the Director of Labour is aware of this by virtue of correspondence on behalf of various employers. It is a live issue right now.

**The Speaker:** Moving on to question 45, standing in the name of the Third Elected Member for George Town.

#### QUESTION NO. 45

**No. 45: Dr. Frank S. McField** asked the Honourable Second Official Member, responsible for the Portfolio of Legal Administration, if the Legal Department was at any time asked by the Honourable Minister for Human Resources, or the Director, to hire an experienced Queen's Counsel to represent the Labour Department in the recent case before the Courts with Hyatt Regency Hotel.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** The Portfolio was requested by the Honourable Minister of Education, Human Resources and Culture to be assured that the Human Resources or Labour Department will be represented by *experienced, capable and "robust"* counsel in the Hyatt Britannia Corporation Ltd. prosecution.

#### SUPPLEMENTARIES

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I am just asking if the Second Official Member might be able to help me with some of these definitions: "*robust*" counsel. What would his interpretation have been at that time?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I have confidence in all the members of my portfolio that they fit the definition contained here. We take care in who we hire. We take care to ensure they have the requisite qualities. We take care to ensure that they are assigned to cases appropriately. So that I will try to answer all three parts of the definition, if I may be permitted, by saying that our view is that this definition was fulfilled.

We are also of the view that the issue decided by the Magistrate with whose findings we do not necessarily accept in total but in general, we do. The scheme under this Law is a difficult one and we believe that the representation was appropriate to the case and indeed not just up to, but on top of it.

I would only add, if I may, that the Crown's job is not to win every case. Our job is to present the evidence. It was factual matter that was determined at the end of the day by the Magistrate as to when there was a sufficiency of evidence to bring charges and to justify them. So, it was not an issue of Law or competence. It was a matter of fact for the Magistrate and we respect the finding and we will work with that.

Thank you.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I know this question may be outside the scope but I guess I will have to ask it anyway. It is based on the Second Official Member's reply to that supplementary where he tried to explain "*robust*" regarding the members of his staff. He said he had confidence in them. If that is so, then I would like to know why do we see the Attorney General representing the Government in court?

**The Speaker:** I think this is somewhat outside but if you wish to answer you may.

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Why do we see the Attorney-General, Mr. Speaker, or why do we not?

Well, let me try and deal with that one in a “robust” and, hopefully, capable way. The Attorney General has the right of audience in all the courts. He relies substantially on his colleagues, in particular the Solicitor General and those in the Legal Department. I hope it will help to understand we are a team and I am a member of that team—not some arcane figure sitting on the fourth floor of the Glass House. Occasionally, I have been known to enter the courts and I am a court practitioner by training and by discipline.

I entered into the Quarry Products issue personally. I appeared at the culmination of that issue in order to explain personally to the court because I had taken that matter forward albeit with the assistance of outside counsel, for reasons I have explained.

I also appeared lately in a matter concerning the interpretation of Section 16(A) of the Constitution, which directly affects the powers exercisable by the person holding this position. So, we try to take a view. To my knowledge, I do not think I am excluded from the courts and of course my other responsibilities would prevent me from engaging in lengthy proceedings. I am going to do it as and when I think it is both appropriate and necessary. I can assure you, if assurances were needed, it implies no lack of confidence in my colleagues, in fact, quite the reverse.

Thank you very much.

**The Speaker:** If there are no further supplementaries, we will move on to Question 46 standing in the name of the Third Elected Member for George Town.

#### QUESTION NO. 46

**No. 46: Dr. Frank S. McField** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration if the Legal Department advised the Labour Department at any time in 1996, that it would be difficult, if not impossible, to prosecute under Section 32(2) of the Labour Law due to the fact that documents listing gratuity payments were not by themselves admissible as evidence, and, if so, is this the reason that charges against the Hyatt Regency were not brought before February 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Speaker. The answer to this question is in two parts:

**Part I:** It is correct that in October 1996, the Director of Labour was advised by Crown Counsel in the Legal Department that: “It would be difficult, if not impossible, to successfully prosecute under Section 37(2) of the Labour Law due to the fact that the documents, by themselves, are not admissible as

evidence under the Evidence Law, or at Common Law for that matter.

In fact, as a matter of law, the documents are admissible as evidence pursuant to the provisions of the Labour Law itself, see Section 81 of the Labour Law (2000 Revision).

Unfortunately, this is a fact that was overlooked at that time by the Crown Counsel concerned. However, I would say, as the answer does, that Crown Counsel did not, however, advise that the matter should not be proceeded with. In fact, he further advised the Director that: “**I understand from our recent meeting**” . . . “**that there is an ex-employee of the Company**” . . . “**who has knowledge of the unlawful distribution and would be willing to testify in court, but there is no statement recorded from that person at present.**”

“**In the circumstances, I would advise that you refer the matter to the Commercial Crime Branch of the Royal Cayman Islands Police (RCIP) for investigation since they would have all the necessary resources to gather evidence.**”

“**Your documents are returned herewith.**”

It follows, therefore, Mr. Speaker, that the Director of Labour was expressly advised by the Legal Department to refer the matter to the RCIP Commercial Branch for them to investigate and gather the evidence.

The Legal Department is unable to say why he did not immediately seek the assistance of the police as advised. However, we do know that it was not until May 2000 that he eventually enlisted the assistance of the RCIP, an Inspector from the Commercial Crime Branch.

I would like to add at this point that I believe that is not intended to be a criticism of the Director of Labour but it is based on the premise that all of the documents were needed. As I have indicated to you, not all had been received until the early part of 2000.

**Part II:** The Legal Department is unable to say whether or not the advice from Crown Counsel was the reason for charges not brought before February 2001 by the Director of Labour.

The Director of Labour, his Deputy or Labour Inspector, has the power under the Labour Law to institute criminal proceedings for any offence and may appear before the Summary Court to conduct the prosecution in respect of any such offence. See section 71(2). Accordingly, the Labour Department does not have to rely on the Legal Department to institute proceedings.

On the question of timing, the Director of Labour in a written statement to the police dated 7 June 2000 for the Court proceedings stated that: “**As a result of numerous allegations by the service employees of Hyatt Regency Grand Cayman, I initiated a Department of Labour audit of Hyatt’s gratuity records in or about June 1999. Preliminary investigation revealed not only that a significant number of monthly reports had not been**

submitted by Hyatt, but that most of those reports submitted were not in the approved format.

“Furthermore, it was apparent that a large number of employees of managerial level were sharing in the distribution of gratuities. I, therefore, took advice from the Legal Department and wrote to the operator of the Hyatt Regency on 23 June 1999 concerning the matter of employees at managerial level sharing in gratuities and invited comments and/or evidence to the contrary by 1 July 1999.”

The Legal Department is unable to say why no audit was initiated between 1992 and 1999 as the evidence tendered in Court by the defence shows that as far back as February 1992 the Director said that he had received complaints that management staff were being paid gratuities. When the Director of Labour sought the assistance of the Legal Department in drafting the charges, Crown Counsel enquired from him the reason for the allegations dating so far back. The Director explained to Crown Counsel that he had only received the gratuity records from Hyatt in March 2000.

The Legal Department has no reason to question the accuracy of this representation by the Director of Labour. The Legal Portfolio is a prosecuting agency for some criminal matters. It does not investigate offences. We act on instructions from the referring department, be they Police, Customs, Labour or Immigration.

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, the Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I guess you realise there should not be a supplementary here because he has been so thorough in his answer. Anyway, I would just like to briefly say that I thank the Second Official Member for his answers here. In his view can anything be done at this particular point and if it is an opinion then he does not have to answer it but he can seek to rectify some of these situations that we have here.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I approach this with a little diffidence because it is not really for me to enter into areas of policy. However, my experience would suggest that perhaps the relationship between employers and the Department of Labour would benefit from some of the matters that I have referred to before by approval of schemes. I believe we would all be a lot clearer on all sides, if fact in the arrangements that were in operation were fully understood by all concerned because it is quite plain and I do not mean to be wise after the event. Like

everybody else it is easy to look back with 20/20 hindsight.

Just to say that clarity is at the centre of all of this: clarity about what the Law means. Clarity about what arrangements are in place for payment of gratuities and anything that would help towards that, I believe, would be positive. We will be happy to contribute either in conjunction with the Director of Labour, or with the Minister concerned and with interested parties to try to produce a reasonable way forward here to avoid the necessity for coming into an adversarial position on these issues, if that is possible. I believe that litigation should be a last resort but it should be available, if necessary, to ensure that the rights of individuals are protected.

These are the only comments that I would be able to attend at this point in time.

Thank you, Mr. Speaker.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The Second Official Member has given a very comprehensive reply which I think works to the benefit of Members in this particular case. In his answer, it says that the Director of Labour, his Deputy or Labour Inspector has power under Labour Law to institute criminal proceedings for any offence and may appear in Summary Court to conduct the prosecution in respect of such offence.

The question is: Is this usual for someone who may not be a legal practitioner or have legal knowledge to take on such a role? Would it not be better if the Director of Labour thought there was a problem or a criminal offence to be prosecuted and that should be referred then to the Legal Department?

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

**The Speaker:** Before asking the Honourable Second Official Member to answer the question I would entertain a motion for the suspension of Standing Order 23(7) and (8) in order that Question Time can continue beyond the hour of 11 am.

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I move that the relevant Standing Orders be suspended so that Question Time can continue beyond 11 am.

**The Speaker:** Thank you.

The question is that Standing Order 23(7) and (8) be suspended in order that Question Time can continue beyond the hour of 11 am. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 23(7) & (8) has been suspended. Question Time continuing.

**AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** It really is not for me to say whether it is prudent or otherwise to have the power there. It occurs in Customs: Customs can bring prosecution, Immigration may do so, and the Director of Labour has been so empowered.

All that I would say is that as the replies have done, the Legal Portfolio contains a prosecution agency and we are very willing to take these matters on. In fact, the Attorney General has the ability to do that where someone else institutes proceedings he may take them over.

I would point out that the Director of Labour has discretion as to whether he brings the proceedings. If he would prefer that they would be brought by the Crown then there is nothing to prevent that from happening. The fact that the Director of Labour has the power does not impinge on the ability of the Crown to undertake these proceedings so that if that were his preference and I have already indicated that we would prefer to have a file for a ruling when it comes to forming charges. Therefore, we would be more than willing to undertake these matters on his behalf.

**The Speaker:** The Second Elected Member for Boddan Town.

**Mr. Gilbert A. McLean:** As a follow-up, the Member has said that similar power to prosecute is also given to Immigration and Customs. It is more for information for me and I dare say the House: Do officers of these departments actually prosecute or do they solicit the assistance of someone from the Legal Department to actually guide this in the Court for them? I am still at a loss, Mr. Speaker, to see why the people whose business it is to be in court and prosecute are not there. I am just wondering.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Well those whose business it is to prosecute, Mr. Speaker, are not "not there". Believe me, they are there all right—they are there at least five days a week. If we are referring to members of the Legal Department—

**Mr. Gilbert A. McLean:** I am thinking in relation to, for example, the case of Immigration, Customs or Labour.

**Hon. David F. Ballantyne:** Well, Mr. Speaker, many of the Customs and Immigration offences are statutory offences and are dealt with before the Summary Court. In fact, I think most of them are.

The position is that sometimes our advice is sought but sometimes not. For routine straightforward summary charges, it is not necessary. It would not be a good use of resources but we are a resource which is available for use in appropriate circumstances and we make ourselves available. We appear in the whole range of courts as you will understand—from the Grand Court, to the Court of Appeal, to the Summary Court, to the Youth Justice Court and we do not have unlimited numbers (about which you may hear more but this is not the occasion). Therefore, we have to allocate our resources to the cases that are referred to us. If there is a difficulty with a case or any unusual aspect of it, then that would be typically where it would be preferable but we really rely on the Department's concern to bring this to our attention if they have not already sought advice.

I genuinely am of the view that the preferred way to proceed is to assemble all the information and take advice at that point, at which time a decision may be made as to representation.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Thank you, Mr. Speaker. Would the Honourable Second Official Member say, notwithstanding the failure of the criminal prosecution in this matter, is it still possible for recovery of the unpaid gratuities to be pursued through civil proceedings before the Grand Court?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I am not aware of any impediment to the recovery of gratuities to which employees are contractually entitled. Therefore, notwithstanding the fact that these prosecutions were deemed to have been brought out of time that should not prevent recovery being made.

I would also say, if I may, that although the prosecution themselves did not result in convictions, I think there has been a benefit in the bringing of proceedings because issues have been ventilated and perhaps some deficiencies in the Labour Law identified which will help to produce a more viable arrangement in due course. There are things that we can do immediately to improve the situation.

Thank you.

**The Speaker:** The Second Elected Member for Boddan Town.

**Mr. Gilbert A. McLean:** Could the Honourable Member say if, the court in this case took any account of the fact given here in the answer on page 3, that



there seems to be an incredible length of time before the defendants responded with information to the Director of Labour? Is it the case that when an authority such as the Director of Labour asks for information, that persons from whom he requires it, can simply ignore it indefinitely? Is there no recourse in that particular regard?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** In answer to the first part of the supplementary I do not think that this specific issue of the difficulty of obtaining information was a primary focus of the ruling by the Honourable Magistrate. I can say to the Honourable Member that the Law itself contains the mechanism for enforcing the production of such report but it is by means of a criminal sanction. Criminal proceedings were instituted in this matter by virtue of failure to produce reports. They were taken to a point where the reports were forthcoming and they were discontinued because they had served their purpose at that point in time.

Unfortunately, the long day in the production of some of the information had the consequence that we now know of. So, there are mechanisms for ensuring compliance—they were utilised in this case but unfortunately at the end of the day, the period of time over which information became available was to the detriment of the Department of Labour.

I think like every other situation, if the experience is used positively it can be beneficial and I believe that is how one should look at this. I would preferably acknowledge that we all learn in these processes. It is important, however, that we have co-operation in this matter and that we try to avoid unnecessary confrontation. But the Law does allow enforcement should that prove to be required.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I wonder if the Second Official Member can tell this Honourable House, now that that case is behind us and we lost miserably, if the Legal Department has given the Labour Department a legal advice on how they can proceed in the future, to prevent any of the other institutions doing this and prevent the delay so that they can be prosecuted if they do not distribute the gratuity properly?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, naturally, on the occurrence of an event such as this, I caused enquiry to be made and I have a report available to me which details some of the chronology and some of the reasons why the Magistrate in fact made her finding.

I appreciate the view that may be taken of this due to the words that were used. I do not share that position, in the sense that I do not believe that this was wasted. On the other hand, I believe that, as I said earlier, the Crown's task is to present the evidence and if it should have been presented earlier so be it.

I believe, however, that everyone will have learned something about the Labour Law. I would invite Members here to look at that Law and to find a relatively speedy way in which to try to make it more workable, if that means amending it as I believe it may do. The difficulty is—if I can just try and capture it for you—with the six-month rule, it means that the circumstances coming to your attention justifying the bringing of proceedings have to be within six months of that information coming to your attention.

If you take only a snapshot of the gratuities that are paid and do not have the full picture, you do not necessarily have sufficient information upon which to base proceedings. However, I am not saying to you and I want it clearly understood, if I may put it as strongly as this, that I do not believe that there is an impediment to prosecutions. I think that in the light of the ruling that has been made we will give appropriate advice to the Department of Labour and if necessary, we will undertake it on their behalf.

So you should be assured as always that our intention is to uphold the Law. In fact, I am advised that the view that has been expressed by the Legal Department through the Solicitor General to the Permanent Secretary together with the Director of Labour and preferably someone from within the hotel industry, is that they should get together and formulate some proposals. That is, to resolve the apparent conflicts in the regulations, to which I referred and also to put together an approved scheme.

So I am saying that there is room for collaboration in all of this. I am saying that yes, there is room for improvement but we have to deal with the Law as we find it. If in practice it is proving difficult as it has, to gain all the information and present it within a timeframe laid down by statute generally, I would just point this out, the six-month rule comes from the Criminal Procedure Code, it does not come from the Labour Law. The circumstances of the Labour Law perhaps, as those advising have suggested, might necessitate a slightly broader band of time within which to be able to gather information. If you do not have the facts upon which you can found your charge you are going to end up in difficulty of the other kind even if you do bring it in time.

However, I am not here to make any excuses on behalf of anyone. You are entitled to the information. I hope you have been given it and you can be assured that we will prosecute with vigour where it is necessary.

**The Speaker:** The Elected Member for East End, final supplementary.

**Mr. V. Arden McLean:** I thank the Second Official Member for that explanation. However, now that we have reached this point is it the intention of this Legal Department to make representation to Government to bring amendments to the Labour Law to this Honourable House in the not too distant future?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Well, in our capacity as legal advisors to government, we can naturally be expected to do that. I fully intend that some of the issues that have been highlighted in the relatively recent report that I have received, will be drawn to the attention of the Government. Positive suggestions for a more viable arrangement will be made with a view to trying to produce a scheme that will be clear and workable in everyone's interest.

**The Speaker:** Moving on to Question number 47 standing in the name of the Second Elected Member for West Bay.

#### QUESTION NO. 47

**No. 47: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Health and Information Technology how many Caymanians have resigned from the Computer Services Department in the past three years.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Over the past three years up to 15 March 2001, 11 Caymanians have resigned from the Computer Services Department. Of this number, seven had completed tertiary level education.

- Four Permanent and Pensionable (P&P) Caymanians left for the private sector;
- One P&P Caymanian on probationary terms left for the private sector;
- Three P&P Caymanians transferred to another government agency;
- One P&P Caymanian took unpaid leave, left for overseas training and never returned;
- One local contracted Caymanian left for the private sector;
- One temporary contracted Caymanian left for the private sector.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say if there was any follow-up in regard to the seven

Caymanians who completed tertiary level education as to why they were leaving? I want to remind the Minister of the answer from yesterday, which showed numerous senior level posts filled by non-Caymanians.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe that the direct answer to that supplementary would be that the individuals in question left because of a higher remuneration in the private sector. This remuneration was significantly higher than what they were receiving in government. That was the main reason.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Honourable Minister say at what level were those 11 Caymanians that left? Can he also state if they have been replaced by Caymanians?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe that answer can be better given in question 49. I have made provision for the answer there. However, I would just like to say to the second part of his question that six of these individuals were replaced by Caymanians, one was replaced by a Jamaican married to a Caymanian; two have just recently left the service and have not yet been replaced and two were replaced by expatriates.

**The Speaker:** Are there any further supplementaries? If not, we will move on to question 48, standing in the name of the Second Elected Member for West Bay.

#### QUESTION NO. 48

**No. 48: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Health and Information Technology how many couples are working in the Computer Services Department and are there any instances where one mate is supervisor to his/her partner.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** There are four couples working in the Computer Services Department; no spouse or mate directly supervises his or her partner.

I believe it would be helpful if I also gave the following information to the Honourable Member. One couple works in the technical support group, one as a project manager and the other as junior administrator. However, they are on different teams and the junior

administrator reports to a different supervisor, or manager. Employees sometimes work on crossed scheme projects, so it is possible that on rare occasions the junior administrator might rely on his spouse for advice and direction. However, no spouse is responsible for performance targets, reviews or assessments of their partner.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say what the formal policy is in regard to married, or otherwise, couples working within the same area?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe I just gave that information, but I will repeat it. Employees sometimes work on crossed scheme projects, so it is possible that on rare occasions the junior administrator might rely on his spouse for advice and direction. However, no spouse is responsible for performance targets, reviews or assessments of their partner. That is the general policy within the computer services department.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I think I need to rephrase the question. I was talking about the hiring policy in regard to married couples, not after they get into a department, but before. What is the policy in regard to hiring couples within the same department?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** My advice is that when interviews are being done that the Computer Services Department attempts to get the best qualified people available. It is on this basis that recruitment is made, not merely if individuals are married but to try to get the best qualified person.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Can the Honourable Minister say if during the interviews and hiring process the husband and wife teams were hired together? Or was it noticed afterwards that hiring the spouse of someone already hired was going along the path of getting the best people for the Department?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** My understanding is that no, these individuals were not hired together initially.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I appreciate the answers given to my two previous questions; however, I still am not clear on what the policy is in regard to hiring spouses. There is an obvious conflict and the public needs to know the policy in regard to hiring spouses in the same department.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** My advice on this, as I said earlier, is that the policy for hiring, generally, is that the department attempts to find the best individual available for the job, be they single or married individuals. I think I previously mentioned that none of these couples were hired together, they were hired separately.

Since this is a matter for Personnel, I would ask the First Official Member to perhaps answer this matter in writing. I believe I have given as full an explanation on this as is available at present.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** While we await an answer from the Honourable First Official Member, I know the Minister just recently took over responsibility for that department, but I wonder if he can state whether it is good policy or practice to employ such a high percentage of spouses or mates in a department. I think there were some 40 or 50 members in that section, somewhere around 10 percent. That seems like a high percentage of mates in that department. Is that acceptable, or in their opinion good practice?

**The Speaker:** I believe that is outside ... and you are asking for an opinion. If the Honourable Member wishes to answer, he may.

**Hon. Linford A. Pierson:** I was going to suggest that it would be expecting me to express an opinion as to whether it is a good policy or not. However, as I said earlier, our main concern is to equip the department with the very best talents available. This has been the policy of the Department, including the married couples in question.

**The Speaker:** Moving on to question 49, standing in the name of the Second Elected Member for West Bay.

## QUESTION NO. 49

**No. 49: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Health and Information Technology how many Caymanians have been sent to obtain a tertiary education and returned to the Computer Services Department and what was the length of time each spent in the Department.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Before I answer this, I would like to say on the last question that I have been subsequently informed that three of those four couples were employed on a temporary basis by the Director of Computer Services himself, and that this did not go through the Personnel Department. It was done departmentally. So the question that I suggested would be submitted to the Honourable First Official Member would no longer be relevant.

I have no objection to the Member asking a question on that—

**The Speaker:** We are now dealing with question 49, please answer it.

**Hon. Linford A. Pierson:** In answer to question 49, Computer Services was a section from the early 1980s and only a department as of 1 January 1998.

However, to the best of our knowledge, there were, over this timeframe, a total of 16 Caymanians sent by Government and one assisted by Government in the last year of college to obtain a tertiary education who returned to Computer Services. The length of time each spent in Computer Services up to 15 March 2001 is as follows:

| <u>Staff Member</u> | <u>Length of time spent in Department</u>                                      |
|---------------------|--------------------------------------------------------------------------------|
| A                   | 2 months (now in private sector)                                               |
| B                   | 1 year 6 months (overseas)                                                     |
| C                   | 1 year 7 months (to another gov. agency)                                       |
| D                   | 2 years 4 months (to another gov. agency)                                      |
| E                   | 2 years 11 months (still w/dept.)                                              |
| F                   | 2 years and 11 months (still w/dept)                                           |
| G                   | 2 years and 11 months (private sector)                                         |
| H                   | 3 years and 4 months (still w/dept)                                            |
| I                   | 3 years and 7 months (still w/dept)                                            |
| J                   | 6 years 3 months (still w/dept)                                                |
| K                   | 11 years 8 months (includes 2 years and 6 months study leave—still w/dept)     |
| L                   | 9 years 3 months (to another gov. agency)                                      |
| M                   | 12 years 1 month (includes 1 year 11 months study leave—still w/dept)          |
| N                   | 12 years 4 months (includes 1 year and 9 months study leave—to private sector) |
| O                   | 10 years 9 months (last year only assisted—still w/dept)                       |
| P                   | 13 years 9 months (includes 1 year and 11 months study leave—still w/dept)     |
| Q                   | 16 years 4 months (includes 2 years and 1 month study leave—still w/dept)      |

## SUPPLEMENTARIES

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** My question is, what was the level of the 11 Caymanians who left the department within the last three years?

**The Speaker:** Would you repeat that? I am not following you.

**Mr. Cline A. Glidden, Jr.:** The intention was to obtain what level the employees were at when they decided to leave the department. When I asked the question earlier the Minister indicated the answer was forthcoming.

**The Speaker:** My ruling was that we were on question 49, so that question fell away. Are there any further supplementaries?

**Mr. Cline A. Glidden, Jr.:** For that particular question the Minister indicated that the answer was forthcoming in his answer to question 49.

**The Speaker:** We shall not discuss that further. I refer you to the *Hansard*. It was said that the Honourable First Official Member would not be called to answer as it was appointed directly by the Director.

**Mr. Anthony S. Eden:** With all due respect, Mr. Speaker, he is referring to a different question. You may want to take a pause and see. To the best of my knowledge I am sure the Minister will be able to refer to this . . . he was referring to a different subject altogether.

**The Speaker:** We shall continue with question 49. I ruled on that and I am not going back. There is no further discussion on that particular question. If there are no further supplementaries we shall conclude Question Time.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister advise the Members of this House if those Members of staff who transferred to other government agencies were transferred as support officers within the computer realm? Are they performing computer services for those other departments?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** My understanding is that these individuals are still involved in the IT field.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say at what level the members of staff were when they left for the private sector?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** This information is not readily available, but I would be pleased to have it provided to the Member in writing.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, the Minister provided details as to where each of these people currently are—either with the Department or transferred, or gone on to the private sector—in his answer. Can the Honourable Minister say of the people who went on to the private sector how many left for career advancement such as a promotion outside in the private sector?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is my understanding that in all cases those individuals leaving the Computer Services Department left for higher remuneration. In one particular case that I can recall, one individual was being paid I think \$30,000 per year in the Computer Services Department. He left for the private sector on an offer of \$50,000 per year to perform the same services, an increase of 66 percent. So, you can see that we have an uphill battle in regard to keeping some of our very skilled individuals at that salary level when they are being offered such high salaries from the private sector.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister say indicate what portion of these employees who received tertiary education were sponsored by the Education Council and carrying out a government bond?

**The Speaker:** The Honourable Minister for Health and Information Technology

**Hon. Linford A. Pierson:** Although this information is not in the answer, I had read it in when I answered the question. A total of 16 Caymanians sent by Government on scholarships, one was assisted in the last year of college.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** In a previous answer the Minister mentioned certain ones leaving for career advancement. Looking at the information we received a few days ago about the various posts available in that section, can the Honourable Minister say whether it was investigated to see if there was any possibility for those individuals to obtain career advancement within the computer section? Since Government assisted them with their tertiary education at what I would consider to be a significant expense.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** My advice is that most of these individuals, who would normally have been upgraded, left before the period they could have received such promotion. They were offered positions in the private sector and left before that upgrading could have been done.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** From the information provided, it would appear that the Government Computer Services Department and the Education Council have been utilised as a training mechanism for the Private Sector.

Has the Minister reviewed the salary scales of the computer services, or is a process in place to ensure that not only the bond from the Education Council is used as a method of recruiting, but that the salary itself and other benefits would be the attracting feature?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe, if I understand the Member correctly, he is asking what can be done to prevent Caymanians from leaving. The answer would be to increase funds for training within the Department, but mainly to increase the remuneration as the private sector offers a much higher remuneration for these same individuals than government is able to pay.

I should also say that this is not peculiar to the Computer Services Department. This is what obtains in relation to a number of professionals coming back with qualifications; they are attracted to the private sector for the same reason.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister confirm that the Computer Services Department was subject to the recent re-grading exercise that undertook to compare the government salary scale with that offered in the private sector?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe the answer is that the re-grading applied generally to the Civil Service. Even at that, the private sector is in a position to offer significantly higher remuneration than the Civil Service. I do not really feel that the Civil Service will ever be in a position to offer the same level of remuneration as the private sector.

**The Speaker:** The Second Elected Member for West Bay: two additional supplementaries.

**Mr. Rolston M. Anglin:** The Minister mentioned a person getting some 66 percent increase in salary, which is a significant increase. However, one would think that other people in the department would be offered significant increases as well. Can the Honourable Minister say then why it is that despite the money being out there, there still seems to be quite a few staff members who have remained?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** This is again asking me to express an opinion. My opinion would be that it is through loyalty why many of the staff remain in many of the Government departments, especially the professionally qualified staff. When in fact in the private sector they could obtain significantly more than they receive in the government service.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** At the risk of going outside the ambit of this question, it appears that it is an expensive undertaking to educate and train computer technicians to only lose them. Have the Minister and the Department reviewed the possibility of outsourcing the computer services?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe that the answer to that is that if the private sector is offering significantly more than the Government department, it would hardly be less expensive to outsource to the private sector. It would not, in our opinion, be less costly to outsource most of these positions. There are areas where this may be possible, but generally, this would not be advisable.

**The Speaker:** That concludes Question Time for today.

Moving on to Government Business, Motions, in accordance with Standing Order 86, I would ask for a motion to suspend Standing Order 24(5) in order that

this Motion may be brought forward without the customary five days' notice.

The Honourable Minister for Health and Information Technology.

### **SUSPENSION OF STANDING ORDER 24(5)**

**Hon. Linford A. Pierson:** Mr. Speaker, I move the suspension of Standing Order 24(5) to allow the Government Motion to be taken without due notice.

**The Speaker:** I shall put the question that Standing Order 24(5) be suspended to allow the Government Motion to be taken without due notice. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 24(5) SUSPENDED TO ALLOW THE GOVERNMENT MOTION TO BE TAKEN WITHOUT DUE NOTICE.**

**The Speaker:** Government Motion No. 3/01 Advancement Expenditure prior to the Appropriation Bill 2001.

The Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development.

## **GOVERNMENT BUSINESS**

### **MOTIONS**

#### **GOVERNMENT MOTION NO. 3/01**

##### **ADVANCEMENT EXPENDITURE PRIOR TO THE APPROPRIATION BILL, 2001**

**Hon. George A. McCarthy:** I beg to move Government Motion No. 3/01 Advancement Expenditure prior to the Appropriation Bill, 2001, which reads:

**"WHEREAS Government Motion No. 3 (of 2000) advanced to the Government the sum of \$69,521,439 and Motion No. 4 (of 2001) advanced a further sum of \$18,780,993 to meet needs incurred by the Government prior to the passing of the Appropriation Law;**

**"AND WHEREAS a further sum of \$62,177,839 is required to continue the operation of Government:**

**"BE IT RESOLVED that this Honourable House, acting in accordance with the provisions of section 8(1) of the Public Finance and Audit Law (1997 Revision), in advance of an Appropriation Law, authorises further expenditure of CI\$62,177,839 for the services of the Government in respect of the 2001 financial year,**

**the sum to be charged on revenue in accordance with the Public Finance and Audit Law (1997 Revision) and to be used for the purposes detailed in the following schedule.”**

The amount of CI\$62,177,839 is broken down as follows:

| <b>2001 RECURRENT EXPENDITURE ADVANCE</b>                                   |                                         |
|-----------------------------------------------------------------------------|-----------------------------------------|
| <b>EXPENDITURE HEADS</b>                                                    | <b>(2<sup>nd</sup> Quarter release)</b> |
| <b>H.E. THE GOVERNOR</b>                                                    |                                         |
| H.E. The Governor                                                           | \$ 138,962                              |
| C.I. Audit Office                                                           | 158,263                                 |
| Judicial                                                                    | 914,501                                 |
| <b>PORTFOLIO OF INTERNAL &amp; EXTERNAL AFFAIRS</b>                         |                                         |
| Portfolio of Internal & External Affairs                                    | 1,002,062                               |
| Immigration Department                                                      | 1,102,859                               |
| Police                                                                      | 3,454,743                               |
| Prison                                                                      | 1,630,439                               |
| Personnel                                                                   | 643,311                                 |
| Legislative                                                                 | 530,073                                 |
| Broadcasting                                                                | 219,481                                 |
| Cayman Brac & Little Cayman                                                 | 1,116,915                               |
| <b>PORTFOLIO OF LEGAL AFFAIRS</b>                                           |                                         |
| Portfolio of Legal Affairs                                                  | 735,821                                 |
| <b>PORTFOLIO OF FINANCE &amp; ECONOMIC DEVELOPMENT</b>                      |                                         |
| Portfolio of Finance & Economic Development                                 | 5,945,456                               |
| Customs                                                                     | 1,140,716                               |
| General Registry and Shipping                                               | 533,764                                 |
| Statistics Office                                                           | 200,647                                 |
| Treasury                                                                    | 349,537                                 |
| <b>MINISTRY OF COMMUNITY DEVELOPMENT, WOMEN AFFAIRS, YOUTH &amp; SPORTS</b> |                                         |
| Ministry of Community Development, Women Affairs, Youth & Sports            | 3,236,152                               |
| Youth and Sports                                                            | 343,900                                 |
| Social Services                                                             | 3,031,277                               |
| <b>MINISTRY OF TOURISM, ENVIRONMENT &amp; TRANSPORT</b>                     |                                         |
| Ministry of Tourism, Environment & Transport                                | 971,345                                 |
| Fire                                                                        | 1,499,589                               |
| Tourism Department                                                          | 4,938,836                               |
| Environment                                                                 | 291,457                                 |
| <b>MINISTRY OF HEALTH AND INFORMATION TECHNOLOGY</b>                        |                                         |
| Ministry of Health and Information Technology                               | 481,062                                 |
| Health Services                                                             | 9,776,292                               |
| Substance Abuse Services                                                    | 190,723                                 |
| Computer Services                                                           | 828,677                                 |
| <b>MINISTRY OF PLANNING COMMUNICATIONS AND WORKS</b>                        |                                         |
| Ministry of Planning Communications and Works                               | 311,177                                 |
| Public Works Department                                                     | 2,312,730                               |
| Vehicle & Equipment Services                                                | 473,689                                 |
| Agriculture                                                                 | 708,686                                 |
| Environmental Health                                                        | 1,365,494                               |
| Mosquito Research and Control Unit                                          | 586,764                                 |
| Lands & Survey                                                              | 1,513,385                               |
| Postal                                                                      | 686,733                                 |
| Planning                                                                    | 451,872                                 |
| <b>MINISTRY OF EDUCATION, HUMAN RESOURCES AND CULTURE</b>                   |                                         |
| Education, Human Resources and Culture                                      | 2,174,853                               |
| Human Resources                                                             | 122,853                                 |
| Education                                                                   | 6,062,743                               |
| Total Recurrent Expenditure Advance                                         | \$62,177,839                            |

**The Speaker:** Government Motion No. 3/01 has been duly moved. Do you wish to speak to it?

The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As I mentioned earlier, Government Motion No. 3/2000 passed by this Honourable House on 15 November 2000, provided authorisation for expenditure to be incurred in respect of the first quarter of the financial year 2001 in advance of the Appropriation Law.

The authority, as provided by the Motion, will expire as at 31 of this Month. Therefore, as a Legislative Assembly is still in the process of debating the Appropriation Bill in front of this Honourable House, it is necessary to seek approval through this Motion for the continuation of expenditure on behalf of Government and to defray Government's ongoing operational costs. Hence, this Motion is being brought for consideration at this time.

As Members are aware, the sum of \$62,177,839 will be subsumed in the Appropriation Bill when that Bill is referred to Finance Committee. As you will recall, in the past year following a general election when the Appropriation Bill is being debated, normally this would be carried over into the next year in question, or the year in which the Budget approval is being sought.

The way this would be addressed is by way of advances or contingency warrants under section 22(1)(b) of the Public Finance and Audit Law. I should mention that that provision could have been used in this instance, but as you and Honourable Members will note, the Government has taken a decision that it will not seek to use contingency warrants unless occasions for such use are definitely urgent and unavoidable.

Section 22(1)(b) reads: **“Subject to subsections (2) to (4), where the Financial Secretary is satisfied that due to exceptional circumstances an urgent need has arisen for payment – (b) which cannot be deferred without detriment to the public interest, he may, by contingencies warrant under his hand, authorise the Accountant General to pay from public moneys an advance of moneys to meet that need.”**

This means that the Financial Secretary could upon the expiration of this Motion give approval by way of such contingency warrants for payment to be made until the Appropriation Bill was dealt with through the process of Finance Committee and following which it would be considered by this Honourable House and ratified. However, the route of seeking further approval allowed for under section 8(1) of the Public Finance and Audit Law by way of a resolution which is now being sought for under Government Motion—

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, on a point of order, Sir.

**POINT OF ORDER**

**The Speaker:** May I hear your point of order?

**Mrs. Julianna Y. O'Connor-Connolly:** Under Standing Order 37(1) is it correct for a Member to be anticipating a proposed amendment in the substantive debate?

**The Speaker:** I did not understand that in his presentation, but we do not anticipate legislation.

The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** I am aware that the First Elected Member for Cayman Brac and Little Cayman has an amending motion to this Government Motion now under consideration. I am mindful of that amending Motion. If the Member will consider carefully what I am doing; I am outlining an alternative procedure that could have been used other than bringing this further Motion to this Honourable House for approval, since we will be going into Finance Committee on the Budget.

I thought it would be useful for the benefit of this House to understand why the Government was now seeking to obtain further approval by way of this Motion rather than attempting to use other means as provided for under the Public Finance and Audit Law.

Thank you.

**The Speaker:** The Floor is open for debate.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I wonder if this would be an appropriate time for me to move my amendment?

**The Speaker:** A motion may be amended at any time. Please continue. I have also waived the two days' notice required for this amendment.

**AMENDMENT TO  
GOVERNMENT MOTION NO. 3/01**

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you.

I rise to bring a proposed amendment to Government Motion No. 3/2001, which reads as follows:

**"In accordance with the provisions of Standing Order 25(1), (2) and (3), I, the First Elected Member for Cayman Brac and Little Cayman, give notice of amendment to Government Motion No. 3/01 by - By adding at the end of the resolve the following words: 'and, notwithstanding section 8(1) of the Public Finance and Audit Law (1997 Revision), that the following schedule be referred forthwith to the Standing Finance Committee for its consideration.'"**

**The Speaker:** Is there a Secunder?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I beg to second this Motion.

**The Speaker:** An amendment to Government Motion No. 3/01 has been duly moved and seconded. Does the Mover wish to speak to it?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I believe I am correct in saying that this request set out in Government Motion No. 3/01 is the third such request for advance expenditure. Out of an abundance of caution let me say from the outset that I am not against authorisation of the expenditure for the second quarter, but I feel justified in saying that I do not approve of the method being used at this stage. I will attempt to say why in my contribution.

I believe that I can safely support it in light of the fact that we only have one day and one half before the commencement of the second quarter. However, this method now proposed by the new Government to bring in the interest of open and good government and the infamous word "transparency" is this sum of \$62+ million is being merely in my view rubber-stamped by this particular method; this will represent approximately one-half of the 2001 budget.

It is also my respectful view that this should not be the order of the day. This should only be used in very rare circumstances. It also represents a backdoor resurrection of Government Motion 3/90, which we all vividly remember, whereby it allowed the three Official Members to be placed in the untenable position of voting on the financial expenditure of this country.

When one takes into consideration that by virtue of our Constitution, the only Members in Parliament who have a direct responsibility, and indeed accountability to the electorate—who put us here to look after the public finances of the country—the new Government will have to decide whether or not they wish to use this method. Or if they wish to have the present situation of Official Members not being in a position to vote on such a substantial amount—50 percent of the 2001 Budget!

It is my view that if the new Government is of the view that this should happen, then bring the legislation to allow those Official Members to vote in Finance Committee. The irony this creates is that here we have the three Official Members voting on 50 percent of the Budget and I would assume that we would conclude the proceedings before we find ourselves with a fourth request for the third quarter. That would mean, in my view, that the three Official Members would then be barred under the present statutory arrangement from voting on the remainder of the Budget. That is, we all know that as the current position stands, they are not members of Finance



Committee, save for the Financial Secretary who sits as the able chairman of that committee.

I therefore submit that they would be barred because of not having the requisite *locus standi* and also because of the other justification of two, perhaps three of them being controlling officers in their own right now being asked to vote for 50 percent of the budget—yet barred from the other 50 percent. This cannot be a precedent any government would wish to set.

I also submit, based on the various arguments that I and other members of the Cayman Islands have been exposed to particularly since the election in November, that it is *the past government this, and the past government that . . .* and I can appreciate that any new government has that as one of its justifications. I also appreciate that there is no real new birth without its pain. May I respectfully submit that using this method is taking a quantum leap from the natural birthing process to that of a caesarean section, hoping to avoid the economic birthing pains here in this country.

I should also wish to remind Members of a statement (which I can go on record as saying was a good statement) which was recorded on Thursday 7 December [2000] in the *Caymanian Compass*, credited to the Leader of Government Business. He said, and I quote, “... that he wanted to hold Finance Committee at least once a quarter on a regular basis so that it did not seem like expenditure for the country was simply being rubberstamped.”

I agree wholeheartedly! With this amendment, I am giving him the opportunity to keep that promise in that he has another one and a half days to keep it! I believe the figures as presented by the Honourable Third Official Member do present an aggregate amount. The perhaps irrefutable presumption would be that in order to arrive at that aggregate sum, surely the request and justification as well as the smaller amounts making up the aggregate sum must be readily available within his finance department, so it should not create an undue hardship to call Finance Committee.

You see, Mr. Speaker, when we bring it in such a fashion, we involve the Official Members in voting in the expenditure of this country without the necessary legislation to do it as an order of the day, would amount to three times. However, it also puts the rest of us who have been duly elected by the voters in this country in a position where we cannot ask questions. In particular where my colleague from Cayman Brac and Little Cayman and I do not have a direct Executive Council Member forming a member of Finance Committee. We cannot actually break it down to see what is going on. When one looks at the request, there is no request for capital expenditure. We are here having to take the word that there is sufficient capital expenditure for Cayman Brac and Little Cayman to keep our men employed.

We, unlike most situations in Grand Cayman at PWD, depend upon our capital works because our men are paid from the wage salary. It would be reassuring to know that the Government is satisfied that there is sufficient capital already approved and existing to assist the situation in the Brac.

In requesting Finance Committee, I take full cognisance that time is of the essence. I should say for clarity that in calling for a meeting of Finance Committee I am not doing so to delay or put a hurdle but to ensure that when and necessary we will operate in a transparent government.

I know there will be criticism about the last government. Mr. Speaker, I was elected back in November with a mandate from my people to represent them and whether or not they cry “past government” until Jesus returns, I will not renege on that responsibility. Thank you.

**The Speaker:** The Floor is open for debate on the amendment to Government Motion No. 3/01.

The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, I never thought that I would hear a Member who just lost office get up and make that kind of plea in this Honourable House.

Listening to her, it seems she is touting financial prudence and what she calls the “right way” to do things. She says we are rubber-stamping; she has taken objection to the Official Members. We are not creating anything new.

#### POINT OF ORDER

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, on a point of order, Sir.

**The Speaker:** May I hear your point of order?

**Mrs. Julianna Y. O'Connor-Connolly:** It is my respectful view that the Honourable Minister is misleading the House in saying that I objected to the Official Members. In fact, what I said was that the Government must make up its mind as to whether or not the Official Members should be voting on the expenditure of this country or if they should become members of Finance Committee. There is a difference.

**The Speaker:** That is an explanation, not a point of order.

Please continue, Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** You know, even though she just left office, she forgets that she is not the Government. Based on her explanation, I do not think I need to say any more, but she was saying, that we

should not be using the Official Members. Mr. Speaker, from where I sit, we are not creating anything new. This has been done before. The Government has to continue while we are here debating and carrying on the work.

Now what they could do is shorten debate, stop politicking and get to Finance Committee and then we would not have to go this route. However, that is not their objective. What that Member seems to forget is that it is their management and she is part and parcel of the problem that we face. It was because of their management why this country is facing the financial position it is facing.

**"Management"** is not the right word. The right word for them is **"mismanagement."** While we are coming to the world saying this is what we need to spend to carry on the Government until the Budget is passed—and she knows that—what she did when she was in office with her partners at the time, was to use contingency warrants. Who did they use at that time to get those contingency warrants but the same three Official Members she is complaining about today—the First Official Member, the Second Official Member and the Third Official Member!

Now, what I would like to find out from them is whether or not they knew what those contingency warrants were for and whether or not they agreed. That is perhaps what they could tell this Honourable House. She should be ashamed of herself coming here and claiming financial prudence when they left such a mess. They used the same Members that they are complaining about, but to top it off, what I find about the undemocratic fashion of work of the Government of that time, especially with the two who are not here—

**The Speaker:** I would appreciate it if you would say that it is "your belief" that it was an undemocratic process.

**Hon. W. McKeeva Bush:** Mr. Speaker, I will say that, but from all indications ... I was a Member of the House. They closed the House down, knowing full well that they intended to have the kind of expenditure spending spree. Not one single elected Member of the House at that time knew anything about the expenditure; we just saw pouring and pouring and every one of them coming with their candidates, telling the world *'this is what we are doing for you.'*

This is not anything new. I would urge Members to give the Government a chance. You are going to have a chance to deal with it in any event in Finance Committee. I see no reason, as far as I am concerned, to support that request.

I do not think they are being genuine, Mr. Speaker and you cautioned me earlier to say "I believe this or that." I do not believe they are being genuine—they are up to something. They are hot under the collar about something else and they are using that as a stepping stone to get up there and talk

financial prudence when they were the ones who left the mess for us to clean up.

**The Speaker:** The Floor is open for debate; does any other Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you.

I rise to endorse the comments articulated by my colleague from Cayman Brac and Little Cayman, the First Elected Member for Cayman Brac and Little Cayman.

I have to say at the onset that I am disappointed that such an innocent and open Motion, so conducive to the political directorate will for openness and transparency, has been met with screaming and resistance from the Government spokesperson on this amendment.

I really hoped that we could have removed politics from this, but the Minister responsible for Tourism made a comment that "they" (referring to the Movers of this Motion, I assume) were part of the problem. I have to make this correction: I was not a part of the past Government—but he certainly was!

**Hon. W. McKeeva Bush:** Oh yeah? As a Backbencher!

**Mr. Lyndon L. Martin:** I agree, as a Backbencher for one part of the term, but certainly a Minister for the other part.

The amendment simply requests that the approval of an advance of \$62 million—that would bring the total amount approved on advance appropriation to 50.17 percent of the recurrent revenue of this country. This Motion simply puts it in Finance Committee. It does not in any way seek to delay the approval.

We have 35.5 hours left before the end of this quarter. As we are all well-paid representatives, I am here to give the commitment on my behalf and that of my colleague, that we are prepared to spend every minute of that 35.5 hours in hammering through this in Finance Committee to ensure that the good people that work in our civil service and the country relying on the services provided by Government are not delayed.

We are simply asking for an opportunity to sit in Finance Committee where we are not approving aggregates, we are given an opportunity to exercise the reason we are all here—to carry out and to care for the spending of the people's money. This would allow us to examine each figure to ensure these aggregates are in the interest of the country. This can only be achieved through Finance Committee.

The Minister of Tourism got up and said this was a problem brought about by the last Government. However, we are not talking about the last Government; we are talking about spending in the year 2001 that is related to expenditure for 2001. We

are simply asking that we put politics aside and do what is right for this country and allow us to go into Finance Committee and examine these figures in depth.

I point out that this \$62 million would bring the total advance appropriation up to \$156.478 million. If we assume that that 50 percent would also be expended over the remainder of the year, it would mean that we are approving expenditure greater than the recurrent revenue of the country. We are assuming that a loan bill will be passed to pay for the balance. That loan bill has not been brought to this House and that money is not available. So, we are being asked to approve a sum that would put this country's expenditure above the recurrent revenue without having a loan bill before us and approved to ensure there is money to pay.

The people of Cayman Brac and Little Cayman who elected the First and Second Elected Members for those Islands did not elect us to sit and warm our seats, and rubberstamp figures presented by Government. They elected us to represent their interests and to scrutinise expenditure of this country. That can only be achieved when Government Motion 3/01, requesting \$62,177,839 is put to Finance Committee that we can properly examine it.

Mr. Speaker, the Opposition to this amendment will argue that they do not want to delay funds going to the Civil Service. They will make the First Elected Member for Cayman Brac and Little Cayman and me out as making an attempt to delay these payments. I remind the Members of Executive Council that we are in this position because the Budget of this country has come to this Honourable House two weeks late. If their Budget had come in time, it would be reasonable to expect that we would have been through the debate process and possibly have approved it.

The Minister for Tourism suggested that what we should do is reduce the length of time of our debates. I hope that advice is not only limited to the Members of the Opposition, but also to his fellow team players, especially the Second Elected Member of his district and that he himself will also respect that as he is currently on the Floor debating the Motion.

I want to reiterate my colleague's view: We are not suggesting in any way that these funds not be approved; we are simply asking to exercise financial prudence in allowing this Honourable House to go into Finance Committee so that we can examine these figures.

I hope that this House will find it acceptable to make a small amendment to the substantial Motion. I give this amendment my support, and I give the country my undertaking to always represent their views and interests to ensure that the monies of this country are spent in a prudent manner. The only way we can do that is if we know exactly what we are going to be spending. We cannot write an open cheque without knowing the details as to where this money will be spent and exactly how it will be spent.

Thank you.

**The Speaker:** Does any other Member wish to speak? The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As indicated by the Government through the Honourable Minister of Tourism, the Government is not able to support this amendment to Government Motion No. 3/01. The Government, however, is cognisant of the views expressed by the First Elected Member for Cayman Brac and Little Cayman and the Second Elected Member for Cayman Brac and Little Cayman\_\_\_\_

**The Speaker:** May I interrupt you for a moment? Would you address that this is the amendment to Government Motion 03/01.

**Hon. George A. McCarthy:** I am speaking to the amendment, Mr. Speaker.

The Government is cognisant of the views expressed by the First Elected Member for Cayman Brac and Little Cayman and the Second Elected Member for Cayman Brac and Little Cayman. However, what needs to be borne in mind is that the procedure being followed, which allowed this Motion to be brought under section 8(1) of the Public Finance and Audit Law, is the appropriate procedure in order to address this issue.

The First Elected Member for Cayman Brac and Little Cayman pointed out that by approving this Motion, Government will have in place the authorisation to spend what amounts to one-half of the year's budget. That position has also been supported by the Second Elected Member for Cayman Brac and Little Cayman. Mr. Speaker, that would be a correct position. However, it is anticipated that given the expediency with which the Appropriation Bill is now being debated, together with the Throne Speech, that definitely the Appropriation Bill should be approved before the 30 June this year.

In addition, what needs to be borne in mind (and this is a practical situation we have to address), is that the First Elected Member for Cayman Brac and Little Cayman said that it would not pose a problem for the Portfolio of Finance to provide the details in support for the items set out in the schedule of Government Motion No. 3/01. That is correct.

However, if we were to go into Finance Committee on is the way it is now being suggested, we could not take a fraction of the items, or what relates to the Budget and debate that. It would be the entire Budget—every item in the Budget would be subject to that detailed level of scrutiny. If this is going to take place, then having to come back into this Honourable House for debate on the Appropriation Bill to continue, would mean that this matter would be debated twice.

If this is going to be debated twice, which will mean having to go through every item in the Budget itself; this would create an inordinate delay in the process. I think that would anticipate the situation as

outlined by the First Elected Member for Cayman Brac and Little Cayman, that there would be a likely need for a further motion to be brought to this House seeking approval. Obviously, under those circumstances, it is unlikely that the debate on the Appropriation Bill would be concluded prior to 30 June.

I also noted the concerns expressed by those two Honourable Members in terms of prudence of fiscal management. This is a situation being underscored by this Government and so far, as we have heard from the comments of Honourable Members... I know we are dealing with the amendment to the Motion, but from views expressed by Members that have spoken on the Appropriation Bill so far, everyone has endorsed the position of prudence in fiscal management.

I do understand the concerns that have been expressed by the two Honourable Members, but given the situation as now presented to us, by having this amendment in front of us and what needs to happen... I would recommend to Honourable Members that we go ahead and accept the Government Motion as presented. If it is a question of getting into Finance Committee on time in order to do a detailed examination of the items set out in the Budget document, the process of approving this Motion, continuing with debate on the Appropriation Bill will allow for that detailed review being sought by the First and Second Elected Members for Cayman Brac and Little Cayman to be obtained.

When we get into Finance Committee we will be looking at all of the subheads and the items comprising the subheads, and also commenting once more on the policy decisions that have been enumerated by the Government in order to support the budget as presented to this Honourable House.

What we have in front of us is not seeking to usurp or distort the process. I will not comment in terms of the role of the Official Members because I do not think it would be appropriate for me to offer a comment in that regard. I am talking about the process itself in that if we do not have in place the necessary approval on Monday... and I have taken note that the two Honourable Members said they are not objecting to the necessary approval to allow for ongoing expenditure or for the provision of Government services. If the process is not complete in terms of what we are now seeking to achieve through this Motion, it will mean having to use the provision of section 22(1)(b). This would not be consistent with the thinking as expressed by the two Honourable Members for Cayman Brac and Little Cayman. Therefore, the Government is not in a position to—

*(Pause)*

**Hon. George A. McCarthy:** Mr. Speaker, please allow me to pause for just a second.

**The Speaker:** Honourable Third Official Member, if necessary we can take the luncheon break. Could we come back at 2 pm instead? We shall suspend proceedings until 2 pm.

#### PROCEEDINGS SUSPENDED AT 12.35 PM

#### PROCEEDINGS RESUMED AT 2.18 PM

**The Speaker:** Please be seated. Proceedings are resumed.

Debate continues on the amendment to Government Motion No. 3/01. The Honourable Third Official Member responsible for Finance and Economic Development, continuing his debate.

**Hon. George A. McCarthy:** Mr. Speaker, when we took the luncheon break, I was about to summarise my thoughts on the amending Motion. Just to recap, if the amendment being proposed is accepted it would be a double exercise in terms of Finance Committee because the only section of the Budget that would not have to be gone into in detail would be the capital acquisitions and capital because these are two items that are excluded from the Motion in front of us.

Also, the substantive Motion to which the amendment refers is competently brought under section 8(1) of the Public Finance and Audit Law because the Law allows for a motion to be brought. An observation I should make on the amendment is that when we look at Standing Order 63(1) and (3), and if you will just permit me, I will read it: **“63. (1) Any Bill containing the estimated financial requirements for expenditure on all the services of the Government for the current or succeeding financial year shall be known as an Appropriation Bill. Estimates containing the details of those financial requirements shall be presented in accordance with Standing Order 18 (Presentation of Papers), immediately before the presentation and first reading of the Bill.”**

Then 63 (3) continues **“(3) On presentation to the House, the estimates shall stand referred to the Finance Committee, and on being read a second time the Appropriation Bill shall stand committed to that committee.”**

So from the time the estimates have been Tabled, they stand referred, as such, to Finance Committee. Therefore, what is now being sought by way of this amendment is an interim arrangement, if it is looked at as such, because section 8(1) of the Public Finance and Audit Law states **“The Legislative Assembly may in advance of an Appropriation Law by resolution, authorise expenditure for the services of the Government in respect of the financial year to be charged on revenue in accordance with this law and subject to such limitation and conditions as may be specified in the resolution.”**

Therefore, the substantive Motion to which the amendment refers is an interim arrangement, which

will allow for the ongoing expenses of Government to be met while the Appropriation Bill is being debated and also while the accompanying estimates stand referred to Finance Committee.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak to the amendment? Does any other Member wish to speak? Going, going, does any other Member wish to speak? If not, does the Mover wish to reply?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Just briefly to express my gratitude for the professional way in which the Honourable Third Official Member responded – I take it on behalf of the Government. I also wish to say that I was in no way surprised with his gentlemanly way, as well as I was in no way surprised by the Minister of Tourism and his continued demeanour in this House.

Thank you.

**The Speaker:** I shall now put the question on the amendment to Government Motion No. 3/01. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Noes have it.

**Mrs. Julianna Y. O'Connor-Connolly:** May we have a division please?

**The Speaker:** Certainly. Clerk, will you call a division please?

**The Clerk:**

**DIVISION 3/01**

**Ayes: 4**

Dr. Frank S. McField  
Mr. Gilbert A. McLean  
Mrs. J. O'Connor-Connolly  
Mr. Lyndon L. Martin

**Noes: 9**

Hon. D. Kurt Tibbetts  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Hon. Linford A. Pierson  
Mr. Rolston Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden Jr.  
Mr. Alden M. McLaughlin  
Mr. V. Arden McLean

**Abstentions: 3**

Hon. James M. Ryan  
Hon. David F. Ballantyne  
Hon. George A. McCarthy

**Absent: 2**

Hon. W. McKeever Bush  
Mr. Anthony Eden:

**The Speaker:** The results of the Division are 4 Ayes, 9 Noes, 3 Abstentions and 2 Absent. The amendment to the Motion has failed.

**AMENDMENT TO GOVERNMENT MOTION NO. 3/01 NEGATED BY MAJORITY.**

**GOVERNMENT MOTION NO. 3/01**

*(Debate continuing)*

**The Speaker:** Debate continues on Government Motion No. 3/01 Advanced Expenditure prior to the Appropriation Bill 2001. The Floor is open to debate. Does any other Member wish to speak? (Pause) Does any other Member wish to speak to the amendment? (Pause) If not, does the Mover wish to reply?

The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, just to thank Honourable Members. The reason the Motion has been brought has already been explained, so I do not think it would achieve much to attempt to add any further details. Only to mention as stated earlier, that this, as the preceding two Motions that formed part of the Budget for 2001, everything will be subsumed within the 2001 Budget and the estimates will be gone into in detail when we go into Finance Committee.

Thank you.

**The Speaker:** I shall put the question on Government Motion No. 3/01. Those in favour please say Aye. Those against, No.

**AYES and NOES and one audible Abstention.**

**Mr. Gilbert A. McLean:** Mr. Speaker, can we have a division?

**The Speaker:** Certainly, Madam Clerk please call a division.

**The Clerk:**

**DIVISION 4/01**

**Ayes: 10**

Hon. D. Kurt Tibbetts  
Hon. W. McKeever Bush  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Hon. Linford A. Pierson  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden Jr.  
Mr. Alden M. McLaughlin  
Mr. V. Arden McLean

**Noes: 1**

Dr. Frank S. McField

**Abstentions: 6**

Hon. James M. Ryan  
Hon. David F. Ballantyne  
Hon. George A. McCarthy

Mr. Gilbert A. McLean  
Mrs. Julianna Y. O'Connor-Connolly  
Mr. Lyndon L. Martin

**Absent: 1**  
Mr. Anthony S. Eden

**The Speaker:** The result of the Division: 10 Ayes, 1 No, 6 Abstentions, 1 Absent.

### **GOVERNMENT MOTION NO. 3/01 PASSED BY MAJORITY.**

**The Speaker:** Bills, Second Reading. The Appropriation Bill, 2001.

Continuation of Debate on the Throne Speech, delivered by His Excellency the Governor on Friday 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday 21 March 2001. The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport, continuing.

## **GOVERNMENT BUSINESS**

### **BILLS**

#### **SECOND READING**

##### **THE APPROPRIATION BILL, 2001**

##### **DEBATE ON THE THRONE SPEECH DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001**

##### **TOGETHER WITH**

##### **THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001**

*(Continuation of debate thereon)*

**Hon. W. McKeeva Bush:** Thank you.

Mr. Speaker, before I begin my contribution I would like to say that in case there is anyone wondering why the Official Members abstained, it was because it was a finance matter. We asked for that abstention.

*[Inaudible interjections]*

**Hon. W. McKeeva Bush:** I do not know why the Backbench Members who abstained did so; perhaps those who were on the Government think they are Official Members now!

*[Laughter]*

**Hon. W. McKeeva Bush:** When the House adjourned yesterday, I was dealing with tourism. I said that the two tourism associations had finally come together and instead of the Cayman Islands Hotel & Condo Association and the Cayman Tourism Association, we now have the Cayman Islands Tourism Association. I am very pleased that we have reached that point in time.

Tourism, as we all know, is very important to the economy of the country. I am pleased that we are offering a new way forward: 1) a review of the Department, its effectiveness and efficiency; and 2) a review to see how effective tourism is, where we need to trim, and where we need to add on.

**E-business and Information Technology development:** Further support to this market was evidenced with the development of a series of January special banner advertisements by our web marketing team. The response from the consumer was very positive as web traffic increased by 40 percent over last year and the number of room nights booked on line, as reported by our industry partners, has been growing steadily.

As a result, we are presently beginning development of a permanent 'vacation specials' designated area on our websites. We are committed to expanding our current e-business programme to facilitate online booking services. This will provide consumers with the convenience of purchasing the Cayman Islands tourism product through the Internet.

The new programme under development by the Department of Tourism (DOT) aims to achieve a level of mass distribution of the Cayman Islands tourism product throughout many of the major travel booking sites, such as travelocity.com; and expedia.com. Additionally, it will offer booking capability to the websites of the DOT and local industry members.

**Change in office accommodation for the DOT national sales office in Miami:** This move is being taken to reduce operational costs while securing new premises with an address reflecting the image and quality of the Cayman Islands. This new accommodation will reflect the current need of a national sales office, with all strategic development work for this market originating from the corporate office in Grand Cayman.

**The UK and Europe:** Activities in this market over the past quarter have been focused on increasing airlift opportunities out of Europe to Grand Cayman. Both our German and French offices see good potential in twin centre New York/Grand Cayman vacation packages. Currently, both offices are pursuing discussions with Continental and Delta which both fly out of New York and Newark, New Jersey.

Our London office is also in discussion with Virgin/Atlantic, looking at joint campaigns targeting the frequent flyer members with Cayman Islands special offers. This initiative is in line with the current interline agreement that Cayman Airways has with Virgin. As in the US market, the trend in the closure of

retail travel agencies continues apace. Reasons cited are erosion of traditional sales through travel agencies going to the Internet and call centre operations.

In Canada, charter programmes from Canada to Grand Cayman commenced in November with the return of Signature Vacations and World of Vacations. The weekly service provided a designated carrier to Grand Cayman for the charter programmes. In December, however, unlike the 1999/2000 fall and winter season, the service was only provided weekly, not twice weekly. Christmas and New Year's sales met expectations.

Citing slow sales into January, the tour operators decided to reduce the programme and the air capacity to Grand Cayman. The designated flight would now also stop in Jamaica. Meanwhile, efforts have been in place to also promote the Air Canada vacations programme with its daily flights being offered by Air Canada connecting to Cayman Airways. Co-op advertising for their Air Canada vacation programme has been in place since January.

Overall, for this winter season, the English Caribbean has not done as well as expected, except those islands with their all-inclusive product. Added to this is the reality that by late January, early February, the possibility of a recession has become a large media issue citing especially the lay-offs involving large corporations such as Chrysler and Nortel and its subsequent impact on the stock market.

**Cruise Tourism:** Efforts within this sector have gone apace. The DOT and I, along with the Merchants Association and the three Backbench Members from West Bay, have held several meetings with representatives from the Florida Caribbean Cruise Association. These meetings focused on all aspects of the cruise visitors experience to these Islands and where improvements need to be made to enhance the quality of that experience.

Great strides have been made in support of the small water sports and transportation businesses with the lines that work in our area. That work is ongoing.

**A marketing partnership with Cayman Airways:** The Ministry and the DOT recognises the important and interdependent relationship between the suppliers and the local tourism industry and specifically the critical importance of airlift to the three Islands' success. This partnership agreement is a transparent, accountable and result-oriented joint marketing plan between the DOT and Cayman Airways—the airline providing the single largest share of flights to these Islands.

That plan has been developed to address joint marketing efforts in three main areas: sales promotions, public relations, and trade education and awareness programmes. While operational details and actual work plans will be finalised by the staff in each organisation, I am pleased that this formalised planning process is underway. Additionally, a further component of the programme is that efforts will be

reviewed during third quarter and the programme components for the upcoming year ahead.

**Sister Islands Marketing Planning:** Within the wider efforts by the ministry and the DOT, special attention is being paid to the needs and concerns of Cayman Brac and Little Cayman's tourism product. The Department is carrying out these efforts with both district administration personnel and the Sister Islands Tourism Association membership. The focus of the process underway is to evolve a medium-term marketing plan, as well as a longer-term strategic approach to marketing Cayman Brac and Little Cayman.

Cayman Brac and Little Cayman offer a unique product that has great interest from both American and European visitors. Within the context of this planning process several pieces of work is ongoing. A 2001 Dive Co-op, that is viewed by the Sister Islands Tourism Association as the strongest ever; including in the summer programme "Get Re-energised in the Cayman Islands"; ongoing air exit surveys; support to the nature tourism market of Cayman Brac and Little Cayman with brochure production and media placement; strong publication public relations support through the visiting journalist programme; dedicated Sister Islands press material; and support to special events and inclusion in the calendar of events both locally and overseas.

It is important that we take this approach to support Cayman Brac and Little Cayman so that our potential visitors are aware of the choices they have when they plan to come to the Cayman Islands. In the wider context, these actions demonstrate our commitment towards tourism development for all three Islands.

I was privileged to pay an official visit with the Chief Secretary who is now responsible for Cayman Brac and Little Cayman, and I must say that I had a good visit in Cayman Brac and Little Cayman. I was able to meet with the Sister Islands Tourism Association at their marketing meeting, and offered the kind of support I just reported. I am pleased that we have a strong tourism association there—Mr. Moses Kirkconnell, being the president and a very capable leader. As Minister of Tourism, I intend to give Cayman Brac and Little Cayman my full attention. It has tremendous potential for development. The other thing that I found pleasant was that I believe there is now an acceptance that Cayman Brac must be developed by Cayman Brackers. I must say that is somewhat of a change because some years ago talking to business people and residents alike, while they wanted business, they wanted to go at their pace and now they are saying they need to develop.

I believe that Cayman Brac and Little Cayman, but more so Cayman Brac (that is the Island that can take quite a bit of development, because they have what I call a super infrastructure), I believe that we can add up to 1,000 rooms in Cayman Brac and I

believe that tourism is the way to go for Cayman Brac.

I would like, in terms of development, to see those three rooms on the bluff; I have hope for a hotel to be built that offers wellness of life through a world class spa and a golf course. I believe the Buccaneer's Inn site also holds much potential for development. For quite some time it has been said that the pond next to the airport should be developed into a proper marina. I believe when that is done, Cayman Brac's development will take off and be supportive of the kind of vision that I have as Minister for the tourism product in Cayman Brac.

I believe that next to that pond, on the sea side (Mr. Speaker, I know that you and the Members from Cayman Brac and Little Cayman understand where I am talking about); I believe that holds good potential for a good hotel as well. Next month when I attend the tourism conference on investment, God willing, I intend to plug hard for the Brac and the projects I outlined there. I think it is timely, important and I believe the Brac is now willing and able to take such development.

I am happy to report that I had some talks with Tiara Beach Hotel. They are doing renovations and I hope that in the very near future (according to them, by May) they will be able to get the blessings from the Department they are awaiting.

Cayman Brac has always been special to me. I take personal pride in the commitments and accomplishments that I started there. While I am Minister and a Member of Executive Council, I am going to ensure that I do all within my power to see that they enjoy the level of development that turns them from a decreasing population to a population that can support the level of local business that they have. Efforts within the area of tourism are progressing rapidly. I am pleased with the turnaround efforts to get things back on track. I look forward to the two major projects that I spoke about being initiated. Going forward with these will only serve to move us forward towards greater clarity and focus on a vision that supports our lasting high quality of life for all residents of the Cayman Islands.

The last area connected to tourism is entertainment. Some people would like to believe that we can continue with tourism as we did in the past. However, as I said earlier, tourism is not a stand-alone, do-it-when-you-please business. When we have offerings for development, we have to grab it because there are far too many countries that are willing and have much to offer. We have to be careful of the competition.

I believe that entertainment in this country is needed and we have to have the right mix. Some people like to come and lie on the beach but they can only take so much of that. They need some clean decent nightlife. That is why I have been talking about turning George Town after 6 pm into what I call "Uptown at Night." Hopefully before the end of this year I can see that programme started. It will be for

everybody, not a carnival but I want the shops to be open to do business. We would have some of Cayman culture and other entertaining aspects of the culture. I believe that the area here on Cardinal Avenue and the waterfront can be included. In fact, that is where I intend to launch, what I call, "Uptown at Night."

Some visitors come to do business but they want some R&R as well. The situation we have with the night-clubs: for instance the honeymoon couples who come to enjoy the Islands also need entertainment. At 12.45 am everyone in the night-clubs is turned out on the streets. We all recognise that Saturday nights will not change. I think we need to look at the hours of operation between Monday to Friday to see if we can make some changes in those hours so that everybody does not have to be dumped out at one time on the street. There are several ways to do it: Music could continue until 2 am, but cut off liquor at 1 am. That would give people time to not leave in a mad rush.

I know it is hard to change and we can find many excuses why we should not change. However, I believe that for the viability of businesses and as part of the tourism product, we need to encourage this extension. I believe we need to do something about it because there are many complaints from visitors about how the hours are set through the week. I am going to make that recommendation at some point to government and hopefully get support for it. I believe it needs to be done.

**The Fire Service:** During the year 2001, the department, subject to funding, intends to pursue several projects. The intention is to continue with an extensive training programme that will focus on key aspects of the Department's fire-fighting and rescue-tactics and techniques. Five officers will attend specialised training in the USA and the UK.

**The new substation Bodden Town district project:** We also intend to identify and provide a project definition for the placement of a substation in Bodden Town. At present, the response time to Bodden Town central from George Town and/or Frank Sound is approximately 11 to 15 minutes, if lucky. During rush-hour this time can be greatly increased. We consider the elapsed time to be unacceptable and wish to reduce it by 50 percent by constructing over the next three years a strategically located purpose built substation in the district.

We consider this project important for the following factors: (1) Bodden Town district is one of the fastest growing areas, developing rapidly;(2) the districts of George Town and West Bay enjoy a response time between 5 to 7 minutes (that is, the time when the call is received by the fire department and a fire vehicle arrives on the scene); (3) by reducing the response time intervention is quicker and property damage greatly reduced; (4) in a survey conducted during the reinvention of government, know your customer phase, 95 percent of persons contacted in that district (some 500) put as their



number one priority for the department a substation. This is very important to protecting the Bodden Town citizens.

The sole existence of the CI Fire Service is to protect life and property at a highly professional level and this is achieved by responding to all calls for assistance in a rapid and proficient manner reducing the degree of danger caused by uncontrolled fires, the development of human skills through training and the acquisition of maintenance of state of the art equipment.

We have been blessed with a department that is staffed fully by Caymanians, one that is efficient and professional. I have always been a supporter of the department and will continue to do so in my role as Minister.

The Department of Environment (DOE) plays a vital role in the conservation and protection of the environment. There is much happening at the DOE that I can say is for the good of the country. The department has been assisting the ministry with the drafting of the amendments to the Marine Conservation Law and Regulations. I just received a resolution from the Brac district committee of the National Trust Council. It says that **“The committee expresses the support of the initiative of the Government of the Cayman Islands in proposing stricter catch limits on dwindling fish species. The committee further requests the immediate appointment of a marine control officer for Cayman Brac because of the critical importance of enforcement after new regulations are promulgated.”**

I would hope that we can meet that request, but I do not think we will be able to do so in this Budget.

These new regulations are important. I will be holding public meetings and the first one is on Thursday night at the West Bay Town Hall to kick off my district visits with this subject. I know there are some people who are unhappy with the regulations. However, the fact is that we are facing that situation and we have to take the matter in hand. I intend to also look at what we can do about the land crabs in Cayman. There needs to be some sort of protection for them. There needs to be some sort of protection for whelks. People may say these are not important matters, but they are. All those things are dwindling faster and faster. We cannot continue as we did years ago.

I have had callers tell me that the fish-pot limit is not sufficient. They would rather have two fish pots per person; I have to look at that. I do not mind having another look at it. However, if there are, for instance, two brothers in a family, that would be four to a family; or a father and a son, that would be four to one family. These are the matters that will take some working out. I am committed to sitting down to listen to the public and they can get this in their minds that there are going to be changes made. We have to conserve and preserve our marine life. It is being taken advantage of in far too many areas.

The pressure on the North Sound is growing. I believe that we can no longer do business as usual. The North Sound belongs to the people, but it is the Cayman Islands greatest national asset. The sandbar in the North Sound, for instance, takes a battering. I have been saying this for the past several years. I believe that as Minister of the environment I need to make some effort to offer protection to that site.

People have told me that it is not deteriorating, but I visited that site far too many times as a young man not to know it is smaller now than it was before. I am not saying the elements have not taken their toll, but I believe that the larger boats going up on that are doing some damage, eating away at the sandbar. It is more of a business today than an attraction for the general populace. I am going to offer to the general public that for every tourist taken there on a charter boat of some kind, they should pay \$1 so that we can have funds to help protect the environment.

Some people have complained about the conch and lobster ban. Yes, people have to continue their recreational habits. I enjoy fishing when I get a chance. It is one of my main hobbies but I do not get to do it very often. I am glad for those who do, but they must consider that if we do not try to conserve and protect, we will soon have nothing to enjoy. Again, I have seen the changes in the North Sound and people tell me that there are changes in East End and in South Sound. They tell me there is change in Cayman Brac and Little Cayman.

We do not have a lot of shallow water. You go 50 feet from shore and you are off into the blue. All the reef fish are being beat up, taken up, chopped up for soup, that is, fish three inches long. We have to put a stop to it! I do not care whether they come from Jamaica, Timbuktu, the Philippines, or the Moon, I am going to put regulations in place to try to stop it.

Our marine system is fragile. I support development, but there has to be a balance. That in itself continues to take a toll on our system, simply because some people do not want to understand that tourism, while it is one of the main earners as far as our Gross National Product (GNP), it takes a toll on everything we have, but can we do without it? No. What do we have to do? We have to protect and conserve. We can no longer continue to do the things we have done.

I believe too that some of the dive sites need to be changed or closed so that they do not get overused. There is one particular site that is used to go fishing in West Bay, from Cemetery Reef to the Victoria House area. That has been there ever since we had the marine regulations. You cannot catch anything there, not even a ‘figgy’, not even a sand crab. To top it off, Cemetery Reef is one of the best offshore snorkelling attractions for tourists today. So, I believe that area should shift. I am willing to say to the Department of Environment (DOE) that they have to be reasonable and look at all these things. I repeat, ‘we can no longer do what we have done in the past

because what we enjoy today we will not have in the future'.

Those persons who have five and six fish pots .I do not know if they are making a complete living or subsidising their salaries, but they have to give up a little today in order for them, their children and their grandchildren to enjoy in the future. We will hold some public meetings on the Marine Conservation Law and Regulations, but one and all can get it into their heads that there will be changes made. If it costs me my seat, so be it. I have been threatened.

I recognise that there needs to be change. I recall when we put those marine regulations and the Conservation Law reservations in place – the marine parks system in place that I had my doubts. One of the areas I talked about was fishing from a small boat. The truth is that the marine park system has worked. All we need to do is give it a chance and I repeat, 'One and all must get it their heads that it will not be the same as we have been doing. I do not care whether or not they come from Jamaica, the Philippines, America or wherever, when these regulations are put in place, one and all must adhere to them. We are going to make sure that the marine officers continue to do their jobs and they will be prosecuted.

Mr. Speaker, also, at the DOE new legislation is being drafted to implement the Convention on International Trade of Endangered Species of Flora and Fauna (CITES), as well as new comprehensive environmental legislation to give effect to the Specially Protected Areas of wildlife Protocol (SPA) to the Cartagena Convention which is a UN regional convention, but part of the UK international obligation.

The protocol is established for regional cooperation to protect ecosystems and threatened and endangered species and their habitats. It is hoped that the new legislation can be tabled at the September sitting of the Legislative Assembly after extensive public input.

Research activity is important, and there are quite a number of research programmes for 2001 going into the following years. There is an updating of certain parts of the Wickstead Report. There is a regional marine productivity programme that monitors sea-grass, mangroves and our reefs so that we have a better understanding of the areas to protect and also a monitoring for the long-term health of our coral reefs. These are all important research activities going on this year and into the following years.

The key objective for 2001 for the DOE is: (1) to complete preparation and submit to Executive Council for approval comprehensive environmental legislation as well as legislation to implement the Convention on International Trade and Endangered Species of flora and fauna by September 2001; (2) to equip the department to respond appropriately to aquaculture issues related to economic diversification and species conservation by October 2001; (3) to conduct a comprehensive review of the Cayman Islands Marine Parks system by December 2001 with public input;

and (4) to continue ongoing projects and programmes aimed at facilitating sustainable management of the natural environment and resources of the Islands.

The Cayman Turtle Farm continues to have the distinction of being the only commercial sea turtle farm in the world. The operation of the Farm is centred on the production of turtle products for the local market, research, and tourism based programmes. The tourism aspect of the operation continues to be the main source of revenue for the Farm with annual combined sales of \$2.6 million, which includes the sale of turtle products. The total number of visitors during 2000 was 334,000. The farm currently has a population of 22,340 green turtles; 60 kemps ridley, 5 hawksbill; and 1 loggerhead. The Farm needs tremendous maintenance.

Mr. Speaker, maybe it is a good time to take the break, since I am so short of a quorum and I could use some relief at this time.

*[Laughter]*

**The Speaker:** I need a quorum before I can call a break.

*[Pause]*

**The Speaker:** We are short one.

*[Pause]*

**The Speaker:** It must be understood by Honourable Members that the House breaks at the wish of the House. Without a quorum we do not have the wish of the House. One Member, please.

We shall now suspend proceedings for 15 minutes.

#### **PROCEEDINGS SUSPENDED AT 3.30 PM**

#### **PROCEEDINGS RESUMED AT 4.00 PM**

**The Speaker:** Please be seated. Proceedings are resumed. Continuation of Debate on the Appropriation Bill, 2001, the Throne Speech, and the Budget Address. The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** As I was saying, the Turtle Farm needs a tremendous amount of maintenance and we are undertaking a redevelopment project. The following capital projects will be undertaken over the next three years: reconstruction of the stock tanks; redevelopment of the breeding pond open area; construction of new hatching tanks; relocation of the hatchery and laboratory; construction of a new retail visitors centre that will include the administration block and storage area; construction of a new parking area; and as a new board we have, instructed

management to review the contingency plans for the protection of the breeding herd with particular interest paid to the possible negative impact that could result from an act of nature. The findings of this review should be incorporated in the master development plan that we have ordered.

There are also a number of research projects involving academic institutions that are slated to be pursued in the coming year. This research involves the utilisation of the Farm's red turtles in a wide range of projects that will be beneficial to both the farm's turtle population and turtles in general. Association with these institutions will have a positive impact for the farm's image and credibility worldwide.

While the Farm is (and has served as) a useful tourist attraction, I believe that its potential for further eco-tourism must be utilised in the best interest of tourism development in the Cayman Islands. I believe that we have a viable and perhaps one of the best sites for a seaquarium in the region. A seaquarium would enhance entertainment, research, education and conservation. We do have a proposal for a seaquarium at the farm; a dolphin attraction is also in the offing. There is also sufficient property available for an eco-tourism park. I have instructed through the board for a master re-development plan to move forward which would encompass those entities. We will accept private sector partnership.

This morning I held a staff meeting. I want to publicly congratulate the management, Mr. Ken Hydes and Joe Parsons, and Mr. Chris Jackson—very good decent young men in charge there. The Farm has much potential and the management there is capable of moving it forward. There are many areas left unattended. The new board is very keen and has some good experience. I believe the Farm is in good hands. It is time for the re-development to bring it more in line with the times and to offer more attraction for tourists.

**The Port Authority:** Upon taking office and responsibility for the port, we have instructed the Port to review the plans for the expansion of the cargo and cruise facilities for George Town. This is presently being undertaken with the view to decrease the size and environmental impact of the project without compromising the need for additional cargo and cruise passenger landing area. It is anticipated that the revision of the plans will enable the Port Authority to achieve the desired effect of the previous plans as far as the cargo operation is concerned plus enhancing the much needed cruise passenger facility.

Preliminary plans and estimates indicate that this can be achieved at considerable savings over the previous plans. I have had extensive discussions with the Port Authority on this matter. The Authority has now completed this review in consultation with the George Town business community and has revised the George Town Port Development Plan. I have met privately with some George Town businessmen and I also held a public meeting at a George Town restaurant that was very well attended by the George

Town business sector on the waterfront and others who had concerns.

The revised George Town Port Development Plan was presented at that meeting and there was wholehearted support for it from the business people there. On 23 March, we held a meeting of the board and formally approved the revised plan, which is referred to as "option C" on the conceptual plan for the development at Spotts. The key features for the revised George Town Port Development Plan are: no dredging will have to be done in front of Hog Sty Bay; the overall project cost is reduced from \$14.3 million to \$10.3 million; we do not have to move the existing Port Authority building as was planned in the first draft plan by the former government; relocation of the cargo handling area to the north of the existing site with significantly increased berthing space; enhanced cruise ship tendering and ground transportation facilities on the existing cargo handling site. This will relieve some of the traffic congestion by the roadside at the existing taxi and tour bus area. The new taxi and tour bus area will have significantly increased capacity allowing for a more orderly operation. The project will be carried out in two phases with no disruption to daily operations.

I have some copies of the plan available for Members perusal.

I also wish to bring to the attention of this Honourable House that I have had extensive discussions with the Florida Caribbean Cruise Association (FCCA) with respect to the development of our port facilities and they support the revised George Town Port Development Plan. The FCCA has also committed to making some financial contribution to both the George Town and Spotts development projects. I am very pleased. I believe that we can, working together hand in hand with them, get much assistance from the FCCA. In fact, they have further offered to provide assistance at the Spotts facility that also must be enhanced.

For some time I have been talking about cruise ships in the West Bay area. The FCCA has also advised that it intends to upgrade the facilities in the West Bay district public dock area to cruise ship specifications and have agreed to make a financial contribution to this project once it is approved and costed. This will take some public input and this matter will go to Executive Council in a short time, then I will move on to the public and to the board. I am happy to report this to the House as I know that there was much anxiety and worry over the first project as proposed by the former government. We are trying to minimise the environmental impact on the George Town Harbour and I believe this can be done successfully.

Government will be vesting the property in Little Cayman known as the Salt Rock Docks to the Port Authority. When it is finalised, the Authority will proceed to have proper facilities put in place for the efficient handling and storage of cargo in Little

Cayman. This is badly needed as you yourself know, Mr. Speaker.

I also believe that it is in the best interest of the country to have one Port Authority with separate management boards—one for the Airport, and one for the Port—rather than having a Civil Aviation Authority and a Port Authority. This will streamline matters for the management of ports in the Cayman Islands and better serve the public. I view that as being important and it is high on my agenda. I take this opportunity to inform Members and they will see draft legislation hopefully later this year.

The Port is important to the development of Cayman for the continued good running of the country. Some people have asked why we do not move the port from where it is. We wish that could be the case. Unfortunately, the areas that would be best suited for a safe harbour port; nobody would ever agree for that to happen. However, we will have to continue to make do with what we have. We have to enhance it and see that it is working properly. I have asked the Port Authority director to investigate how we can work the Port at different times taking into consideration the resulting costs. However, I believe that we need to do that so that we can cut down on congestion and traffic and heavy moving equipment in George Town.

The reversal of the sites in taking the present cargo facility and moving it to the north will alleviate some heavy traffic on South Church Street in front of the harbour because trucks will not have to go all that way down. We have ownership of the Port building. We have some work to do, but I believe we can do it. We now have some costing and we can do it for much less. If I can be successful in getting the cruise industry to put their money where their talk is, then it will cost us that much less. We would have a fine up-to-date, more in keeping with Cayman's high quality, a cruise facility that works to the better interest of taxis, tour operators, and to the visitors themselves.

Mr. Speaker, at the Port the finger pier has not been in operation for some time. Some people have said that we should just renovate it. We would have to do quite a bit to that because when the former Minister responsible for ports bought the big crane, it was never able to go on the finger pier. We would need quite a substantial redevelopment of that finger pier. It will cost to redevelop that for a cruise landing, but not as much as if we had to redevelop it to handle that big crane.

The support I have gotten from the Director and from the business people bode well. I hope that we can continue this partnership, as a government informing them and keeping them in step with what we are doing.

The whole George Town waterfront needs to be developed into a place that people want to go. This is the first place that the vast majority of tourists see first. It does not even have a welcome sign. I intend to change the face of what exists into a place people want to go. Hopefully we can dress it so that it

enhances not just the Port, but the entire George Town business centre. I do not intend to do this over one year. It has to be a long-term plan, but we have to start somewhere, so I intend to have a short-term and a long-term plan.

The dock in Cayman Brac needs some attention. We are looking at that with some interest and urgency. I do not think we need to do that immediately, but it has to be paid attention to. Later on we will get to the point where we can, hopefully, do necessary repairs.

In this new development there will be space for more buses and taxis, and space to take them off the road on the waterfront. Again that will enhance traffic movement. It will also have space for the operation of the Co-op which will play a major role in the small business operator's life at the George Town Port.

Mr. Speaker, is my watch wrong, or can I call it that time?

**The Speaker:** I say four minutes more, but I will entertain a motion for the adjournment of this House.

## ADJOURNMENT

**Hon. W. McKeever Bush:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Monday, 2 April, 2001

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Monday, 2 April 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.25 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 2 APRIL 2001.**



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**2 APRIL 2001**  
**10.18 AM**  
*Thirteenth Sitting*

*[Prayers read by the Honourable Minister for Health and Information Technology]*

**The Speaker:** Proceedings are resumed. There are no announcements or apologies.

Moving on to Item number 3 on today's Order Paper, the Administration of Oaths or Affirmations. Oath of Allegiance to Mr. Donovan W. Ebanks, MBE, to be the Acting Honourable First Official Member.

Mr. Ebanks please come forward to the Clerk's Table. Would all Honourable Members please stand?

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*Mr. Donovan W. Ebanks, MBE*

**Hon. Donovan Ebanks:** I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

**The Speaker:** Mr. Ebanks, we welcome you to this Honourable House for the term of your service. Please take your seat as the Honourable Acting First Official Member.

Please be seated.

Item number 4 on today's Order Paper, Questions to the Honourable Ministers/Members of Government. Question No. 50 standing in the name of the Fourth Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MEMBERS/MINISTERS**

**QUESTION NO. 50**

*Deferred*

**No. 50: Mr. Cline Glidden, Jr.** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration how many confiscations of illegal goods, both locally and overseas, were made during the period November 1996 to December 2000 from which the Cayman Islands' Government would have received some compensation.

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** Mr. Speaker, as I advised the Clerk this morning, I was unaware that the ques-

tion had been set down today, until the weekend. We had to require some clarification on the original question and that clarification was provided by my Honourable friend. The Legal Department is putting together the statistics to answer this question and I would be very grateful if the Honourable Member would permit me a few more days, until Friday, to give an appropriate answer to this question.

Thank you.

**The Speaker:** Would you move a motion for the suspension of Standing Order [23(5)] in order that we can defer the question?

**Hon. David F. Ballantyne:** I would, Mr. Speaker.

**The Speaker:** The question is that we suspend Standing Order in order that this question can be set down for a later Sitting.

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

**AYES.**

**The Speaker:** The Ayes have it. Question No. 50 has been set down to be answered at a later Sitting.

**AGREED: QUESTION 50 TO BE ANSWERED AT A  
LATER SITTING.**

**The Speaker:** Moving on to Question No. 51 standing in the name of the Fourth Elected Member for West Bay.

**QUESTION NO. 51**

**No. 51: Mr. Cline Glidden, Jr.** asked the Honourable Minister responsible for Community Development, Women Affairs, Youth and Culture to state:

- a) the plans for the Sunrise Centre in West Bay; and
- b) whether the facility is compliant with the current regulations, for example, fire and public safety.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. Edna M. Moyle:** The answer:

- a) The plans for the Sunrise Centre in West Bay

The Sunrise Adult Training Centre in West Bay has recently been transferred from the Education Department to the Ministry of Community Development, Women Affairs, Youth and Sports. In the 15 years the Centre has been in operation there have been many planning initiatives undertaken to determine the best possible course of action to be taken to solve the many problems and limitations that the Centre is currently operating under.

As long ago as 1989 and as recently as 1999, internationally recognised consultants were hired to assist in this. Some of the Members will recall the Montebello Report that first addressed these issues.

Most recently, Ms Beverly Beckles came from Trinidad at the request of Government and through the recommendation of the International Labour Organisation to look at the situation of persons with disabilities in the Cayman Islands. Part of her mandate was to assess and make recommendations concerning the Sunrise Centre. Ms Beckles presented her report which contained recommendations for upgrading the Sunrise Centre and other matters relating to persons with disabilities to the Ministry of Education in September 1999. While her report has never been tabled in the Legislative Assembly or presented to Executive Council, some of her recommendations have been followed. It is my intention to present this report to Executive Council and the Legislative Assembly in the near future.

Honourable Members will recall that in the 2000 approved budget there were funds set aside for Project Development Document (PDD) for the Sunrise Centre. The Ministry has received this PDD along with recommendations from the Public Works Project Manager via the Education Department. The estimated cost of this facility is \$1,283,744 plus an additional \$500,000 for the purchase of land if it is a non-Government site.

The most major and immediate need is for a new facility. This has been recognised for years. The current building was a temporary choice 15 years ago and was to be replaced by a purpose-built facility within two years of its opening. It is too small for the existing programme, unsuited to its current use and impossible to expand to address the needs of the 12 people currently on the waiting list.

The Government will review these documents and recommendations and present our findings and/or decisions to Members of the Legislative Assembly.

b) Whether the facility is compliant with the current regulations, for example, fire and safety:

It is not possible for the Sunrise Centre to comply with current Fire and Safety Regulations. The Director requested an inspection of the building by the Fire Service in 1993. At that time, there were many things about the building that were judged unsafe by the Inspector. He verbally stated that there were insuffi-

cient fire exits. Of the three existing exits to the building, one passes through the storage area, one opens into an area surrounded by a high chain-link fence and the third is the main entrance and the only viable fire exit. In addition, the rooms and corridors are small and cluttered and the number of people too large given the limited mobility of most and the fact that two people use walkers which create continuous obstructions. The building itself is located too close to the Primary School building and the yard is too small (since the backyard was taken away) for the people to get away from the building easily. No written report was ever received.

As there has been no inspection to the Sunrise Centre since 1993, it would be difficult to say whether the facility is compliant with current regulations, for example, fire and safety. However, I will request the building be inspected to ensure that it is.

### SUPPLEMENTARIES

**The Speaker:** Supplementaries, The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister indicate the current enrolment at the Sunrise Centre?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Culture.

**Hon. Edna M. Moyle:** Thank you.

There are 23 people registered in the programme.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Of the current enrolment could the Minister say approximately how many of those students are from the district of West Bay?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I will give the entire breakdown by district.

There are seventeen living in West Bay, one of them is from Cayman Brac but was sent to Grand Cayman to live with his sister when his mother died.

One comes from East End, one from Pease Bay, two from Lower Valley and two from George Town.

Until recently there was an additional person from George Town but he was withdrawn when his family left the island.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister provide this Honourable House with the programme offered at the

Sunrise Centre? What is the nature of the programme are they academically oriented programmes?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Its vocational training, skills, life skills training and functional literacy.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** In the substantive answer, the Minister mentioned researching the feasibility of a purpose-built building. Can the Minister say what district is being currently investigated for this building?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** As I said at the start of my reply, this has just been passed to the ministry for which I hold responsibility so I have really not looked at any particular district or property for where this facility would be built.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I know the Minister has taken over responsibility for this area recently, but I am wondering if she can say what sort of legacy planning is going to be done to have a Caymanian run this centre in the new future?

**The Speaker:** That is a bit outside of the ambit of this question but if you wish to answer you may.

The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I think I agree with you completely but I have no authority to employ or fire persons that are employed by the Government.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister provide this House with any insight as to why the Sunrise Centre has been transferred from under the Ministry of Education to that of Social Services? And in her opinion, if it is a suitable mesh with the other areas that fall under her ministry?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** When I was elected to Executive Council and went to the Glass House, His Excel-

lency the Governor gave me my responsibilities but I think the Sunrise Centre does [mesh] with the Social Services Section being under this ministry also.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** I am wondering if the Minister – in light of her answer with the breakdown and the high number of students in that centre from West Bay – could give a commitment that the new facility, the purpose built facility, will be built in the West Bay district to help address the needs of the many students who are in that centre now from West Bay. And, that if there is going to be another centre built it will be in addition to the one built in West Bay?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I know that Honourable Member is trying to put me on the spot, but I am not going to make any commitment. I think the Government will have to look at where the facility will be placed.

But I would just like to say to the Honourable House that eight of the ten people who go out to work from the district of West Bay travel to town each day for their jobs. Of the remaining seven, there are five that should be placed in jobs in the near future. Although the higher number comes from West Bay, they are leaving the district to go and look work. So whatever decision the Government takes on where the facility should be placed, it will not be my personal decision.

**The Speaker:** Any further supplementaries?  
The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** In light of that answer could the Minister say what district the twelve people, currently on the waiting list, are from?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Of the twelve, three are from the district of West Bay and the remaining nine are from the other districts.

**The Speaker:** Are there any further supplementaries?  
No further supplementaries, we will move on to Question No. 52 standing in the name of the Second Elected Member for George Town.

**The Speaker:** Are there any further supplementaries?  
No further supplementaries, moving on to Question No. 52 standing in the name of the Second Elected Member for George Town.



## QUESTION NO. 52

**No. 52: Mr. Alden M. McLaughlin, Jr** asked the Honourable Minister responsible for the Portfolio of Legal Administration to state: (a) whether the Financial Reporting Unit and/or the Financial Investigation Unit is a unit of the Royal Cayman Islands Police Force; (b) for what purpose was it established; (c) who is in charge and to whom does he report; and (d) the number of staff currently employed at the Unit, their qualifications, job descriptions, nationalities and whether they are civilian or police officers.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** (a) The Financial Reporting Unit (FRU) is a multi-disciplinary free-standing financial investigation unit accountable to the Attorney-General for disclosure of suspicious activity reports and assistance with money laundering prosecutions. The Police Officers report to the Commissioner of Police for administrative and disciplinary purposes.

- (b) The FRU began in 1989 with the name of Drug Profit Confiscation Unit to receive disclosures under the Misuse of Drugs Law. With the enactment of the Proceeds of Criminal Conduct Law in 1996, the FRU became the reception point for all disclosures of suspicious transactions.
- (c) The Head of the FRU is Detective Chief Inspector Brian Gibbs. He is accountable and reports as described in paragraph (a) of this answer.
- (d) A list of staff currently employed at the FRU, including qualifications, job description, nationality and whether Police Officers or civilian is attached

| Rank                      | Position            | Nationality                    |
|---------------------------|---------------------|--------------------------------|
| Detective Chief Inspector | Head of FRU         | UK                             |
| Inspector                 | Deputy Head         | Caymanian                      |
| Inspector                 | C4T                 | UK/Caymanian                   |
| Sergeant                  | C4T                 | Caymanian                      |
| Sergeant                  | SARs                | UK                             |
| Constable                 | SARs                | Belizean                       |
| Constable                 | SARs                | Jamaican, married to Caymanian |
| Constable                 | C4T                 | UK                             |
| Constable                 | C4T                 | UK                             |
| Constable                 | C4T                 | UK                             |
| Constable                 | EB                  | UK                             |
| Constable                 | EB                  | UK                             |
| <b>LAWYERS</b>            |                     |                                |
| Crown Counsel             | EB Case Controller  | Jamaican                       |
| Crown Counsel             | C4T Case Controller | UK                             |
| Solicitor Support         | EB/C4T              | UK                             |
| <b>ACCOUNTANT</b>         |                     |                                |
| Chartered Accountants     | Forensic Accountant | International/Caymanian        |

## SUPPLEMENTARIES

**The Speaker:** Supplementary, the Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** In his answer to (a) of my question, the Honourable Member has stated that the Financial Reporting Unit is a multi-disciplinary free standing financial investigation unit. Would the Honourable Member please explain what that phrase means?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** The Unit was initially established in 1989 in relation to drug matters and subsequently expanded to all serious crimes under the Proceeds of Criminal Conduct Law.

The way in which the unit has been organised lately has followed the model recommended by Andrew Edwards in his report on the Crown Dependencies [*Review of Financial Regulation in the Crown Dependencies—A Report—Part 1*]. If it would assist the understanding of the House, I have the report here. I believe it is publicly available but I am quite happy with your permission to table it, to make it available to Members of the House. I will hand it over, if I may, once I have finished quoting from it.

But to try to answer the Honourable Member's question directly, at Paragraph 16.4.5 of this report which related to Guernsey, Jersey, and the Isle of Man, I should explain, the UK Crown Dependencies, Mr. Edwards said: **"The Island authorities have been considering further reforms of structures. In my opinion, there is a strong case to be considered for self-standing "Financial Crime Unit" structures along the following lines:**

- **"Single, self-standing units.** The activities of the present Fraud Units and Joint Financial Investigation and Intelligence Units (and possibly the Drug Trafficking Intelligence Bureau in Jersey) would be brought together into single, self-standing units, which might be known as *Financial Crime Units*.
- **"Responsibilities.** The Units would be responsible for policing the Islands' finance centres and supporting the Attorney Generals in their roles as public prosecutors for the finance centres.
- **"Tasks.** Specific tasks would include intelligence, handling of suspicion reports, maintenance of a comprehensive database, investigation of financial crimes including money laundering and tax evasion, obtaining of evidence, seizures, restraints and confiscations, relations with the finance, company and professional sectors and assistance to other jurisdictions.

- **“Multidisciplinary units.** The new units would preferably . . . be multi-disciplinary units, including Customs and direct tax staff as well as police officers, with policy, accountancy and information technology support. Professional assistance would continue to be bought in from outside as required.
- **“Full-time Heads.** The Directors of the units would be full-time. They would not have other responsibilities.
- **“Reporting lines.** The Units would be separate from the Police, Customs and Attorney General’s Offices. But the Director could report to the Attorney General, with dotted reporting lines to the Chief Constable and the Treasury or equivalent Committee.
- **“Links with other agencies.** The Units would work in close co-operation with the Attorney General’s office, the Police, Customs, the Tax departments and the financial regulators.
- **“Dedicated financing.** The Units would be financed separately from the Police and Customs. The Attorney Generals would be responsible for ensuring (or confirming) that budgets and staffing were adequate to provide effective policing of the finance centres and support for the prosecutors. The Chief Constables or the Police Committees would no longer have the difficult task of dividing resources between the policing of the finance centres and general policing.”

And then there is a paragraph on staff and training but I would, if I may, wish to quote one further paragraph 16.5.5 where Mr. Edwards said, **“First, the Islands have options, because they are small, that the UK and other large jurisdictions do not have. One such option is that they can if they wish bring closely related functions together in one Unit. Such functions might ideally be brought together in all countries. This may not, however, be a realistic option in the major countries because the resulting units would be impossibly large.”**

Just to complete my answer to the supplementary question: It is not intended to say that the FRU is necessarily modelled entirely on the contents of the Edwards’ Report but the thinking in it on this at this particular juncture in the history of the Cayman Islands. And, in the light of the various pressures in relation to FATF and the need to demonstrate a firm stance in relation to anti-money laundering this has come at an apposite time.

I would, however, mention a further report which I am happy to table also entitled Cabinet Office: *Recovering the Proceeds of Crime—A Performance and Innovation Unit Report—June 2000*, which is a UK Cabinet Office report.

**The Speaker:** So ordered.

**Hon. David F. Ballantyne:** Some of the thinking in this report has also been taken into account in these arrangements. But I would emphasize, if I may, that the core element of the FRU continues to be police officers and the use of police officers’ powers. There is no additional power available to the unit as such, for example, as a Fraud office in the United Kingdom has, where they have separate powers. There are no separate powers here and the police officers simply have the powers of police officers.

I would like to think that the continued role of the FRU is simply an extension of its former role as a reception and analysis point for suspicious activity reports but with the added factor that it is now providing support for current prosecution.

**The Speaker:** The Second Elected Member for George Town, do you have a follow-up?

**Mr. Alden M. McLaughlin, Jr:** In his answer to his last supplementary, the Honourable Member referred to a report which emphasised the importance of the FRU being a free standing financial investigation unit.

May I ask the Honourable Member, given that criteria, whether the present situation whereby the uniformed members of the Financial Reporting Unit appear to still be members of the Royal Cayman Islands Police Force, whether that is a satisfactory arrangement?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** The arrangement is that although these gentlemen and lady are police officers they are on secondment to the FRU. It is my understanding, although I was not here at the time, that one of the reasons for having the FRU was to have as it were a point of reception for suspicious activity reports in which the financial services industry could have confidence. The FRU has to some extent always been slightly different in that regard.

As far as investigation of financial crime is concerned the broad rule of thumb that applies in relation to the FRU quite naturally is that its main function is to look into suspected cases of money laundering and cases of a similar kind. I do not see any difficulty with the fact that it has police officers. In fact, if it did not have police officers it might be difficult for it to operate without the powers for example, that the front office has. So that so far, apart from the inevitable possible rivalries that do exist within organisations, some of these can be healthy if they are put to positive effect. What I mean by that is that the FRU should work with other agencies of government, as it does, and other agencies of the RCIP in order to provide the most effective regulation and policing of the finance centre. I may also say that this kind of model has been adopted to my knowledge certainly in Trinidad and

Tobago in a very similar kind of way for very similar sorts of reasons.

If I may add further, for the benefit of Members' information, one of the functions of the FRU is to share information with other financial reporting units or financial investigation units. And it is the intention with government approval to seek membership of the Edmond Group, which is an informal group that engages in such information sharing on a confidential basis so as to increase the capability of the Cayman Islands to co-operate internationally in an appropriate way.

Thank you, Mr. Speaker.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Would the Honourable Second Official Member say who is responsible for the assignment of pass and the deployment of personnel on various investigative duties? Is it the Honourable Second Official Member himself or is it the Commissioner of Police?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, in practice it is neither in the sense that the Head of the unit is responsible for the allocation of personnel according to the demands made on it. The exception to that is where a case is identified for prosecution in which case support is offered to the unit in the form of case controllers in relation to money laundering investigations in order to guide the direction and the evidence gathered necessary to support those prosecutions.

It is right to say that, again, subject to government approval and discussion some form of oversight by all relevant stakeholders is contemplated but I would be premature in advancing this since it is a matter that the Government requires to consider further.

I would simply say that the FRU is developing in order to meet the demands made on it. It has to be allowed to do its job and that means to some extent, as far as either myself as Attorney General, the Second Official Member, or indeed the Commissioner, that it be free to follow up those leads that it uncovers.

It should be of seamless transitions from analysis of suspicious activity reports through the investigation of those towards the identification of cases for possible prosecution. Prosecution is not the only *raison d'être* of the FRU. It also exists, as I said, to share information with other financial investigation units. Some of the steps that have been taken in the implementation of our FATF plan have to do with exactly that and with membership of the Edmond Group. Thank you.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** The Honourable Second Official Member has not said whether he has responsibility for the allocation of personnel and the assignment of investigative duties or that the Commissioner does. I would be grateful if the Honourable Second Official Member could say in that case who does.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Operationally, in relation to the conduct of prosecutions, I think, that the Attorney General would have say, but in practice I have not found it necessary to intervene, leaving it to the Head of the unit, and the relationship between the Head of the unit and the Attorney General to deal with that. If there were concerns about the way in which matters were proceeding there is an understanding with the Commissioner that these concerns would be dealt with mutually.

It has to be understood that this is a multi-disciplinary unit. It consists of not just police officers but lawyers. There is no easy answer to that question, and I am not trying to avoid it either. It simply is the case that, as far as prosecutions are concerned, I have nominated the Case Controllers and identified those but I have not directly assumed responsibility and would prefer not to for the allocation of resources within the unit. I take it that that is the responsibility, as I said in my answer, of the Manager of the unit who is the Head of the FRU.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, this is an unusual situation. I am seeking to ascertain who has ultimate responsibility for the actions of the FRU. I would be grateful if the Honourable Second Official Member could enlighten me.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I think the ultimate responsibility is that of the Governor in the sense that he has responsibility for, the police, and for the Legal Portfolio. I can say that he does take an interest in it but like the rest of us he delegates as I do – it is not a case of sole ownership I am afraid. With a multidisciplinary unit that is not feasible and it will not function as intended if that were to be the case.

Obviously, the main component continues to be police officers and, therefore, at the present time it is led by a police officer with police officers' powers. The fact of the matter is, however, that much of the work of the unit at the present time is taken up with supporting prosecution which is of importance to the Islands and, therefore, that inevitably bears upon the

responsibilities of the position which I hold. I hope that helps to explain where all of this is at.

I would simply say that the FRU like other institutions, for example, the Monetary Authority, is developing. It is not standing still it is enlarging to cope with the demands and it is doing so in a functional way, which perhaps is not the norm but nevertheless is not unknown as I have indicated from the reports to which I have made reference. Thank you.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** I am grateful to Honourable Second Official Member. Thank you.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, from the Second Official Member's answer it appears to me like the FRU operates for the most part on its own. I wonder if the Second Official Member can reply to that. Secondly, do we have that amount of activity here in the Cayman Islands requiring so many people, so many different officers, lawyers and accountants to make-up the FRU?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, in answer to the first question: the Head of the FRU requires to have a certain amount of operational discretion as to how the unit approaches its task. But the tasks of the unit are set down as I have indicated.

Its first task, if I may just rehearse this so that we are clear about what we are talking about, are the receipt, analysis and dissemination of suspicious activity reports. These reports, as the Honourable Member will know, are received from the financial services industry. Spontaneously they come from the financial services industry and they are then processed by the unit who analyses them and determines if there are any underlining problems.

They also have the capacity to share them with overseas law enforcement agencies and this is done, at present, under the law by sending the request to my office since the transmission of these requires the approval of the Attorney General, so there is an involvement by the Attorney General there. I will illustrate, if I may without touching too much on current term cases.

The fact that kind of activity can lead to suspicion of money laundering which in turn can lead to regulatory action against financial institutions, which in turn can lead to criminal prosecution. That, in fact, is the path down, which we have gone.

In the past, regulatory action was taken but no prosecutions appear to follow. At this stage in time it seems appropriate that there should be prosecutions

where the circumstances warrant it. In order to support those prosecutions it is necessary to not only use the material obtained by the FRU but also to gather additional material and to make that material available for presentation to a court.

This has meant investment in equipment—scanning equipment; software; software called Super Tech Software used by the Royal Canadian Mounted Police which allows large quantities of documents to be analysed and then coded and ultimately presented on computer screen within a court. All of this happened recently in the context of one major prosecution. The courtroom at the preliminary enquiry stage was filled with computer screens and the information was so presented. These are large-scale undertakings, there is no doubt about that.

And the answer to the second question about how much is going on, well, I only know what I know, Mr. Speaker. I do not know everything that is going on. I do not have that kind of knowledge or ability but I do know what is involved in the current cases that are before us and we have two major prosecutions that are on the way. They are very substantial. One involves alleged money laundering of some \$45 million—substantial amount of money—and allegedly using an institution within the Islands.

It is not often so much as what is going on within the Islands. It is the way in which institutions and entities within the Islands may be used by others outside of the Islands. This is where the international aspects of the FRU become important so that they can liaise with law enforcement outside of the Islands in order to maintain the creditability of the Islands as a place where international criminal activity is not only disapproved, but acted on.

As the Attorney General of England, [The Rt. Hon. The Lord Williams of Mostyn, QC] said in his opening of the conference last week, "**It is important not to be passive in this. It is important to attack crime in an intelligent, determined way and that is part of the function of the FRU.**" I can elaborate further but there is a limit on what I can and should say about current cases for obvious reasons. It is not suggested that there is a large volume of criminal activity but the cases that are involved, involves a substantial amount of work in bringing to court. They are important to demonstrate the determination of the jurisdiction to crack down where appropriate on money laundering, which is a serious crime internationally. All of this is within the context of the attention of the FATF but even if that were not there, it would be the right thing to do, as I have said previously in this House. I hope that helps to answer the Honourable Member's question.

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

**The Speaker:** Before calling on another supplementary I would appreciate a motion for the suspension of

Standing Order 23(7) and (8) in order that Question Time may continue beyond 11 am.

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I so move that Question Time can continue beyond 11 am. The question is that we suspend Standing Order 23(7) and (8) in order that Question Time can continue beyond the hour of 11 am. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time continuing.

**AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I appreciate the Second Official Member's explanation but I really did not need any justification for the creation of the FRU but I thank him for that. But I wonder if the Second Official Member can say if there is any special qualification required of constables to be in this unit. I notice that there are just five constables from the UK and I wonder if there are no Caymanian constables that could be a part of this unit. I then look at the Solicitor's report - another person from the UK. I wonder if Caymanians could not have been placed in this. Is there any particular reason why they had to come from the UK?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, there is no particular reason but I am not here to apologise for the fact that they are from the UK. We hire people according to their experience and their value. But let me assure the Honourable Member that the intention is that we bed down the experience locally. There is no point in bringing people in just to do a job and then they go away again.

In terms of qualifications, it depends on what you are expecting from the person. If it is a case of, for example, statement-taking, the Solicitor's support that we have got is a person who was engaged on money-laundering cases in the UK specialising in the taking of statements from professional persons such as chartered accountants and that is the way in which we have used that person.

The two Case Controllers (one happens to be from the UK) are both from the Legal Department. They are both Crown Counsels and anyone in the Legal Department who is on the criminal side or who

has an interest in such matters would be eligible for such appointments. This is only the start and these are not permanent appointments. They are case specific if you understand me and available therefore to others in the event of future cases. But what we are trying to develop is the home grown expertise which will remain here and consistent with that it would be consistent to encourage Caymanian constables with the appropriate qualifications and experience to enter into this realm.

I would only add that you will have noticed that at the more senior levels Caymanians are well represented. The Deputy Head of the Unit is Caymanian. One of the inspectors is from UK but also of Caymanian Status. One of the two sergeants is Caymanians. So that it is certainly not a case of origin dictating who joins the unit, it so happens that there are people with experience of money-laundering cases but this unit in its present form is at an early stage.

I can certainly say that there is no intention to do anything other than have the best people in it. I say that there is always a danger if you do that but it is seen as élitist, different, UK bias, whatever. But my attitude to this is *this is the Cayman Islands*. These are Cayman Islands' institutions, like the Legal Department. I would encourage the involvement of Caymanians in all of these activities and they are there and available.

You may want to know that out of the four constables most recently recruited (I cannot speak for previously), two are Caymanian. That is my understanding at any rate. Therefore, at least, in recent times the balance to which he refers has been maintained if not improved. Thank you.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Second Official Member say to whom are asset seizures by the unit, or as a result of the work of the unit, reported to?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I am not sure about 'reported to' but I know where the funds go and that is they are forfeited to the Cayman Islands' Government. As I understand it there is a separate seized asset fund which is not part of conventional government funding but is a separate asset seizure confiscation fund intended for use to assist law enforcement and in practice so used.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** In his answer to one of my supplementary questions the Honourable Second Official Member stated that the Governor has

ultimate responsibility for this unit. Could the Honourable Second Official Member say whether or not given that situation it is a requirement that this unit be headed up by a UK citizen?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, to the best of my knowledge and belief, no.

**The Speaker:** The Second Elected Member for Bodden Town, do you have a question?

**Mr. Gilbert A. McLean:** It appears that the persons who comprise this FRU are presently attached to ongoing cases. Once these cases are resolved would the numbers change in this particular unit?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I do not want to give any prediction that might prove not to be correct. On the other hand it is right to say that a number of personnel within the unit are devoted to supporting the current prosecutions but there will continue to be a need for ongoing investigation following receipt of suspicious activity reports. So there will be a certain level - they will not simply fall away once they have completed the task. For example, some of those on the first prosecution have moved on to working on the second prosecution. I would also refer you to those working on suspicious activity reports, which clearly is an ongoing and continuing activity.

Inevitably the size of the unit will reflect the workload that it has and it really depends what the future holds as to what the demands will be on the unit and, therefore, what its resources will ultimately be. But, I think, to be creditable and to carry out the functions that I indicated to you, to have greater involvement within the Edmond group, if that is what is to happen—it will be necessary to maintain a reasonable size of unit albeit that current prosecutions would involve the time as they are doing at the moment of some of its members.

**The Speaker:** The Second Elected Member for Bodden Town, do you have a follow-up?

**Mr. Gilbert A. McLean:** Yes, Mr. Speaker, thank you.

Could the Member say if there is a relationship between the FRU and the Monetary Authority, and if so, what is the relationship?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Yes, Mr. Speaker, there is a relationship. I have to say it is a developing relationship and there is an intention to work out protocols

for co-operation between those agencies. Particularly with the advent of the independence of the Monetary Authority it would be necessary to set down what the understandings are about the means and methods of co-operation. But there is co-operation at the moment and I will give you one example, if I may: The Monetary Authority has responsibility under the amendments made to the law last year for ensuring compliance by financial institutions with the Money Laundering Regulations.

Of course, under the Money Laundering Regulations, part of those regulations are to ensure that there is a system for the reporting of suspicious activity reports and the FRU is the recipient of those reports. I believe that it is also right to say that the Monetary Authority and the FRU collaborate at present on the training of persons within the financial services industry, in particular, compliance officers. Some two hundred of such persons I understand have received training by virtue of collaboration between those agencies.

However, I am not here to say that this is by any means complete. This is as it were a developing area of regulation and co-operation, but the two things do overlap—the criminal aspects overlap with the regulatory aspects. For the kinds of reasons that I mentioned, very often criminal activity may come to light through regulatory oversight, or regulatory action may be triggered off by monitoring and supervision of suspicious activity reports so that an appropriate relationship is to be sought and desirable. I would only add, that in my opinion the oversight committee that I mentioned, would include the Monetary Authority and the other stakeholders in this, including the Financial Secretary.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can and does the FRU sue to collect costs which might be involved in its investigation considering that some of the work which it might undertake does not necessarily do very much for Cayman as such in resolving these matters but it might be a foreign jurisdiction on whose behalf it might be acting in the larger part?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, recovery of cost directly is not an issue which the FRU would pursue unless it were put to extraordinary costs. There is a cost attached to international co-operation.

But I can answer the question in another way and that is to say that the FRU is responsible through its officers for effecting court orders for production of documents and also for restraint of assets. The restraint of assets can in due course lead to confiscation of assets. The confiscation of assets can in due

course be added to the Asset Seized Fund, and the Asset Seized Fund can be used for law enforcement purposes so indirectly there is a means.

Without appearing to take a contradictory position from the Honourable Member I would like to suggest that although it may not appear that there is direct benefit to the Islands, the benefit that is brought, in my opinion, is the benefit of reputation and the upholding of the good name of the Islands in the international community. A lot of times when that name is being pressurised in some quarters it is extremely important in my opinion to endeavour to demonstrate the commitment of government and the authorities to maintaining that international reputation.

So, unless I misunderstood the question I believe that there is a value although one could not put a dollar figure on it. It is an extremely important issue, particularly at the present time, but not just because of that.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In a previous answer to my supplementary, the Second Official Member said that he was not going to apologise for these constables being from the UK. Well, I am not going to apologise to ask him why they were not from Cayman? What is going to be done to try and get some Caymanians in those positions such as training on money laundering and the likes?

**The Speaker:** In fairness I think the Honourable Second Official Member has answered that in saying why they were chosen in his answer to a previous supplementary but you may answer further, if you wish.

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I think, I did answer that to the best of my ability. I realise that we come at these questions from different positions not simply because I come from the UK, that is not an issue. I am working for the Cayman Islands government and attempting to fulfil the position of Attorney General here.

What I am saying is that the best is what we want, wherever they come from, and if Caymanians are there with the best then they will be in the unit. There is no other test than the effectiveness of the individual for the positions concerned. As far as I am concerned if I have anything to do with responsibility for recruitment of these positions . . . I think if you look down that list you would be hard put to say that there is not significant Caymanian involvement already. And, although there may be significant UK presence also, those officers generally are at a lower level, I have to say from my reading of this but that is not complacency. And, I will answer you straight out and say that if there are Caymanians who are willing and able and are prepared to acquire the expertise then there should be opportunities for them.

**The Speaker:** Do you have a follow-up, The Elected Member for East End?

**Mr. V. Arden McLean:** Yes, Mr. Speaker.

I appreciate the Second Official Member saying 'if Caymanians are qualified they will be given the opportunities'. My question is: Is there any effort being made to qualify other police constables in the force who are Caymanians to go into this unit?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I want to get this answer right and having checked with the Head of the Unit he confirms to me that training does occur within the Unit and therefore training is available.

That is not the only training that is available, but let me just say what training opportunities will be pursued as we pursue them in other areas. I think there may be room within the Commercial Crime Branch as well as within the FRU for appropriate training.

It may be interested to note that transfers have occurred from commercial crime branch so that officers who are interested can either enter the FRU directly or view the Commercial Crime Branch if they have that kind of interest and aptitude. Certainly, in the time that I have been associated with the unit in terms of the current prosecutions, everyone has had to learn about the use of scanning equipment and coding—its all new. So, it is all available as well and, as I said, the skills that are being hired should become home grown in the longer term.

I emphasise that we are beginning a process that has not previously been undertaken in terms of the prosecutions and so there is a lot of new activity. I am happy to say that if the Honourable Member has any suggestions as to how we might improve or go about that I would be happy to refer that to the Commissioner, or to myself and the Commissioner for joint consideration.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I really do not have any suggestions, as the Second Official Member asked, but it really bothers me that out of seven constables we could not find one Caymanian constable to be amongst them because this is a new thing these UK Constables also had to learn. It bothers me that we could not find one or two Caymanians and I do not believe that we cannot. Caymanian Constables are there!

**The Speaker:** I must remember that this is Question Time. Please turn it into a question.

**Mr. V. Arden McLean:** I would like a commitment from the Second Official Member to see if he can, that Caymanians be brought into this Unit and trained.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I will not give that commitment because they are already in it. But I will give a commitment, insofar as I have an influence on it, that it will continue.

I would simply repeat just as the Honourable Member has repeated the reference to the number of UK Officers that the Inspector, who is the Deputy Head is Caymanian. The Inspector in charge of one of the cases is Caymanian by status. The Sergeant on that same case is Caymanian and one of the Constables is Jamaican married to a Caymanian.

However, its ultimate aim is to encourage and promote the interest of Caymanians. I am quite happy to associate myself with that and the continued efforts—not just in the senior ranks—but in the junior ranks also.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I appreciate the thorough answers that the Second Official Member has given. I would hope that in no way would influence the amount of time we have, because quite a few of us have questions on this area.

Mr. Speaker, in regards to the reporting of suspicious activity, I wonder if the Second Official Member could say at what point will those reports go to the Monetary Authority, as that is going to be the ultimate regulatory body in the financial services in Cayman, and therefore have the FRU as just a financial investigation unit of the Monetary Authority. So, I wondered what the timing was in regards to having all suspicious activity being reported to the Monetary Authority?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I do not know if that necessarily will result but I have indicated that closer co-operation between the Monetary Authority and the FRU is desirable. But to say the FRU should be part of the Monetary Authority, I think, if that is what was meant it would be different from the way in which . . . I understand the Honourable Member did not mean that so I will not pursue.

I think what has to happen is that the various parties who have an interest in the working of the FRU have to work out with the FRU the protocols for the sharing of information. Not all suspicious activity reports are disclosed to outside law enforcement agencies and not all necessarily would be shared with the Monetary Authority. Otherwise, the Monetary Authority might well be the recipient of information which is in relation to a criminal inquiry and there might be a

potential for the work of the FRU to be affected by that.

Having said that, there are many issues that come to the attention of the FRU that do affect the Monetary Authority and the working arrangement between the two should be capable of identifying what is appropriate to share and under what circumstances. As I stand here I am not able to indicate the nature of that, but it is on the agenda and it is to be addressed. Suitable protocols are needed, but suitable protocols are also needed with the RCIP and the commercial crime branch as well as the Monetary Authority.

This indicates if I may say, the position that the FRU holds. It is essentially concerned with money laundering. Not all aspects of the reports that come to it will be exclusively criminal. Many in fact will have regulatory consequences and those should certainly be brought to the attention of the Monetary Authority for appropriate regulatory action. This is not a case of one unit having set responsibilities. Each player in this scenario interacts with the other players to form an effective anti-money laundering system. That is in existence now and it is being developed. I think that what the Member is asking will come about as the protocols are settled between the Monetary Authority and the FRU.

If the oversight arrangement to which I have referred comes into operation, and hopefully that will happen soon, all those concerned will have the ability to make sure that these arrangements are working in the national interest.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline Glidden, Jr.:** Thank you, Mr. Speaker. I will turn this into a question.

I think the answers given by the Second Official Member, have enlightened us to what one of the fundamental problems we are having is: it is the opinion as to what indicates a significant amount of Caymanians. Because in a grouping of some seventeen staff members, having some three Caymanians and some ten members from the UK, with the statement being made that there were significant amounts of Caymanians there, I think, could be a fundamental difference of opinion because we are in the Cayman Islands.

In one of his responses that he gave he made reference to the Asset Forfeiture Fund. My question is, if the Second Official Member could explain to us who is the Controlling Officer for that fund because looking through the budgeting I have seen expenditure for that area but I cannot remember seeing any of the revenue aspect of that. I would just like some clarification as to how that funding is controlled.

**The Speaker:** The Honourable Second Official Member.



**Hon. David F. Ballantyne:** Mr. Speaker, the fund itself is under the control, like other funds, of the Financial Secretary. I did not seek to say, if I may in answer, that having three Caymanians . . . In fact, there are more than three persons with Caymanian connection with great respect. I count four, at least, and five, if you include the accountants, the partners of which firm are all Caymanians. I accept the point that there is room for expanding the roles of Caymanians. I do not want it underestimated at the present time.

The fact of the matter regarding the Asset Seized Fund is that this fund is not accessible by myself or anybody else without the decision of Executive Council. Executive Council needs to take a decision and indeed did take a decision regarding the allocation of funds from that fund. They then have to enter, as I understand it, the recurrent budget process and come in as income but I want to take the opportunity to emphasise, as the Honourable Member has acknowledged, that there should not be an undue drain on the recurrent budgets of the Islands. Although it is coming in as recurrent expenditure it is also coming in as recurrent revenue from the Asset Forfeiture Fund. So, I hope that helps to explain. I do not know what the details of the financial arrangements are, but I think I have outlined them as I understand them.

**The Speaker:** The Second Elected Member for West Bay, two additional supplementaries?

**Mr. Rolston M. Anglin:** I think one of the things that the Second Elected Member alluded to in one of his previous answers was the desire to have the FRU, a reputable and high-standing institution, internationally.

I would like to ask the Second Official Member whether there is any consideration being given to interview students returning to the Island whom the Honourable Third Official Member has said may not have positions in the Civil Service and may be relinquished from their bond. Whether there was any view to interviewing any of them that might have an interest in this area because obviously having well-educated Caymanians in this area would only go to increase our international reputation versus just having what seems to be mainly people of police background?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** In my answers so far I have only concentrated on the staff who are employed at the unit or in connection with it. It is a matter of record that the intention is to engage paralegal staff to support the unit and it may well be that there will be opportunities there.

We have already tried letting police officers do police work and make best use of their skills. The paralegal support that the Unit needs, which includes

assistance with the scanning, analysing of documents, encoding and other work in support of the Unit, might well be of interest to young returning Caymanians. Given the cross-fertilisation between the different disciplines here—between the policing functions, the legal functions and the accountancy functions—I am sure there is a lot of scope for creative openings for younger persons who would like to specialise in this area.

If I can say, it is Edwards himself who referred to this in his report as saying, without detaining us on jury, that it was desirable, and this is the part that I did not read [*Paragraph 16.4.5—Review of Financial Regulation in the Crown Dependencies—A Report—Part 1*]: “**Staff and training. Staff would be encouraged to make careers in this important but specialist area of work. They would no longer be required to move back and forth between this and other policing work. Special priority would be given to training programmes, including UK programmes.**”

The UK, as I have indicated in the other report which has been tabled, intends to set up a National Confiscation Agency which will help to provide a pool of expertise that will guide these efforts. So, if I were standing here some few years down the track or whoever is, I hope they would be able to say to you that the Unit had developed in a way of which we could all be proud and that it would have assisted the reputation of the Islands. The unit already does have a reputation. I may share with the House that the Head of the Unit was asked to provide assistance to an independent Caribbean country within the last year, who are considering setting up a model. And as not uncommon for the Cayman Islands, it is in the forefront of these developments. They are new. They are challenging and they are exciting, and they ought to be of interest to Caymanians returning who want to engage in something perhaps that is new and will last.

I also believe that the financial services' skills that are available in the industry . . . and I am on record as saying they should be available to Caymanians too. In understanding these skills, together with working in a unit of this kind, would uniquely place young people for a very positive future and hopefully a long-term career.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The Honourable Second Official Member said to his knowledge the often repeated view that the FRU is the local equivalent of the British MI5 or MI6 which eavesdrops and spies on the society as a whole and largely reports to the Governor information which he alone knows what happens with it?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, that is not my experience of the Unit. Inevitably there will be some speculation as to the confidential nature of the work of the Unit but that is an important part of its function.

The Financial Services Industry needs to have confidence that when it discloses suspicious activity reports to the Unit that those reports will be held in confidence. If it were even known that the institution had made such a disclosure it could be difficult for the institution concerned. So, there is a need for confidentiality and indeed information that is already disclosed is subject to similar restriction on confidentiality.

I would only emphasise that it is not confidentiality for the sake of it. It is in order to preserve the confidence between financial institutions and its customers and that has been acknowledged by the OECD among others as being perfectly legitimate. So the role of the FRU as it is developing is intended to help to police the financial centre and in the course of that it has to monitor and detect the signs of criminal behaviour. That is its primary function. It also has to cooperate internationally and that is my understanding of its purpose.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Could the Second Official Member say who evaluates the performance of the Head of the Unit and against which criteria is his performance evaluated? Also, could the Second Official Member say which firm of chartered accountants is listed here as being connected with the Unit?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I believe that the evaluation of the Head of the Unit would, in the light of the explanations that I have given earlier, be required to be a mutual one, and by the Commissioner to some extent and by myself and possibly involving an assessment by the Governor for the reasons that I have given. It is not possible to say that any one person would have exclusive ability to make that evaluation and the evaluation would be against the criteria as to what the unit is expected to do and how effective it is in terms of doing that.

In relation to the last part of the question, the firm in question is Ernest and Young, which is why I have put the label of international and Caymanian because I am told that the partners locally of that firm are Caymanians. So, that is why I feel able to say, as I did, that should be taken into account also in terms of local input. Thank you.

**The Speaker:** This concludes Question Time for this morning. At this time we shall suspend proceedings for fifteen minutes.

#### PROCEEDINGS SUSPENDED AT 11.37 AM

#### PROCEEDINGS RESUMED AT 12.02 PM

**The Speaker:** Please be seated. Proceedings are resumed. Item number 5 on today's Order Paper, Government Business, Bills, Second Reading of the Appropriation Bill, 2001. Continuation of Debate on the Throne Speech delivered by His Excellency the Governor on Friday, 9 March 2001 together with the Budget Address delivered by the Honourable Third Official Member on Wednesday, 21<sup>st</sup> March 2001.

The Honourable Minister for Tourism, Environment and Transport.

### GOVERNMENT BUSINESS

#### BILLS

#### SECOND READING

#### THE APPROPRIATION BILL, 2001

#### DEBATE ON THE THRONE SPEECH, DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

#### TOGETHER WITH

#### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker. On the adjournment on Friday last, I completed my report on the Port and also an overview of tourism and the Tourism Department.

In regards to transport there is need for quite a number of change in that section. And in keeping with putting licensing depots in the districts, we intend to have a licensing depot in Bodden Town in the short to medium-term. This was one of the areas that was recognised since it was such a growing area some-time ago but they did not get around to doing it.

Mr. Speaker, some people believe that dealing with transport only has to do with taxes, buses and licensing of vehicles. Transport is much more than that. It covers the whole transportation sector and we have several plans for this section of our ministry.

Sometime ago the present Minister of Health, Honourable Linford A. Pierson, did a plan—a George Town Beautification [Plan]—and we intend to review that plan to see how we can utilise its recommenda-

tion. One of the things we are looking at is how we can organise George Town to be more user-friendly for pedestrians. In that vein we hope to take Albert Panton Street and Cardinal Avenue and turn them into non-vehicular traffic. In the Albert Panton and Cardinal Avenue areas the question of parking will have to be reviewed by the Transport Section since there are businesses who park in that area. But that is one of the plans.

Mr. Speaker, the public must also be aware that more attention will be paid to emissions from vehicles to ensure that their vehicles are not emitting dangerous gases so that we can have a healthier environment for the public.

Also, we will be looking at the times of movement of large vehicles. I note that one report in the paper—when we first talked about our plans—talked about backhoes. We have to look at the whole matter of heavy equipment and big trucks—the way they move, the loads they carry in conjunction to the heavy populated and travelled areas and what times they travel. I have seen some dangerous loads. Sometimes the drivers of these heavy vehicles are very courteous and will slow down and get off the side of the road to make the traffic move on. But we have to take into consideration — for instance, I have taken the time to look at some vehicles coming through town. The big, heavy 10-wheel trucks come through town and they do not seem to be stopping anywhere in town but they are just coming through here, through Albert Panton Street, Cardinal Avenue and Fort Street. And, so without trying to put any pressure on anyone's business I think we need to look at the times they travel and where they travel.

It would be good if we could get our country using a well-run efficient transport service. It would be good if we could have one but this takes time [and] education but no one wants to do without a car and I do not know if you will ever get a government that is going to limit the number of vehicles we have. But, one thing I can assure the country is that the present outlook — while I say the country is not dead, we cannot continue just building roads. Traffic numbers have to be looked at. I am not saying that we must stop them but I do believe that people should be educated to become more — do things that can eliminate so much traffic on the road. Car pooling, as one Member just said to me, is a good example. Mr. Speaker, I would like to have a good scientific overview of the transportation business in the country and, therefore, I am going to ask for a review, a plan, for that section.

I want to turn now to the Tourism Attraction Board. We all know (those of us who have been here before and perhaps those Members who are new because they also paid attention to what was going on) that the Pedro Castle situation was one that most of us believed proper regulations were not followed — that there was just building, expenditure and no

proper management. We will never really know the extent of the financial mess at Pedro Castle.

In mid-December [2000], we got the General Manager to put in an action plan for the Tourism Attraction Board, which includes Pedro Castle. I would have to say that Turtle Farm, Pirates Week, the Museum and those areas, while the Museum is not under my ministry but the Botanic Park is, are running well. The problem area has been and is Pedro Castle. It is an area that we have to put much attention on.

So, far we have made some achievements. I would like to note some of them at this time. There has been a reformatting, and inputting has been standardised in the accounting systems at the Botanic Park and at Pedro Castle by the Financial Controller. The standards established [were] the Auditor General's.

A new Site Manager has been appointed for Pedro Castle and an advertisement has been placed for an Assistant with historical site experience and management capability. There was nothing done to market the site to try to make it work, to make it financially feasible. So the management has produced a comprehensive marketing programme including cruise ships advertising for both Pedro Castle and the Botanic Park. This programme is now being reviewed by the Board and will go into effect from April 15<sup>th</sup>. I am working hard with the cruise ship industry to direct business to those areas.

Mr. Speaker, overall I should mention that the Caribbean Development Bank (CDB) has enquired about our development plans with regard to Pedro Castle, and has expressed approval for the new directions being taken. It is not going to be easy to put this on a sound financial footing and no one needs believe that it is going to be done overnight. It cannot! But we intend to put our efforts behind it to ensure that in a few short years it will be running as a proper business.

I move now to the National Trust of the Cayman Islands. If the National Trust does not become too confrontational it will be a valid, vital asset to the country. But if it gets bound up into squabbles then it will begin to lose its effectiveness. I am glad that there is a new direction.

The National Trust board members understand me although I have not had a lot of talk with them as yet, and I understand them. While they are concerned about conservation, they are not prepared to get into confrontations. Their time can be utilised better: for instance, they have a site acquisition programme and they have a programme in Bodden Town called Mission House. The Mission House Conservation Plan has been launched to the Bodden Town community and the plan is to restore the structure to its 1910 appearance using construction materials, where possible, that would have been present in the House during this time period. Doing so will capture the most historical significant attributes of the

structure when it was home to the Presbyterian missionaries.

The central team guiding the restoration of that project. And the interpretation is the Mission House – remembering the Caymanian spirit. The site will be used as an interactive heritage centre. Start-up capital costs which includes the cost of restoration, interpretation, landscaping, and the first year operational costs are estimated at approximately \$575,000.

Considerable sums have already been donated to the project and they continue to raise funds for it. This is in keeping with my view and plans to develop Bodden Town as a tourist attraction since there is so much of our country's history involved in Bodden Town.

In Miss Izzy's schoolhouse work is on the way to complete the conservation plan. In the meantime, the structure was secured for protection from the elements. Signage is now in place and documentation of the structure is on the way. The conservation plan is expected to be completed sometime this month or next month.

The Historic Building and Site Inventory (HBSI) is a comprehensive repository of Cayman's built heritage. Its pages contain listing of heritage structures throughout all three Islands and wherever possible a systematic examination and an analysis of individual historic schedule for demolition, alteration or relocation. Each list includes some combination of measured drawings, photographs and written reports. To date there are over 370 listings in the HBSI and there are more and more people who are concerned about heritage structures and are requesting to have a structure properly documented.

A written report was completed for the Caribbean Cultural Tourism Programme of the Slave Root Project for the Museums Association of the Caribbean. This is a UNESCO Project in partnership with the World Tourism Organisation. This is an important regional programme, whose main objective is to foster sustainable economic and human development through the identification, restoration and promotion of sites and places of memory linked with the slave trade and slavery throughout the wider Caribbean. This project was the result of a joint effort between the National Trust, the National Museum, the Tourism Attractions Board and the Cayman Islands Archive. I hope that work will steadily continue on this project.

The [National] Trust is still involved with environmental programmes and is continuing to work with Government on the protection of the Booby Pond Nature Reserve in Little Cayman, with funds raised by the Trust and with technical assistance from Lands and Survey. Two-thirds of nesting area of the Red-footed Boobies are still in private ownership and are being purchased for conservation. This means that later this year the entire colony will be in conservation ownership and protected in perpetuity for future generations.

As I said earlier, we are moving past the confrontational politics surrounding protection of the central mangrove wetlands, and working constructively with the Central Planning Authority and Central Mangrove Committee, which is now making good progress.

The [National] Trust will work closely with the Education Department and schools to provide locally relevant teachers' resources keyed to our national curriculum. So far we have established schools' resources on endangered species and extinction, mangroves and a recently released storybook and CD of children's tales linked to themes about our natural and historic heritage. And, I am going to work closely with the National Trust to help them achieve their objective in their new structure.

Mr. Speaker, it is critically important that any country such as others have airport facilities that are safe and user friendly. Attached to that are facilities that enhance civil aviation and keeps us in line with all international regulations. In this regard, the United Kingdom is conducting audits of all its territories' civil aviation facilities and we will be audited in the very near future.

In the meantime we must continue with current plans for upgrading our facilities. These plans are already known. However, I would like to say that the Gerard Smith International Airport runway resurfacing project is currently ongoing with schedule completion date on 30<sup>th</sup> [April] 2001. The contract, as we recall, was awarded to Island Paving with Lagan, a joint venture, for the sum of \$4.5 million. Island Paving, as we all know, is a local company and Lagan is an Irish based company. Aggregate for this project is being supplied by Scott Development Corporation Limited which is a Cayman Brac company.

Mr. Speaker, in keeping with the requirements for the safety of aircraft operations and the continued development of tourism, it is identified that major developments of the airport infrastructure is needed to accommodate air transport requirements at the Owen Roberts International Airport. I have announced this already but it will include extension of the runway, the construction of a parallel taxiway and renovation of the departure terminal. Right now discussions are currently ongoing to determine designs, specifications and costs.

We now have Cayman Airways, Continental, Delta Airlines, Air Jamaica, Island Air, British Airways, US Airways and American Airlines. These are in addition to a number of private jets and charter operations, and so the airport is more and more busy. We have to do the renovations. They are necessary, and I intend to work in partnership with any of the airlines that can make a valuable contribution—they are now in their operation—but who can offer more valuable contributions as a partner. I will not walk away from any input that is positive and that is for the sake of the Cayman Islands.

The development of an airport in Little Cayman has drawn a lot of discussion but I am thankful for the

support that I got when I received responsibility for Civil Aviation matters. I have held my public meeting there and out of the 52 people attending only three persons objected at that meeting. I am not saying there were not others, and we will take any objections into consideration, but the fact is we have to provide facilities that are meeting with safety regulations.

Mr. Speaker, I said in the beginning that Cayman could never stand still and no one should expect that whether they are Caymanians or foreign residents. We have to keep moving in the right direction. It is of paramount importance to meet the needs of safe transport for Little Cayman. We are not going to have that overdeveloped because I do not believe that is what the vast majority of people want and it is not good for the Cayman Islands. I think along the lines they have been developing is the way that we need to go in Little Cayman but we do need to have safe and reliable air transport. So, plans are in place to build an airport that will meet these requirements taking into consideration the sensitive environment of Little Cayman.

There have been some costings so far. Preliminary cost estimates for this project are in the region of \$3 million and I believe that can be reduced. Land clearing for this development is scheduled to begin in another two weeks.

Mr. Speaker, the Agricultural & Industrial Board (AIDB) and the Housing Development Corporation, individually, have tremendous responsibilities in our changing economic scenario. The Agricultural, Industrial and Development Board, in particular, celebrates several years as a developmental financial institution.

During its years of coming of age the long discussed merger with the Housing Development Corporation (HDC) will take place this year, I hope. I have instructed the management of these institutions to finalise the merger within the next few months. More importantly, I have asked them to create a totally new and more dynamic development financial institution that will meet the challenges that have begun to face us in this millennium.

The new development institution will become a true development facility of the Cayman Islands and is to be called the Cayman Islands Development Bank (CIDB). The CIDB will continue to build on the foundations of the past and seek to achieve even greater impact within the Cayman Islands in facilitating greater economic development in agriculture, small industry, tourism, and housing, as well as in the promotion of human resource development through its loan portfolio for students. Over the coming months the mechanics of this new entity will be worked out and it is expected that the draft legislation for the establishment will be tabled in the Legislative Assembly sometime in the third quarter of this year.

Standards for projects and programmes that facilitates medium-term financial self sufficiency:

- Greater efficiency in the operations

- Greater sensitivity to measures of control in the face of possible audit queries
- Increased opportunities for staff retooling, at both the professional and technical levels, to improve general performance
- Enhanced delivery systems to improve customer service
- Constant upgrading of technology to improve transaction processing to be able to respond more quickly to clients
- A more focused marketing thrust to generate increased business in lending
- Enhanced financial products and services that can attract more clients; and
- Greater monitoring of the existing loan portfolio to keep contamination at a minimum.

The AIDB will develop a micro-entrepreneurship programme geared at young people from 18 to 35 years old, so as to encourage them to embark on their own businesses. That programme will encourage projects that produce indigenous goods and services that are both appealing and competitive.

Secondly, AIDB in these short-term strategic objectives will spearhead the holding of an agri-business week sometime in October this year. This is a strategy to raise the level of consciousness in the three-island chain with a view to strengthening the agricultural sector and at the same time properly raising the concepts of agri-business, agro-processing and agro-tourism.

Through this avenue also AIDB hopes to attract increased borrowers who are willing to explore new farming possibilities in agriculture, marketing and marine production. We are ready to provide funding in those areas in collaboration with the Ministry of Agriculture and the recently proposed Agricultural Development Committee from the Ministry of Agriculture, who provides technical assistance to interested parties.

Mr. Speaker, in an attempt to respond to the tremendous housing needs existing among low income earners in the country, the Government together with the AIDB, is working on the implementation of a mortgage programme to be called Home Ownership Made Equitable or HOME. This programme is to be implemented by the HDC, until the CIDB is in place.

The HOME Programme has been specifically designed to provide an equal opportunity platform for lower income Caymanians and Caymanian Status Holders to be able to either acquire their homes or upgrade their existing substandard homes—it is a two-tier programme. Also, in collaboration with the Department of Social Services, shelter for the indigent, the handicapped and the elderly will be made more accessible. This brand new concept in housing has been developed to deal with the obstacles of the past that limited certain groups and individuals from acquiring their own homes. It also fully recognises the social responsibility that the Government has in ad-

dressings this inequity. For such persons, Mr. Speaker, who according to strict banking guidelines may never be able to own a property.

The HOME concept has taken into consideration the following factors in its design:

- Lending practices
- Expensive borrowing terms and high interest rates

The HOME Mortgage Programme has also acknowledged the following:

- High land acquisition cost
- High construction cost
- High stamp duties
- High closing cost.

To be able to implement this programme, funding will have to be sought at concessionary terms from international agencies such as the Caribbean Development Bank (CDB). And, of course, we have met as a group with the banks and we have talked to them. They have looked at how they can put some funds into such a programme through the AIDB. I want to thank the Leader of Government Business who helped to work on this, but no amount has yet been finalised nor exactly where they are going to have an input, but they are in discussions.

The Government will also need to institute relevant measures primarily to keep costs down under this programme. Some of those measures may include:

- Developing proper housing regulations
- Purchasing specific parcels of land from low to medium housing; and
- Making that land available in strategically zoned areas for the purpose of building.
- Approving the design concept of one roof or quadplexes as well as the add-on concept where clients will be provided with a starter unit and as their fortunes improve they have the ability to add on a room or two. That is not new to Cayman because we have done this over many years.
- Officially promoting the concept of self-help at the national level
- Waiving or reducing stamp duties
- Subsidising closing costs
- Lobbying to have lower hook-up costs for accessing utilities, that is, water, electricity and telephone.
- Encouraging financial institutions operating in the country to institute more equitable lending practices but are not prejudicial to any one target group.

Mr. Speaker, as I said, we have met with them and I think they are willing to work in partnership with us. But this is an area that the financial institutions need to recognise that they can help us and help this country tremendously if they acknowledge themselves as good corporate citizens. I am looking for-

ward to Mr. Crutchley spearheading this matter and talking to with Mr. Daniel Scott, the partner in Ernest and Young, who is Chairman of the HDB.

Generally for a home loan, stable and continuous employment will be the first requirement. Ability to service one's mortgage will be the second, while a financial contribution towards the acquisition of the desired property will be the third.

Other terms that are expected to be used under this programme are as follows: For home acquisition loans the lending range will be between \$60,000 and \$95,000 while for home improvement loans, the lending range will be between \$1,000 and \$25,000.

Every effort will be made to keep the interest rate as low as possible but that depends on the cost of funds to be borrowed.

The repayment periods will vary from a maximum of fifteen years for home improvement loans to twenty-five years for home acquisitions.

There will be five options available to clients under the HOME programme as follows:

1. Ability to purchase a first time home
2. Ability to construct a first time home on land or leased land owned or leased to be built by an approved contractor
3. Ability to construct a first time home on owned or leased land utilising self-help labour under approved supervision.
4. Ability to purchase land together with an approved plan showing their desire to build either through options 2 and 3.
5. Ability to renovate an existing property to bring it up to acceptable and approved living standards.

The HOME Mortgage Programme is meant to be inclusive rather than exclusive and as such common-law partners can now qualify under this programme as well as divorced or separated individuals will be able to apply individually. As well as we will allow parents and children to apply.

Mr. Speaker, one of the worst disservices done in getting a home with some people was when they removed the common-law requirement or people who were in common-law partnerships. We know we have a lot of that to contend with and that will never change in my lifetime. So, Mr. Speaker, if they call me a sinner so be it, but we will allow common-law partners to get a home if they can qualify. I hope that we will not receive too much flack on that and I hope that after I sit down my colleagues will defend the position.

In an attempt to make the HOME Programme really equitable the ministry and HDC will do all in its power to advertise and promote through various mechanisms. That is, they will hold public meetings, advertise in the media and put brochures in public places and, of course, the HDC and the ministry can be contacted as well as members of the House.

There will be certain restrictions on the home loans and two examples are:

1. HDC will not advance loans for speculative purposes; and
2. Loans will not be given to clients already owning a home.

Government expects to work more closely with the new CIDB in developing this and other programmes.

And finally, the HOME Mortgage Programme is the first in several steps in addressing the critical issues of affordable housings for low income Caymanians.

At a later date the issue of a National Housing Strategic Plan will be brought before this Honourable Legislative Assembly for its consideration. I look forward to receiving the full support of Members of the Assembly as we seek funding as well as morale support to be able to address one of the critical social problems challenging our Islands' people at this time.

Mr. Speaker, I know that all Members of this Honourable House campaigned on this issue and I can say that already Members are taking a great interest in it. Some have gone with me to look at a system in Florida, which I believe we can get a three-bedroom home for around \$60,000 if not less. That will not be a cement house although it will have some cement with it but as I have always said in this House, we cannot cure the housing problems by any one plan. We are going to have to help people who own a piece of land to build, give them opportunity. You might not have all cement houses and there are various building methods now available that we can employ to address this and I am committed to having plans and some programmes by the middle of June this year.

We ask people to be proud of our country and we try to educate them to that extent but there is no one prouder than a man who can have a shelter for the wife he loves and for the children he calls his own. Mr. Speaker, that must be one of the foundation stones of any government that talks about social policy.

We must put an all out effort and the financial institutions must, as I said, play their role in this area. I am looking forward for support from one and all on this. I am not saying that you cannot oppose. That is not what I am saying.

I am happy to hear from the Member from East End that I have his full and unstinting support and he is going to back me all the way in this programme.

Mr. Speaker, I believe that we are on to good times. I close as I open this speech: I am glad that I can work with members of Executive Council who know what they are doing in their own areas and who in their own areas have experience. We were not elected together but we found common ground. That is what is important in any system. We are not going to agree to everything any one of us may say but what we promise the country to do is to work together for the good of the people of these islands.

I am pleased to know too that our colleague, the Minister of Health is back and is doing well. We were concerned about his health but I am glad, I know as other Members do, that he is back with us. He certainly has a tough road to travel in the Ministry of Health and Information Technology but I know he is capable and is up to the challenge.

I too am proud of the calibre of people that I was elected with in West Bay—honest, hardworking young men. They have a commitment to do good without hurting people. I am proud that we have other capable men who are not in the opposition, in the form of the Elected Member from East End and the Second Elected Member from George Town, who in their own rights are qualified and capable and as we have all seen, making valid contribution to this country's challenges.

Mr. Speaker, we have an Opposition and no country nor government should go without an Opposition. I have worked with some of them and I can continue to work with them, and I will work in the best interest of the country with them. If we happen to disagree I hope that we can disagree and call it that.

If our country is to succeed it must have the goodwill of all its Members of this House and of its citizens and those who live legally among us. There are challenges but as I said it is not a dead country. Every father, mother, brother, sister, uncle, aunt, son and daughter can help us make these Islands the best place to live and work. And, for that to happen we must all shoulder our responsibility. In our homes, fathers must shoulder their responsibility, and we have some good fathers but we have some wayward ones too.

For those good ones we thank them and encourage them and for those wayward ones we say to them, *'get back to where you belong or I believe the Government should help them to get back there'*.

Mr. Speaker, we must all shoulder our work because the country cannot carry on without the goodwill of its citizens. We must shoulder our responsibilities in the workplace. I encourage workers, as I have always done, to realise that they have to be to work on time and that there will always be a boss, someone, in charge—whether it is this House and that is you, Mr. Speaker, or whether it is in the school, it is the teachers, or in Sunday School. It is our Christian families who carry on and are the boss. We must work together. We must stand together. If we seek to divide, we must ponder what will be lost by division and what is to be gained if we worked towards a national unity and attempting to understand one another better.

There is no doubt where Cayman's best interest lies and we owe it to those who came before us—those who worked hard to build this country to the standards we enjoy, our elderly. And, while we are in tight financial straits, we should not forget who built this country and what we enjoy. We should believe that because we are educated that we know it all. We

should not believe that we can look on a person's situation and tell what they go through in a home or what is their condition of life.

We owe it to our youngsters and those unborn to leave this country better than we found it. Sure, Mr. Speaker, the next few months and years will present great challenges but I believe the next few months and years will present just as great opportunities too. So, let no future historian ever write that Caymanians of this generation were content to witness objectively or in our case preside supremely over the demise of these Islands.

As I have said, I have always believed in teamwork. The new Government is moving forward together as a team and this is the only way this country can succeed.

I welcome the announced constitutional review and will work according to what my people will accept. I will work to help educate them in what they do not understand; there must be some changes. But we must be careful in what we accept as changes.

Certainly, I believe that the time has now come for political organisation. I believe that for leadership in the form of a person who is chosen by the people from an organisation which comes to the people with a clear agenda on how to move this country forward, while maintaining a standard of living leaves no one behind, at the least it provides equal opportunity to all.

From what I can gather from around this country, people want sensible change. It is up to us to inform and educate, as we cannot leave that to those persons who seem to know everything. When the timing is right the machinery will be put in place, in the not too distant future, which can assist us as an agent of positive change.

We also need to work immediately on our immigration policy. We have to make changes. We have to accept what we did not want to accept in the past. We cannot accept willy-nilly. We cannot endanger people forever. The outside world will not allow it and Cayman is no more the Islands that time forgot. So, I am looking forward to sitting down and dealing with the immigration problems we have.

Mr. Speaker, development is needed because one of the greatest challenges that this country has at this time is finding the revenue to do the things, not what we all want, but what is needed in this country. I am concerned about the downturn we now feel and hope that one and all will realise that we do not just snap our fingers and investors will jump and put in their funds and building starts. That is not how it is done.

I believe one of the most critical things in the process of development is a good immigration policy because Caymanians in the past have been worried about numbers that they see. So, while they have these numbers and are concerned; the people who live here and have no immigration status to make them feel safe are also worried. So what do you have then? You have an uneasiness that is not good for the future of the country. I want to see that settled so

that Caymanians know where we are, where we are going and that those who live and work here and remain legally amongst us also know where they are, what to expect and where they are going. So we must be concerned, yes, but we must not just jump to everything that is put before us.

Mr. Speaker, as a country we must maintain our integrity with fiscal responsibility and accountability. Of course, there must be an ongoing balance that will continue to draw us into making difficult decisions. In regards to my district, the programmes that we plan will go ahead but I have to say here and now that we cannot start the planned Civic Centre/Hurricane Shelter this year. I took a decision that we just do not have the funds. And to show how reasonable we are, to show that we mean business about priority, we put West Bay Civic Centre back. The \$3 million or the \$4 million that we would have spent, which we did not have, will be spent hopefully by the year 2003 when it will be completed and when the Library, the present Town Hall, will be up and running.

Mr. Speaker, there is no greater joy than to serve one's country and serve it to the best of one's ability. I have been here for many Budgets and many Throne Speeches and I am back with a renewed energy—and I hope a vision is not blurred—and will work to the best of my ability as I have always done in the best interest of the people who elected me in the district of West Bay, and to the interest of the wider community of the people who live, moved and have their being in these Islands called the Cayman Islands.

Mr. Speaker, as for me, *'the woods are lonely, dark and deep; but I have promises to keep and miles to go before I sleep'*. I thank you and I thank the House for its indulgence.

**The Speaker:** At this time we shall suspend proceedings until 2.30 p.m.

#### PROCEEDINGS SUSPENDED AT 1.07 PM

#### PROCEEDINGS RESUMED AT 2.44 PM

**The Speaker:** Proceedings are resumed. Debate continuing on the Throne Speech and the Budget Address. Does any Member wish to speak?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Thank you, Mr. Speaker.

I am more than proud to be a part of a Legislative Assembly which I believe represents a change in the intellectual condition of this country. Mr. Speaker, the human being is distinguished from other animals, in that, before we can produce something, in reality we would have created that something in our imagination.

The conception of what we have here today goes a long way back and it is not recorded in the Throne Speech, nor does the person who delivers the



Throne Speech pay specific attention to the conception. And, the delivery of what we have here today in the Legislative Assembly, which is, of course, new minds with new ideals, new beliefs, new sentiments, new hopes, new dreams and new aspirations not just for ourselves but for the people of these Islands.

Mr. Speaker, the winds of change are strong and commanding. They are apparent to all those who did not take heed when we said long ago that society 'cannot live by bread alone'. We need ideals. We need to realise that society has to have structure. It has to have continuity. It has to have purpose. It has to have thinkers, philosophers—the same types of persons that we condemned in this Legislative Assembly in the last session. It was said that philosophy was dead, that it was useless and what was important was the material condition of the individuals that were the messengers for the New Jerusalem.

We are debating here today the budget because again we believe that what is important is the material condition of a country and not the condition that the country finds itself from a point of its collective consciousness. As I have said, the human being is different because long before he produces the budget he has conceived of it in his imagination. As a matter of fact all the things that the present government will try to achieve in this present budget exists in the budget to a certain extent as a part of their ideas.

Mr. Speaker, I am not sure that the Budget or the Throne Speech delivers to us a clear, cut sense of direction. But I am of the opinion, as Solomon was, that where there is no vision the people will perish. I also believe that if we do not know where we are going we are unlikely to get there and even if we manage to arrive there we will not know that we are there. Therefore, there is a need for that leadership that the Minister for Education, Human Resources and Culture spoke about. We need to somehow create a partnership in this Legislative Assembly that will allow us to hold on to the change, to structure the change, to manage the change and to see that the change delivers to the people the conditions materially and ideologically that are necessary for good Christian living.

Mr. Speaker, I would prefer to be a member of the present Government and be able thereby to influence the direction in which the country would develop from a policy direction on a day-to-day basis. But as my destiny has been, I find myself being on the Backbench again and I am hoping that I can be even more useful on the Backbench than I would have ever been in Government because my desire, like that of most of my honourable colleagues, is to serve my country well regardless of whether I am on the Backbench or a member of the Government.

We have come far enough and it is now necessary for us to examine where we are at in this country. We need to use the intelligence and the knowledge of the Minister of Education, for example, to chart out a new ideological direction for this country.

Without ideals, people will be unable to follow. There will be a lack of structure and we will find that government in this country will continue to be that institution which argues about budgets and pays very little attention to the state of the collective consciousness of its people. While we have concerned ourselves over the years with prudent spending, our children have gone to the devil. Our families are being disrupted and destroyed, Mr. Speaker, by the kind of new social and economic relationships that they have had to enter into.

Mr. Speaker, I think an analysis of our condition is necessary because there are those who would like to find solutions and apply solutions without even understanding the essence of the problems which we are dealing with. The problems are deep-rooted when a country finds itself at the point where it must define itself if it is to continue to exist as an entity but is incapable of defining itself since it can find very little evidence in the past of its collective existence. What I am saying here, is that we need to imagine ourselves as a nation and then begin to build ourselves into a nation.

The nation will not exist simply by us bringing in new reform measures, which are part of the bureaucracy of a nation, but is not the soul of the nation. The soul of the nation, which has to do with the beliefs, values, sentiments of its people and its collective consciousness, is in fact what I am in search of. I am happy to know that the Governor could report the progress being made with regards the writing of a history for the Cayman Islands.

It is again unfortunate that when we talk about nation-building and recognising the importance of recognising ourselves as a unique entity—not just geographical but social, mental, moral—we are still waiting for history that has not been written by one of us. Yet we are talking about how many Caymanians are employed here and there, and this and that about Cayman. But when it comes to an important intellectual function like that of creating a dialogue with the present, we are talking about a product that will be completed and delivered to us by someone who has not lived among us. We will be satisfied somehow that it will give us an idea of who we are, what we are, where we are coming from and where we will be going.

Why, Mr. Speaker, is it necessary for us to only recognise Caymanians when that Caymanian is one of us, meaning us. When it is me that I say is a Caymanian, then it is me that should be respected. It is me that should be promoted and rewarded. But when it is you then I turn around and say it is not as important in your case as it is in my case. Or if the Caymanian happened to be from my family it is important. But when it happens to be from your family it is not that important. Or the Caymanian happens to be from my district it is important, but when he goes from your district it is not as important.

That kind of division that we see is still existing and has existed in the past even more critically. We need to talk about *Caymanianness* from one perspective. Not talk about Caymanians and Caymanian status holders either, because that is a part of the continuation of the confusion which we are entering into. We need to shape the past in such a way that it will serve to give the present more meaning and more clarity, and to give directions to us for the future.

The writing of a history seems unimportant to many because what is history going to do to feed us. We need to know where we are at and where we are going rather than where we come from, you will hear a lot of people say. Some people will even say that it is probably best to forget where we came from because it might not have been too pleasant. And why does he remind me about how poor I used to be, or who my Mama was, because that only brings back the role that I played socially and confuses it with the role I hope to play today. So there are a lot of us in small communities that have no desire to see the past revisit us. There are a lot of us that have spent so much time trying to rush away and run away from a past that we all must have thought somehow hid dark secrets that we did not want to deal with.

So, to choose someone to write a history of our past that you, yourself, cannot be sure of because what is this past? You choose someone to write this history for you who is not of you and then the problem continues. When the person writes you are not satisfied with the way he interprets certain issues in your past. You are not sure that he is not trying to put you down, make you look like the others, not make you look special as you think you are or would like to be. So your dialogue becomes stagnated and you find yourself in the position where you cannot accept that particular interpretation of your past. The same position that we have found ourselves in, in hiring someone to write our history is the same position that we find ourselves in, in hiring someone to govern us.

We have a Governor from England. We have a constitution from England. We have a lot of civil servants from England. We have a lot from England—but at the same time we have a problem with England. So what do we do?

**Hon. Roy Bodden:** Imperialism!

**Dr. Frank S. McField:** What kind of state do we find ourselves in collectively. How do we begin to seriously select what is useful and what is not useful with regards the opinions which people are giving us? How do we know what to believe and what not to believe?

The nation is set in a state of confusion. The lack of structure. The lack of ideals. The lack of beliefs in anything and anyone that has set our nation in a state of confusion. Kids, Mr. Speaker, what can I say! They find more unity, more consistency, more surety, more pride more dignity in some of the things that are, yes,

told to them on the Black Entertainment Network than they find in the things that we have to say to them. What we forget is that man cannot live by bread alone and people need to believe in heroes. People need to believe in progress. People need to have trust. People need to feel the familiar feelings and warmth of community. People need to have social bonds. People need to be able to presume that others think as they do. People need to belong to social groups. People need an identity. People need a heritage. People need a history. All that people do, the Caymanian people do as well.

So we have spent the last twenty years denying the fact that history as it is written, as it is interpreted, is as important to those today as the things that the people in history were doing at the time in which they were doing was to them. When we, what I would consider, the new Caymanian intellectuals, came back to Cayman in the seventies and started talking about the need for people to have ideas, understanding, principles and identity, everyone said we were dissatisfied with the way things were and we wanted to overthrow the status quo.

I must say that this is my first opportunity to compliment the present Minister for Education for having made that long journey from the streets of Cayman to, I would say, one of the highest offices in Cayman—to have made that journey with all the obstacles placed in his path, to have made that journey from there to here . . . I am saying this because I would also like for some of the younger Members of the Legislative Assembly to understand that the change they will now inherit is not something that happened by accident. It was conceived in the imagination of members of our society who knew long ago that philosophy was not dead. Philosophy was the beginning of the need to make into reality, the desire to make into reality and the intention to make into reality certain dreams that we had for our country—that people could be better educated, more capable of living together with dignity and pride and not live in a state where we cannot truly speak out to one another, where we have to play these patronising games with each other, where we do not know what and how to please.

So the change that we now accept as ours started to happen in this country sometime ago. I recall many times as I went into the galleries here and looked down and thought how incredible this place was down here. How far removed somehow. The only way you could come in contact with people in this Legislative Assembly was if you came down here and tried to look them up somehow. The reality was that the relationships we had were not genuine relationships that people should have with their people simply because we found ourselves in a position where we recognised that there was a difference but we would not show that recognition in the way in which we acted towards one another.

Many people recognised, for instance, that I am a black Caymanian. When I came back in 1977 I had ideas, of course, that many, without even knowing those ideas, condemned. So I share a part of the pride in seeing the Minister for Education in the position that he is in. So regardless of how critical I might become of the government, Mr. Speaker, I still owe a certain amount of support to that Minister because of the history that I am conscious of, that he is conscious of and that we participated in making. Not only the two of us, Mr. Speaker, but I would say that at this particular point that is something that is very pointing to me.

We talked about colonialism. We tried to explain to people what that meant back then. Today, there is no urgency that I have from an individual perspective at my age, but nevertheless there seems to be a need for us to see that history and what it means. If we begin to look at the problems which we have today – the problem of the distribution of resources in our society – we will see why it is so difficult today to decide who to collect the funds from and who to distribute the funds from. The partnership that started, for instance, when Cayman was made more commercialised, brought into what I would term the capitalist orbit by virtue of the fact that the hotels and the banks were established here. We interpreted this as meaning that they were altruistic, that they were doing this for to help us because we were such nice people. We were the nicest people, the greatest people in the Caribbean and everything was happening for us. It was all for us they were doing this. So some thirty years later to find out that it was not for us but it was for them that they were doing it upsets a lot of people but it does not upset me, Mr. Speaker, because I never thought that they were doing it for us. I always thought that they were doing it for themselves.

So I am not going to get over anxious in terms of trying to change the balance with regards the relationships. I am not going to spend time criticising the OECD, the British White Paper or the monopoly which the banks and tourist sector have over the Cayman Islands. I want to try to put that in some perspective and show why we are in the financial situation that we are in with regards the budget.

Mr. Speaker, from the very beginning that we started this new modern Cayman it was expected that those that came here to invest would benefit, otherwise they would not have come here in the first place. The fact that we saw that we could benefit as well was, of course, true but twenty years ago I knew that the Caymanian people as a whole would be fragmented. That their social bonds and relationships would be stressed and torn apart. We would have social decay, social crises and then at the end of the day that could not be considered to be beneficial to our Caymanian people.

So, obviously what we were talking about, in my understanding from the very beginning, is that special interest would benefit. Special groups of people, spe-

cial individuals were to benefit from the development of this Cayman at the pace in which it was being developed.

The sale of our land, Mr. Speaker. What do we do? We sell our land to get revenue to turn around and build roads for the cars that are coming in from other countries fuelling the industries of other countries. That is what we do. We tax in order to improve infrastructure so that business can be more efficient. So in being more efficient it has less need for our own Caymanian people.

Business like the banks that seem only to have turned valuable positions into menial positions, where we see our young women being poorly paid cashiers. We see in the hotels the development of jobs that are low paid that no one wants. In order to get these people to come here to create these jobs we have to give tax concessions to them to import and then we have to turn around and put duties on the foodstuff that the people that are working in these lowly paid jobs are eating. This is the way we have developed over the years.

So in trying to find a political direction in this country, the new government is going to have to pay attention to the way in which these contradictions have developed because you cannot have your cake and eat it too. It is necessary for them to call a spade a spade. And to say that the relationships that have developed have done so to a point where they are very unfair relationships and that they cannot correct these relationships by taxing the poor people in order to create more social programmes to try to deal with the social damage—which has been created in this country over the last thirty years—because the social damage will increase at a pace that their taxation will not be able to increase.

Even if we are going to use the question of Caymanian ownership of business, we have to see somehow that what we are going to try to get ownership of is a small insignificant business. We are not trying to get control of larger business, because it is incredible how the development has been in this country. It has been a peculiar kind of colonial development that has not emphasised any other portion of the economy besides tourism and banking – both sides that could easily slip away and go some place thereby creating a fear in the hearts of people who say, *'We cannot do anything. We are stuck with this relationship. Although we are unhappy we cannot do anything because they can always get up and go some place else'*. That kind of fear and pessimism we have in our midst.

But they develop these sectors and what goes along with banking? Big law firms and big accounting firms who occupy these positions. [Did] these firms develop at a rate that would have taken into account the training of Caymanians to take those jobs? No! The establishment of those firms had nothing to do with Caymanian human resources in the first place. So they were allowed to develop in such a way that

they have then impact on the social relationships which exist between us in these Islands.

The managers of the hotels have also become a part of that new class of imported labour, the skilled labour, the managerial class, that have become more powerful and more dictatorial than any other group that we have had in this society. So every time you try to get a little bit more from them with regards trying to mend some of the social fences and the decay, they are able to shout us down and put us down and make us seem like we are a bunch of chumps.

If we are going to have a new kind of government, then that government is going to have to have backbone to stand up and not just analyse the problem, but come with some solutions to the problems. The solution, again, must have something to do with Caymanians or Cayman getting its part of the pie—not the one in the sky but the one right here. That is only going to happen if we have a government that can say, *'look we cannot run this partnership this way anymore because let me tell you what is happening'*.

While you think everything is okay, it is not okay. Simply because the impact which the presence of capital has had in this country over the last thirty years has created so much social decay. In order to be able to restructure and to put the country back in a position where harmony would exist and be guaranteed, we have to do this amount of spending because we never spent in these areas properly before. We have to get money for these programmes and we cannot get money by continually taking it from poor people, making them poorer and making them more a part of the problem that we are trying to solve.

We have to deal with the contradictions. This is the change that I want to see and that I would have like to be a part of. This is a change that from this side of the House I will support. I am not asking anyone to be Robin Hood. But let me say, I will support a move to create some type of cohesiveness, solidarity and togetherness in this country. I believe that the only way that can be done, the only class that is capable of allowing that to happen, is the political class in this country – those of us in this Legislative Assembly.

It is our job to take that collective consciousness and elevate it to a level that it has never been elevated to before in this country. Simply because people felt that as long as you could stagnate and stifle the collective consciousness you could control the country [as] there was no one they were answerable to. They could come in here and make and dictate the terms but not if you have a conscious political group in this country. I am not necessarily advocating the political party system at the moment. I am talking about those of us in here beginning to act as a political elite, defending a specific political national consciousness in this country—not the consciousness of petty nationalism but a greater consciousness.

There is that need for us to have leaders. There is that need for us to follow. Mr. Speaker, I will have

no hesitation in following those persons who have committed themselves to this development, to the development of a national political consciousness in this country that will stress the fact that Caymanians need to control what is important in this country. In doing that, I am also emphasising that we have to expand the whole concept of what is Caymanian and who is Caymanian. That has been stagnant for too long, too undynamic a concept for too long.

A new government will handle the issue of immigration not just as a plague but also as something that has positively impacted the ideas of our country as well as the material conditions of our country. But even in integrating and assimilating the different cultures and nationalities in this country, we are still moving forward. We are still insisting upon reaching the New Jerusalem – that new conscious level in this country. A country that will be a sharing caring country again but it will not just be those who were the original settlers that will share and care; it will be those new persons who can dedicate their lives to this new concept of this New Jerusalem.

There comes a time when we must allow men to choose ideas and not just 'houseware and kitchenware'. When I say 'choose ideas', Mr. Speaker, I mean choose a belief system that goes beyond the national strategic plan because that is telling us ideally what people want, but it is not telling us how people will sacrifice to get what they want. It is only when people learn that to get what you want you have to give up something, you have to sacrifice something, you have to become committed to something, will we be going someplace.

We want to find people to motivate a government to get commitments, to empower them over there to be able to say, *'We speak for the Legislative Assembly'*. The Legislative Assembly speaks for the people of the Cayman Islands because with regards to certain principles we are united behind the beliefs that in finding these new values we can somehow find new commitment, re-establish destroyed social bonds and create the basis for solidarity and re-enact our society again.

**The Speaker:** May I interrupt you a minute.

Once I get a quorum, it would be a convenient time to take the afternoon break.

#### PROCEEDINGS SUSPENDED AT 3.32 PM

#### PROCEEDINGS RESUMED AT 4.00 PM

**The Speaker:** Proceedings are resumed. Debate continuing on the Throne Speech and Budget Address. The Third Elected Member for George Town continuing.

**Dr. Frank S. McField:** Thank you, Mr. Speaker.

As I was saying we need a new national collective consciousness and I do believe that people have

underestimated the tremendous role that political ideology plays in any society in maintaining structure and cohesiveness. Especially a society that has so rapidly increased its human numbers and its material productivity like ours, the need for some kind of thread to run through the entire process to connect everyone is of absolute importance. It is underestimated by those, of course, who would prefer to see weak government in order to be able to hold the wishes of the people at random. And at the same time lose when, in fact, the weakness of our government, the lack of role models and the lack of anything that is concrete with regards to identification causes our young people, in particular, to begin to disassociate with us and associate themselves with what they might consider to be more potent cultural forms of existence.

So when we look at the question of modernisation or reform in our country we have to be asking the question about which do we do first, the political reform or the bureaucratic reform. The political reform, Mr. Speaker, as far as I am concerned should come first because only then will the bureaucracy be in a position to carry out the directorates of the political machinery. If the bureaucratic reform comes first, it means that there must be someone who has already developed and designed this perfect bureaucratic solution to the question of man's government. I do not believe that any country can claim to have done this.

So the first model that I would like to see is the constitutional reform. But the constitutional reform cannot be just mechanical. It cannot be called by the Governor and happen in any productive manner. As I have said to the persons from the Foreign and Commonwealth Office (FCO) what is lacking in this relationship between us and Britain is the possibility for meaningful dialogue. I do not mean that this is their fault because it is mostly our fault as most of us are not outspoken and when we get before certain people we start assuming that we know what they want us to say and how they want us to act. We start acting and saying these things as if we have a premonition as to what they want from us. I believe one of our great weaknesses in this country in the political arena is that we tend to assume too much when we should explore and see what it is that they want because sometimes they do not know exactly what it is that they want since what they want has to do with other people.

So if they are talking about us how can they be sure what they want for us? There must be some degree of confusion. So we must challenge their ideologies, their principles to appoint where partnership becomes meaningful, because partnership is based upon exchange, openness and transparency. And that will result in a readjustment in the relationship that will benefit both parties if both parties consider this relationship to be something that should continue in the future.

Now, when you say that we should have a constitutional review, the whole question of a constitution

is put before consciousness. I would like a review of our consciousness that will then act as the mechanism which then reviews the Constitution because the Constitution is the result of the conceptualisation of where it is that we want to go. As I said at the beginning, the difference between the man and the animal is that the man begins with idea and ends with the product—he separates himself from the product. There is a conceptual stage and then there is the implementation stage. The Constitution is a part of the implementation stage if not the conceptual part.

Now, how do you put three [persons] on a committee to conceptualise something that should involve this collective consciousness that I am speaking about? Obviously, they are not involved in anything more than a mechanical bureaucratic exercise. It is ordered by bureaucrats who only know bureaucracy and bureaucratic procedure. I am talking about how to produce relationships, bonds between people that will be lasting and that will create for us a national identity that will allow us the possibility to go through the stormy seas of change. This is only going to be necessary when the politicians that the people are paying become seriously involved in looking at what is necessary to make their country a part of this modern growth.

Now, we have a lot of young people in here who are full-time, and they have dedicated their time to their country. But they are going to find after a while that a lot of people are coming to them simply with complaints that they cannot do anything about. They are going to find that after a while they need to do something with their time and they will probably become like me—they will get involved in some kind of organisation that has something to do with motivating the grass root people of this country, to take more initiative in becoming a part of the solution to the problems they are complaining to us about.

When that day comes the whole mechanism which should drive the political machinery will be set in motion because there are those who believe that by ordering a constitutional review we will have solutions to the problems with regards to participatory democracy. When participatory democracy is not solely based on a constitution, it is based upon the people believing that somehow the persons who represent them know them and can act for them. They can only know them and act for them if they have the ability and the possibility to give those people the instructions to be able to accomplish this job.

So, why is it we are not discussing with England the difficulties which we have in creating a political environment which allows us the possibility to make government something that drives, that pulls them, rather than something that is driven by crises, by an individual person's problems.

When we make a law today we find that the law is wrong simply because we find someone tomorrow that was not covered by the law or who is somehow given some hardship as a result of the law and we

want to all of a sudden break the law in order to deal with these kinds of problems. A government that is sometimes schizophrenic in its very being, simply because it is driven from all directions and we do not know what the centre of power is, what drives it, what motivates it. We need to know what drives and motivates the political machinery in this country. Then when we identify that we are being placed in a position to better perform in accordance with the rituals, the values and the beliefs of that political state.

The whole idea that politics destroy society, that politics destroyed the West Indies, that politics destroyed the so-called Third World countries, yet the First World countries are still so dependent upon politics . . . It goes to show that politics is necessary, whether or not it hinders sometimes or it assists. The fact is, in dealing with human beings we have to use politics—not *politricks* but politics. Politics being the involvement of the community in conceptualising where it is that they want to go. That particular process, I believe, some persons thought was accomplished with the strategic plan for this Island, the 1999 - 2000 Strategic Plan.

That is the type of ideology which you have today, those persons who believe that for every *queh-he* and every pain, you have a strategic study and plan for everything. But the Strategic Plan does not give us an answer on how to bind people together and how to get commitment from them, which is what we need at the end of the day if we are going to move from Point A to Point B. We need commitment and questionnaire sociology is not the answer to the problems that we have because we all know how to ask questions. We can all empower this questionnaire sociology methodology but it is not going to solve the problem of how to get your citizens involved in becoming a part of the solution to the problems or the challenges that they face. This will call for greater political activism.

When we try to talk to people about greater responsibility in our community, getting more involved in our community with regards to youth, seeing the poor in our community and trying to assist the poor rather than relying upon the government to give welfare cheques to the poor. When we think about how to get sons and daughters to pay more attention to their elderly parents. We have to do this, not by giving more welfare money. This is not why we would say that we need to raise more revenue to give more money because money is the root of the problem and money is not the solution of the problem. Therefore, to give a family more money is not the solution. The solution must come by giving the family the values, the beliefs and the ideas to be able to work through the difficulties, which they have, and to be able to find the solutions. Why is it that you should take care of your parents? Why should you take care of your children?

The fact you are given \$600 a month to take care of them would that make you take care of them?

Will you take care of them? Probably not! But love, trust, lack of fear, that whole idea that these people are special—these are the ideals and the values that we need to get across and reinforce to people in our society. Not by telling that this is so but by demonstrating to them that this is so and this is the only way that we at the end of the day can live in harmony and in peace when we have fulfilled our social responsibilities.

If the people who are better off in the society are not willing to fulfil their responsibilities when they believe that money is more important [as] they have a belief in money super-ideological structure that people should not pay taxes, dues and should not have corporate responsibilities, then why should someone leave the United States where they do not want to have corporate responsibility and come to the Cayman Islands and have corporate responsibility? It does not make any sense. If the man who is investing the money in the banks does not have corporate responsibility why should the lawyer who is assisting him in being able to accomplish this have corporate responsibility? It begins to spread down and no one does anything unless you pay them. In a society that operated without cash 30 - 40 years ago we now need cash to accomplish everything. No one will barter anymore. No one will do anything anymore unless it is motivated by money. You need, therefore, ideas, values, beliefs to change that.

The only people who can push these ideals, values, or beliefs are people in the institutions—either the churches or the government. The churches have their domain and they do their part, and now we must have the political machinery also to do their part. Government should not just exist as an institution to deliver services to people. Government should also exist as an ideological institution—as an institution of ideas, values and beliefs about how best to live together in communion with one another.

That is what government's role is all about and has always been: to structure the society; to make sure that structure continues to be able to exert influence whether or not it is cohesive influence, or gentle persuasion. However it is achieved, that social control in the society has to be exerted by government. But if government does not know who it is, what it is, what its interest is, who it represents, it is confused about its own identity, then obviously government cannot accomplish that.

When we say government, we are talking about government from a point of the institution of government not as individuals in particular roles. So we see just how a mechanical review of a constitution would not accomplish what we need to accomplish today. And it might not necessarily be the best thing for this Island because it might send us back into a panic of disagreement when our people are not prepared to understand the role in which politics play in every society, and the role in which politics must play in their society in giving them a feeling of importance.

Every human being must die but that is not what is important. What is important is that we can die for something that we believe in. What it is that we can die for, or that we can live for, or that we can sacrifice for by committing for. We have been deprived in this country of that and that is the colonialism that we need to talk about. The fact that people can assume that human beings can exist in a benevolent way in society without any head or tail or direction but they can exist in a vacuum. That is where the problem is because as long as we believe that is so we will never be able to create that nationality, that idea of this New Jerusalem which we need to create.

Mr. Speaker, I think about relationships—individual relationship, institutional relationships. Relationships help to preserve the activities or stimulate the activities, therefore, it is important that if we are going to have constitutional review and constitutional modernisation, that all the politicians understand that they are going to have to work even harder because there will be people on the outside who will be preaching, *'they are trying to change the Constitution'*.

That is one reason I understand that the most important thing that we have to do is not necessarily change the Constitution, but to change the consciousness because once the consciousness is changed the Constitution will also be changed. I could change the Constitution any day from my point of view because what is it telling me anyway? All the Constitution is doing is telling us what the hierarchy is with regards to the decision-making process. The Constitution that we have put the people on the bottom and put someone who is not elected on the top. That is not a democratic constitution. I am democrat in that sense. I believe in democracy. I believe in people's participation. It is no wonder therefore that the people ask what is the point of voting because once you vote, all they want is your vote. Nothing is going to happen.

A lot of the people believe that they should not vote for me for nothing because I am getting something out of it. That means that we have failed to convince the people that they are the motor that drives the car. They believe it is for someone else and *'let us go and complain to someone else and let someone else do it'*. But you know what happens? That turns around and the people come and say, *'Well, when something is needed then someone else has to provide it too because if you want to be King then you will have to pay a price for that'*.

So they expect a welfare government and that is not what I advocate. Although I believe we should have a sharing, caring, government according to our culture and our heritage of sharing and caring in the past. Those core principles, I believe, we can agree upon that will be useful in creating this collective consciousness—the principle of caring and sharing. But sharing should only come after caring, so if you cannot care you cannot share.

In other words, if you have not contributed something there should be nothing there for you. You should not be able to just go and say, *'Well, I am a Caymanian and therefore I deserve this'*. The new consciousness, the new government should be saying *you have to be involved in putting in before you can take out*. There will be those who will say, *'Well, I have already put in and therefore I should be taking out'*. This is the job that government has also, to be in the position where it has to continue to structure how favours are done and according to what basis favours are done. When I say favours, I do not mean that you are doing some kind of privilege things to certain persons.

So the issue of how we mature politically is an interesting question — not only politically but sociologically because it will help us to replace those social bonds that were destroyed during that period of rapid economic development, and commercialisation of relationships in the Cayman Islands. So when we are going to be critical of England, as I have heard many members suggest not just in this House but outside this House, we are still acting, as far as I am concerned, immature.

When we become critical of ourselves we are acting like big men who start criticising ourselves for the state in which our 'House' is in. If we are going to put our 'House in order, we have to start to put ourselves in order first. We have to stop saying bad things about one another and say some positive things about [each] other. We have to stop pulling one another down and start pushing each other up.

When we look at the total failure of our social bonds and our social relationships, we do not just jump over to find an opponent to fight because we have to repair too much damage that has been done in our society over the last thirty years before we look for any kind of conflict or confrontation. We have enough conflict and confrontation among our ranks in this country. No one seems to like the other person. Everyone seems jealous of the other. Everyone is fearful of the other. No one trusts.

And why do you think that condition has been allowed to exist? Is it fear? We are all fearful because of the fact that so much stress has come as a result of the commercialisation of our relationship over the last thirty years. I believe that he only wants this because he wants these things for himself and if he gets a chance he is going to take every penny I get, so I am not going to lend Mama nothing because when she has something she is not going to lend me and I do not know the day I am going to need. We are all fearful of our existence. That is the problem — we cannot trust one another anymore and we cannot say anything nice about one another anymore.

Once we understand this, we no longer treat it as a permanent problem but as a temporary imposition that we can move away from as soon as we understand the positive role that political development can now play in our society. There are those, again, who

will say *'be careful they are talking about politics. They are talking about putting ideas in people's heads,'* but if you do not put some ideas in people's heads somebody else will come and put ideas in their head.

When we were saying that it would be better for us to put some political ideas and ideals in the heads of young people, they said, *'no because it would be bad. You guys are black power people. You guys are communist people. You guys are bad for the Island.'* But now when the gangsters are putting ideas in their heads and the kids are out there killing one another and the kids are out there doing things, Mr. Speaker, will it stop? I do not know. But what I am saying is, someone is putting ideas in their heads and it goes to show that every head needs ideas and every head will welcome ideas.

So let us rally and get to the point – to the cause of creating new ideas, new values and new beliefs for the new Caymanian. A Cayman that will not be exclusive but a Cayman that will be critical of those and those things that it includes. Before it does include and say that these are a part of the core parts of the Cayman Islands, that we go through a thorough examination of the kinds of effects or roles that these parts will play.

In all, I believe, Mr. Speaker, that the question of what is a Caymanian and who is a Caymanian is essential. I noticed this morning that the Minister of Tourism was talking about housing and he said, *'Caymanians and people of Caymanian status—a new nation, a dynamic nation that understands the role of immigration, integration and assimilation will begin to talk about Caymanians and not Caymanian status, whether or not they were born here.'*

So we have to begin to learn how to *'talk the talk'* and *'walk the walk'* in creating this new Cayman that will be made up of the positive results of the last thirty years of rapid economic development that has brought us not only capital, but it has also brought us human capital. We have to learn now how to mould both the human capital and the material capital in such a way that we can create a new Cayman Islands out of what we have now.

Mr. Speaker, this will be enough for this evening, I think.

#### **HOUR OF INTERRUPTION—4.30 PM**

**The Speaker:** We have reached the hour of interruption, 4.30 pm.

I would entertain a motion under Standing Order 10(2) for the adjournment of this Honourable House.

The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

## **ADJOURNMENT**

**Hon. Edna M. Moyle:** Mr. Speaker, I beg to move the adjournment of this Honourable House until Wednesday morning at 10 am.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am, April 4. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10 am. April 4.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 4 APRIL 2001.**





**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**4 APRIL 2001**  
**10.04 AM**  
*Fourteenth Sitting*

*[Prayers read by the Third Elected Member for George Town.]*

**The Speaker:** Proceedings are resumed. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable First Official Member who is presently overseas.

Moving on to item number 3 on today's Order Paper, Questions to Honourable Ministers and Members of Government. Deferred Question No. 38 standing in the name of the Fourth Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MEMBERS/MINISTERS**

**QUESTION NO. 38**

*(Deferred Wednesday 28 March 2001)*

**No. 38: Mr. Cline A. Glidden, Jr.** asked the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports what is the status of the Cayman Brac playing field in regard to the proposed completion time and budgeted cost versus actual.

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The Cayman Brac playing field had an estimated project cost of \$675,000 and was to be completed in 2000. The Public Works Department, prior to the approval of the 2000 Budget, provided this estimate.

The total cost of this project, as estimated by Cayman Engineering Ltd, in January 2000 was: \$1,778,798 if the field is grassed; \$1,947,162 if the Field Turf is used instead of grass.

Total expenditure to date on field, access road, track and covered bleachers is \$572,018. This figure does not include \$89,000 for the purchase of land.

**SUPPLEMENTARIES**

**The Speaker:** Supplementaries, the Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I see an estimate in the *Hansard* for \$675,000 and then I see some other estimates. I am not exactly sure. I also see that we have spent \$572,000.

Could the Minister state which one of these estimates we are working on? Also, if she could state what was to be included in this project when it was initially started, whether it was a playing field or what was involved in the project.

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The figure of \$675,000, I understand, was put in by Public Works. As to how they arrived at that costing we are not sure. The other figures are costings done by Cayman Engineering Limited.

To the other part of his question as to what was included in the original briefing note, Mr. Speaker, I will not make mention of the irrigation, or the area topography access.

Phase 1 of the project would consist of site preparation to accommodate a maximum international size football field, 120 yards X 80 yards, with a walking/running 8 lane 400 metre track. Initially, it is proposed to have a grass surface for the track.

Future phases will include, but are not limited to, the following:

- The 400 metre 8 lane athletic track with Mondo surface, changing rooms, storage rooms, office, conference/lecture room, canteen and public toilet facilities
- Covered seating to accommodate 1,000 to 1,500 spectators
- Additional lighting
- Two hard courts
- Cricket pitch wickets
- Softball and/or baseball pitches
- Proper parking facilities; and
- Proper fencing

I think then, Mr. Speaker, later on this was changed, and if you give me a moment I will read:

"Future phases will include but not limited to the following: hurricane shelter similar in construction to the East End and North Side Shelter to accommodate

approximately 250 - 350 persons; the 400-metre 8 lane athletic track; changing rooms; office; covered seating; additional lighting and; proper parking facilities.”

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** From the year 2001 Budget it would suggest that the \$1.9 million figure is being used for the estimate. Can the Minister confirm whether the field will be re-turfed rather than grassed?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** It is my understanding that the previous Minister preferred the turf rather than grass because of the cost to water the grass, therefore, it is based upon using the turf.

**The Speaker:** Any other supplementaries?  
The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Like the Minister said, she does not know where Public Works got this \$675,000. I find that disheartening and of grave concern since we have a budget right now that we are going through. I am sure a lot of the capital projects are based on Public Works Estimates, and if they are overextended we have a grave potential problem.

Can the Minister state whether the field, upon completion, will be completed to an international grade facility that can be used for international sporting events?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The Cayman Islands' Football Association has replied yes, but we are still seeking permission from FIFA as to whether it will be.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Would the Honourable Minister give this House an indication as to the expected completion date for the entire project?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Unfortunately, I cannot give this commitment or give you a date of the completion of the entire project. It depends on funds being available.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I do appreciate the position taken by the Minister.

Can the Minister indicate if the proposed design and format of the project will remain the same under her directorship, or will there be changes to the design?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, I will have to get a costing of the entire project, if we are going to put a hurricane shelter, a 400 metre running track and basketball court before I can commit this country to that kind of expenditure. We must get value for money expended.

**The Speaker:** Supplementary, the Second Elected Member for Cayman Brac and Little Cayman do you have a follow-up?

**Mr. Lyndon L. Martin:** Can the Minister confirm that the project of the Cayman Brac Football Field is inclusive of the hurricane shelter? I see in the 2001 Budget there are two separate items and the \$1.9 million stated for the football field is separate and apart from the \$2.1 million estimate for the hurricane shelter. Are these projects to be viewed as one project or two separate, individual projects?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** These two projects have appeared in the budget of these islands over the last couple of years as two separate projects: one is under government public buildings, and the other is under sports.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I understand that the Minister has taken over responsibility for ongoing projects and I am not sure that she will be able to answer this. In one of her previous answers she mentioned a facility that could accommodate somewhere between 1,000 to 1,500 people. I wonder if the Minister has any access to the reasoning behind providing a facility that can seat 1,500 people on an island that has a population of somewhere around 2,000 people. If we take the ones in Grand Cayman, for example, they are usually based around one-tenth of the population size or less. To go to 100 percent of the population, I just wonder the reasoning for that.

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I will research this and get the answer to the Honourable Member in writing, however, I do not have a clue as to why this decision was taken. I do believe the covered bleachers have already been erected.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** On an earlier answer as well, the Minister stated that the previous Minister preferred turf instead of grass. Now, on a recent visit to Cayman Brac, we looked at the proposed location and saw that there are difficulties with doing grass because of the water supply on the Bluff. It is of grave concern if we are spending this amount of money on a project, and we put grass because water is a problem, but then we are not allowed to use it for international competition. It would be a major disservice, especially when we talk about value for money.

Although the Minister stated the previous preference was turf, can she say now what kind of surfacing will be used on the facility?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, this paper from Public Works has given us a breakdown of the yearly maintenance fees of a traditional grass field versus a turf field, which I think must have been why the decision was made to go with the turf.

After 15 years of maintenance for a grass field, the running total would cost this country \$1,561,450, whereas with the turf it would cost the country \$765,813. If I am to understand the Member, does that mean we cannot use the turf for international football games? I am not sure. Is that the reason?

The Government will have to look at the position, Mr. Speaker, and make a decision which direction we will go.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** The football field at the High School is the only field in the Brac that is now accessible to the youth and adults who participate in soccer, softball, baseball and cricket. In the event that this field is not completed in the year 2001, as it is not budgeted for, has the Minister put in place any provisions to have some temporary measure to isolate this field from the High School itself in the form of fencing?

**The Speaker:** The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I will undertake to discuss this with the Honourable Member, because I think prior to going to this football field that we are now building there were two other sites identified in Cayman Brac but they were not chosen. We went to the piece on the Bluff. We will discuss later, along with the Minister of Education, how we can do something with the High School football field to assist the youth in Cayman Brac.

**The Speaker:** Are there any further supplementaries?  
No further supplementaries. Moving on to Question number 53 standing in the name of the Elected Member for East End.

#### DEFERRED OF QUESTION NO.53

*Standing Order 23(5)*

**No. 53: Mr. V. Arden McLean** asked the Honourable First Official Member responsible for the Portfolio of Internal and External affairs to explain the protocols of General Orders, Financial and Stores Regulations and the Public Finance and Audit Law and Regulations that govern the responsibilities of public service employees in relation to the performance of their duties with respect to financial accountability.

**The Speaker:** The Honourable Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan Ebanks:** I had anticipated and had conveyed to the Business Committee the expectation that this answer would have been ready for today. Unfortunately, that is not the case. I humbly beg leave of the House under Standing Order 23(5) to have the question deferred until Friday, 6 April 2001.

**The Speaker:** I shall put the motion that Standing Order 23 (5) be suspended in order that this question be deferred to a later sitting. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it. Question number 53 has been deferred to a later sitting.

**AGREED: QUESTION 53 DEFERRED TO A LATER SITTING.**

**The Speaker:** That concludes Question Time for this morning. Moving on to item number 4 on today's Order Paper, Government Business, Bills, Second Reading, the Appropriation Bill 2001, Continuation of the Debate on the Throne Speech delivered by His Excellency the Governor on Friday, 9 March 2001, together with a Budget Address delivered by the Honourable Third Official Member on Wednesday, 21<sup>st</sup> March 2001.

The Third Elected Member for George Town continuing his debate.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE APPROPRIATION BILL, 2001

##### DEBATE ON THE THRONE SPEECH DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

##### TOGETHER WITH

##### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**Dr. Frank S. McField:** Mr. Speaker, thank you.

When I broke last evening I had reached a part in my debate that had allowed for me to develop a framework, a perspective, within which we can better understand the dreams of the people and how those dreams are mapped out in the Throne Speech and budgetary process, which is a necessary part of completing these projects. I also paid specific attention to the lack of ideological development in the Cayman Islands and showed that, in fact, society is held together by the ideas, by the creative and imaginative processes of the individuals involved.

I tried to show that before you can have a chair, you must have the idea of the chair. In other words, before we could have this Cayman Islands today, we needed some idea at the conception stage in order to work towards building what it is we have.

I showed that the dominant players in the game have always been non-Caymanians. The whole capital that has been used to develop our country, and too many of the human resources employed have come from elsewhere. This creates a peculiar type of environment condition.

Today we see the degeneration of what we consider to be Caymanian culture; Caymanian heritage and a Caymanian way of life fall by the wayside and make room for the more powerful forces of commercial development. We begin to understand that not only did our traditional economic institutions become weak in the face of a much more modern and rapid commercial development, but our social institutions were weakened as well by this particular situation.

If we are talking about the decay in our society—the social problems which come from the destruction of social bonds, from the change in the moral and

mental orientation of the people—we have to see that this is the result of the rapid economic development which has impacted our traditional Caymanian environment in such a way that it has, in a sense, created traumatic experiences for institutions and individuals. This has been recognised by most persons who have researched the Cayman Islands and have passed judgement as to the cause of the moral decay.

We are in crisis. We see that government is in crisis. Government rules by crisis and has been for a very long time. People are in crisis. People are managing their individual problems on a crisis-management basis, the same basis as the individual we find on the social level.

So once we have the ability to understand our environment, we then begin to conceptualise plans to create meaningful changes. I have said already I believe that the political processes which have been introduced by way of the White Paper, for instance, are interesting. They bring the idea, the moral outlook or superstructure into Caymanian realities.

Before, a lot of us would say, *'Well, what is all that talk about? They are only talking nonsense. Oh, that old fool should shut up. He talks too much anyway'* because talk is cheap. We were encouraging a more common-sense type of approach to all the problems.

I understand what people mean by "common-sense approach". What we need is a much broader outlook. We need a much more informed outlook. We have to go beyond the common-sense approach and have the social intelligence at the end of the day that will allow us to manage our society in such a way to create efficiency, preserve harmony and enrich development—culturally, spiritually, socially and so forth.

We find that there is no one focus. We have, for instance, the Department of Culture talking about culture. We have the Department of Education talking about Education. We have the Social Services Department talking about social services. We have all kinds of divisions in our society with regards to who should be responsible for which aspect of the community's development.

Some of our Members say—and have been for a long time—that everything is related. If we cannot see the inter-connection between all the different human aspects—the economic with the political, the political with the social, the social with the cultural—then we cannot understand the miracle of human existence. If we cannot understand the human condition, it is impossible to preserve, promote or improve it simply because we do not understand the dynamics.

The institution we now must rely upon in order to gain this understanding and have these improvements in our society is obviously government. Government has to play a more important role in this society for the following reasons:

There is no class of Caymanians that have the capital, intelligence or the self-expertise to maintain

control. Therefore, if we were to have a continuous *lassiez-faire* approach as we had in the past we would find that the country would not belong to Caymanians. Caymanians would not recognise their country and their country would not recognise them.

So, for this particular reason, there are those who understand the dynamics in existence over the last thirty years—the economic, social and cultural forces that have removed these islands and the environment in these islands further away from those things that we call Caymanian. Those who understand the positive principle of that which is Caymanian—a caring and sharing communal type of existence—those who want to preserve that and to improve upon that must now become involved as the catalyst, as the agents, for this new approach.

We are content to say we can no longer have traditional divisions in the Legislative Assembly as before. The tool for improvement of the people is not a type of mechanical definition of political structure or some kind of Westminster mode. It is a consciousness, a responsibility that we all have as members of this society to ensure that the people become a part of the New Jerusalem.

In incorporating this type of analysis, I hope that people will not think it is pointless because the last government was one without ideas. They did not have any thinkers. They did not think it was possible or necessary. Those are the same people who talk about prudent spending, which is a merchant-class particular way of thinking, governing and running society. Bookkeeping management rather than societal management! People who think about pennies rather than the energies that create the pennies. People who believe that money is the beginning and the end rather than a means, and who are no way involved in the creation process or the implementation process.

There was a need for a change in this country and I believe I participated in helping that change to come about. When we addressed the breakdown of the family some 25 to 30 years ago we focused on: the need for pre-school education for a head start; the need to get involved in training families to teach their children; offering families the hook and line to catch the fish rather than just giving them the fish; and the need to get with the grass-root community to help them along the road to progress—social, educational and economical progress.

There were individuals who stood in the way of this change. They laughed and ridiculed us. Many of us were excluded from the decision-making process of our society.

Now the time has come when people have seen that it is necessary to involve us again, but it is late in the day. If we are not involved in the decision-making process of the society in a meaningful way, we will have no effect on the crises which the country faces. We can talk about the social problems, the need for a lock-up for the kids, the need for secure-remand faci-

ties like those at the Marine Institute and the need to improve them.

When we recognise all the various stages of development of the human personality which we must take into account and all the different levels where we must intervene, it is frightening the type of human and monetary resources that will bear on these problems.

So, because of the way in which the country went forward so rapidly, it created trauma in the process of dislocating. Now we have to find the splinters of the accidents and put them together again, which is a very expensive process.

When the people are asked to be socially responsible and to contribute something towards this process, they say, *'No, not us. Without us you all are dead. Go and tax the poor who are working in the low paying jobs that we have created as a result of all the tax concessions that you have given us.'* So we offer tax concessions to create low paying jobs for our people who, in turn, we tax in order to pay for the infrastructure that these companies—multinationals like the hotels, banks, trust companies and law firms—can benefit from.

So, all the people are using us in this country to create an environment that can produce the type of profits that they are looking for, and no one is telling them that they must think about social costs as well. That is why a new type of government, a stronger kind of government, is necessary in this country.

To say now that the Cayman Islands population as a whole would have been weakened by this development, and that is okay because that is what they like; there is no class of Caymanian, no group of Caymanian, no individual Caymanian with any kind of dedication to what is Caymanian who would stand up to any of these companies that are demanding they continue to operate in this country without being responsible for the social infrastructure. No one!

Those of us Caymanians who have been successful have been successful as a result of them approving of us. Those of us who they do not approve of are not supposed to have a voice, nor be able to have any kind of material conditions to affect any kind of change.

There is a need for the government to move away from the types of Throne Speeches that are delivered here to us which are so mechanical, which copy from one year to the next the same old thing and give us an approach, a concept, a new vision.

I was delighted when the Minister for Tourism got up and, at least, started to offer some creative thinking in terms of what he was going to do with regards to his Tourism Ministry and how he was thinking about getting people more involved in the tourism product and benefiting from it.

At the end of the day there are a lot of people who do not like us to talk about the haves and have-nots, but it is always back to talking about the haves and have-nots. Unless people learn how to share and care, there will always be the haves and have-

nots. The haves will always distrust the have-nots and the have-nots will always distrust the haves. What is new? It is as old as history. It is as old as the history that says individuals should be concerned about themselves and their children than they are about mine.

We are no longer our brothers' keepers, and as long as we fail to be our brothers' keepers that is what will happen. The Israelites found that out a long time ago, the year of the Jubilee. They knew that if one group of individuals were always successful and the other ones were not, at the end of the day it would cause resentment and strife in the society and there would be a lack of harmony.

How is there supposed to be harmony in our society when every time I go to South Sound I see places that I could never be? Never! I am talking about me. What about those kids who see these things and know that they could never have them? Every time you drive through there you see people talking and acting in ways in which you know there is a certain kind of cohesiveness and solidarity between them that we do not have in our local communities. We understand, therefore, that as long as that picture is there—and in central George Town or parts of West Bay—there will be conditions created for conflict rather than conditions being created for harmony.

All I ask the present Government to be aware of is the fact that they cannot continue to advocate a policy of financing government that will depend on taxing the poor. Each time we come up with an idea of how to get funds to run anything in this country, we almost stagnate.

It is not that there are not a lot of people who are anxious to get involved with community activities; but at the end of the day you get involved with those community activities and the first thing you find is that there are no funds to do anything. There are no resources. Then when there are resources they have to come from the government. We have to continue begging the government for these resources which causes people to become more and more dependent upon government.

When government plays this role, there are persons in the private sector who turn around and say to us that government should not be so big, so involved or employ that amount of people.

When we look at the budget and the amount of money we spend on recurrent expenditure—the amount of money that past and present governments have spent on grants, subsidies and contributions—that is a big part of it.

There are those of us, of course, who say that we do not want a welfare state because there is a negative part. Yet, those of us who say this (and I am one) say, '*I don't want the welfare state*' because we do not want people not to be a part of the solution to their own problem.

One thing that I must recognise and say is that welfare was not created because people were nice

and the government was altruistic. The welfare state was created as a way of developing a buffer between the haves and the have-nots. If those people did not get welfare they would have got some other kind of 'fare'. They would have taken what they needed because that is human nature.

The welfare in America, the dole in England, and whatever they have in Germany and Switzerland, that was not all there. That was there to create a social buffer, to create a stabilising factor in the society so people would not fall below a level where it would be impossible to influence them with the positive norms of our society.

If you push people totally out of the mainstream they will create subcultures and they will begin to challenge the dominant values, firstly, by their own pattern of behaviour and, secondly, by more direct kinds of confrontation.

We do not want the welfare state, but we have to understand that we must apply certain types of social policies in this country in order to maintain a certain amount of social balance. There must be money for this.

I believe that the most effective programmes will be ones which involve the people in being a part of the decision-making process. It is not as important to give people the fish as it is to give people the line and teach them how to catch the fish. Of course, if they have the line and they do not know what to do with it, there are going to be problems, too.

So our country has to have a social outlook that is necessary—especially with the kind of economics that we have today.

We look at many of the jobs advertised in the paper and, in most cases, they are being re-advertised. Companies are only doing it because of the necessity for the work permit and the red tape they have to go through in order to get work permits for these jobs. The experience and education that is required means that there are a lot of our people who would not qualify for these jobs in any case.

The economic institutions we have are specialised to the point where they ask for an impossible educational and work-experience background. There are institutions that did not grow up naturally among us. Those are institutions which are exported from the developed countries into the under developed countries and, therefore, help to under develop the country even more.

There are those of us who say we are not a Third World country. We are worse off than a Third World country because most, at least, have an economy other than one imposed upon them by monopoly capitalism.

Those of us who boast see what happens when the Organisation for Economic Co-operation and Development (OECD) comes down on us or when the people in the tourism sector do not get their way. When everyone cannot use us, we see that it does not belong to us but belongs to someone else.

So, we must watch how we continue to stress the infrastructural development of our country to accommodate these First World economies who think that somehow the Third World economy—like agriculture and other areas manufacturing small cottage industry as the Minister for Education and Human Resources always speak about—are no longer necessary. We have bypassed those stages and they are not needed as filler to really round out our society and make our society more wholesome.

So where do people seek employment? How do people feel they are not being marginalised and trapped in the sense that they cannot move up? How do you move up from the bottom to even the middle? How do you progress?

Not everyone necessarily wants to go to what is known as the top. Not everyone wants to be lawyers and doctors. So not only do we not have educational facilities for people who do not want to be academics and in those kinds of First World industries, but we also have no industries for those people as well. There is no training and then there is no industry. As long as there is no industry, probably there will be no training. As long as there is no training there will be no industry.

So, at the end of the day we are pushing out a particular class of people with a particular mental orientation. However, society was not built that way. Society was not built for just one type of people because God realised more types were needed. That is why he made a woman after he made a man, just to make sure we all understood we are all not the same.

We have to accept differences and we have to accept the benefits of differences, not just in cultures but in mental orientation. We have an educational system that has traditionally been run by two people.

This is the third Education Minister that I can remember. The last two have been in and out and we have had no change in the educational orientation. This whole idea that we are all the same, this pretence that we are all the same and we have always been the same is what is killing our country. We are not all the same and we were never all the same. It is about time we recognise that lie is doing part of the damage to the educational system in this country.

I do not understand why the philosophies of Booker T. Washington—the person who came up from slavery and created an educational institute that became a model for Negro progress in America—could not catch on in this country. After all, it is better to be a carpenter, a bricklayer or a mechanic, if we are going to get into the position of arguing professions. I do not believe that any profession is better than the other. What is significant is the character of the person.

We can have lawyers who, as far as I am concerned, say nothing from the point of view of their character, their contribution and wholeness. Yet, we can have mechanics and different people like that

who make positive contributions and hold their communities together.

There is this whole idea that we do not want to accept there are classes in society. We want to pretend that they do not exist. This one goes and has his cocktail party and does not invite the others. Everyone knows the class and the cleavages in our society exist, but when we meet up we all pretend by joking and patronising one another in such a childish manner so the differences do not show. Then we go back to our individual homes and talk about one another in such a hypocritical manner.

Differences exist, Mr. Speaker. If differences exist in the society because of the place that people find themselves economically and socially, we must employ industry in such a way as to give those differences the possibility to integrate into the whole and be productive.

We have known families for generations who produce people who just seem to be more in love with physical work.

First of all, I come from a working class family, and I use the words “working class” because I believe my parents were a class of workers. In other words, they sold their labour and they were proud to sell their labour in order to earn what was necessary to support their family. It is true.

You know, one of the things that we liked in our boys’ club was to look physically good. We did not like to look like the boys across the other side who looked a bit *slumpy, slumpy*. I mean, in today’s world it is a little bit different because everybody goes to the gym. The gym used to be: pulling the grass; raking the sand and doing those things. We used to love to do things that would develop our muscles. Young boys were looking to develop. How come people forget about that?

If your father was taking you fishing in the North Sound and you rowed the catboat a little bit, it would help your muscles. Boys would be looking at them and checked to see if the girls were looking at them, too. It is all part of nature.

You did not want to be sitting down, reading books and writing little papers because that was what the little sissies would do. The real boys were out there with their dads, working and getting a little bit of muscle and different things like that. It had its usefulness later on when the young ladies came into the picture. Of course, the guys who are little and feeble I do not find as attractive. I mean, that is just a mental orientation.

The point that I am making is that if you look at a lot of the young boys in our society today, they have not forgotten about the good looks. You might look at them and say, *‘Hey, look they are not too cute’* but they think they are because of the way they look to themselves, the way they feel about themselves and the contact that they have with their body.

A lot of people say, *‘Okay, if that is so, let us make them play football and let’s get a little basketball’*



*facility for them. Let them be kicking balls around'. If we are inclined to create sporting programmes because of the physical orientations of certain people, why are we not creating vocational training? Why do we not have them using their muscles to saw and hammer nails like I used to do when I was in Teacher McField's School? It takes a certain amount of strength to hammer nails. Do not think now that you do not have to get used to certain things. It is a useful function because before people start building houses for their mothers government might not necessarily be involved.*

We recognise the differences in orientation because there are people in our country who came here to labour in the first place. I can trace my father's ancestry back to 1840, at least, when they were complaining in Bodden Town that a particular teacher was not able to remain in this country to teach their children. I know that my ancestors came from Africa and they never came over here to sit and command anyone who came over here to be commanded. They did not come here as voluntary labour; they came here involuntary to labour. However, they were labourers, and when emancipation came in 1834 they began to labour for themselves.

No one was ever ashamed of that fact. Since they had laboured for the people, why not labour for themselves? That was their whole point and they brought that to the generation, at least, that my father was in. He was proud to labour. He was proud to be able to paint and to be a good carpenter and bricklayer.

The school was the apprenticeship system because my grandfather could work for Ray Bodden and the Arches. These people were teaching one another and so they were able to learn and teach others. So, although there were no formal educational institutions for the vocational trades to develop, there were the persons who had the trades and they were able to impart.

When I was in school back in the 1950's they had woodwork and things being done in the school. I suppose they must still have that today.

That is what I am talking about. I am talking about a culture of work, a vocational training that is different. If you put a few of these things in an academic environment, where the academic students come from the nice neighbourhood, that is where the government gives scholarships. Every time there is something nice done it is those types of kids who get the reward.

Then the kids are not going to take to the trades in an academic environment because it is assumed that the academic is better than the vocational. In a way, that is not just the policy of the school. That is also the policy of the society. The society rewards the academic child more so than it is going to reward the vocational child, but not everyone is after money. A lot of people want to be contented, too.

I remember back in the 1970's the people who were accountants and lawyers were always fatter by the time they were 30 and 40 years old. The more physical people who were working out when they were 40 and 50 years old were still looking good. As well, their relationships with their wives were not going bad like the others were. I mean, there were signs of that. At least in America that was the truth. So, it is six of one and half a dozen of the other. However, you have to encourage people to know this because people feel it. People sense it.

The other thing that we need to do in terms of the educational programmes of this country is look at the way people live. The programmes should change and be totally dominated by this new economic demand.

A lot of our people live in communities and communal types of families—what we call the “extended family”. To talk about the extended family is to talk about the communal kinds of social units which we have in the Cayman Islands.

Now, the thing about the extended family is that if you go out and work as a lawyer you will have conflicts. There is no way that one lawyer could make so much money to support an extended family. Once he goes out as a lawyer, then no one in the extended family is going to work because there is one person working and he is supposed to come back and share everything.

We do have these communal elements in our society. If we have people who can do things, then there is a possibility to share the different tasks that we have.

The distribution of functions and responsibilities in the communal type of atmosphere, what we call the “extended family”, is different today. Today what we find is, although the functions might be distributed, no one has any kind of skills to perform those functions and it seems like it is a question of money.

In order to build new grass roots social unites, we need to go back into our communities with our educational and social programmes to teach people basic living skills to use their communal heritage and mental orientation which they still have.

Now, this is probably getting away from the topic, but I would like to bring this up while we are talking about the question of youth.

Tania Nelson, a student from the Social Services Department, wrote a great thesis with regards to a concept of restorative justice which, as far as I am concerned, would restore the community back to the kind of help that it needs.

Apparently, what we have been doing in this country is this: each time we have a problem we take it to the police. Firstly, we show the problem in the school. If the school cannot deal with it we give it to the courts. The courts pass it on to the police or the police to the courts. Eventually it goes to a lock-up situation. In every stage of the problem, the parents and the community are cut-off from being involved.

Now, I am not saying that we do not hold them responsible, but what we do not do is show them how they can become involved in being a part of the solution to the types of crises which we have in those particular units.

If we assume that we have the mental orientation for an extended family for this type of communal unit, then it would mean that if something happened to a youth it would not just be the mother who would be responsible. It would also be the father; and it would not just be the father but also the uncle; and not just the uncle but also the aunt; and not just the aunt but somebody in the community. This type of restorative rather than punitive way of dealing with problems in the youth would be an incredible way of assisting in re-establishing Caymanian social systems.

Our social system has been attacked and has been, to a certain extent, badly beaten up. It is suffering from the traumatic effects of the rapid growth of this new kind of concept of social responsibility that we have today.

When somebody gets a job and comes downtown to work, the first thing that we feel when this happens is that that person no longer belongs to our community. We feel that they are no longer loyal to our community. We are suspicious of them.

Once we become suspicious of that one who has, so-called, made the progress, that person serves very little use to our grass-roots community because he or she are viewed with suspicion. If we do not find a way to integrate the progress with what we have that has not made the progress, then obviously it looks like the division will be even greater and the conflicts more severe.

I think the fact that we have a Minister of Education and Human Resources and a Minister responsible for Youth and Social Services who can work together, along with a government that is willing to employ ideas and young people with ideas, could really mean that we could have the first change to begin putting some of these problems right. We have in this country gotten to this point because of lack of attention to the problem, lack of knowledge of the problem and denial of the problem. The government that was in power between 1992 and 2000 must also take part of the blame.

The last Minister of Education was also the Minister of Education for eight years before he was Minister of Education for these last eight years. In total, he was Minister of Education for sixteen years. If he had any understanding about what I am talking about, if he had any inclination to employ my social intelligence in analysing and trying to find solutions to these problems, we might not be here today.

Do gangs exist in our society? He is still not interested in that. He is interested in the deficit. What does he think is most dangerous to this country—the deficit? He better think again because it is not true.

What happens when we find that we are still in the crisis? As a matter of fact, the crisis is worse be-

cause it has been built over these years and now it has been given to a new government. Although I might not have elected them, I worked hard for the Government from the Back Bench for the last four years, ensuring, at least, there was a change. The only thing I never accomplished was making myself a part of the Government. Everything else I was pretty successful in doing or being a part of.

So, there is no way that I want the ghost of the past to come back to haunt me. *No Sah!* As a matter of fact, I speak very frank here because I am happy that the people had enough trust in me to give me two terms in this Legislative Assembly. If I do not get another term I would not feel offended because I believe that there is a great job to be done in here. However, there is a greater job also to be done outside. If I am outside, at least I know the people have been nice enough to me, so I will get my little pension and I will not shut up.

I do not want that particular mental orientation to come back in this Legislative Assembly ever again. It is abolished and we have to keep it out.

Now, we realise that we are going to have differences in here. I want to say that being in opposition to the government I am only going to be in opposition to government policies. So, when policies come that I do not agree with, I will criticise them if they do not go in the direction that I say they should go in—the direction to save the country, to re-integrate the country and to heal the country. All of this, of course, is only going to be possible when we look at ourselves and admit the fact that we have problems. I will criticise them when they do not go in the direction they promised.

I was very surprised when I turned my television on yesterday and saw the past Minister for Education with that grin on his face, talking about the deficit. When I saw the past Minister for Tourism with that grin on his face, talking about deficit—it must be the Hyatt gratuity that is so much of a deficit! All of those things that transpired in the last eight years in the country should not have transpired.

The fact that Caymanians have lost their footing in the tourism industry happened over the last eight years. The fact that we are considered not good enough to even be concierges in the hotel, no one really paid attention to that. You see!

So, the watersports industry pushed them out. All of these things happened and they talk to us about deficit. They come to scare the people. They come to tell the people that this new Government is going to bring a recession on the country. *Ha! Ha! Who believes them!* If they had kept their mouths quiet and had stayed out of the picture, maybe I would not be saying too many nice things to the present Government.

The problem that I have is that these same persons that we banished—my cousin, the Elected Member from East End, I supported. What am I supposed to do now? Say the past Minister who repre-

sented East End can do a better job! Why? I do not have anything personal against the past Minister, but the mental orientation is different. The new Member for East End can relate to his community.

We have to learn how to give up and how to give it to a new generation to carry on. We cannot make all those changes in our one life. Just like how our bodies begin to tell us that it is time go, our minds begin to tell us too, not just because we are less intelligent but we cannot run with them anymore.

There is no point in my pretending somehow that I can go out there and run with some younger people and understand and feel comfortable. Politically, there comes a point when we no longer, as politicians, feel comfortable with running with our constituents because we are out of touch with their mental orientation.

Allow the change to happen and support the change in going forward. These gentlemen could play different roles in the society. To say now that, all of a sudden, they have organised themselves in this political party (I would call it) their job is to ensure that this Government is disciplined because I guess they do not even trust those of us who call ourselves Opposition here. It is funny that they are now going to do that when they had the opportunity to come forward with some progressive ideas.

Professor Rex Nettleford lectured at the Harquail Theatre a few nights ago. What was nice about the lecture was that it spoke to the question of the needs for people to be creative, to use their imagination and their minds in terms of doing whatever it is.

The professor gave the example of Bob Marley and how he came from a poor family and, I guess, vocational education. He was a welder in Kingston. He started playing music and he became world popular. The man died and left so much money that the people who are left behind do not even know what to do with all of it. He was showing that the man's thoughts and imagination were what created his wealth.

You do not have to have wealth in order to create wealth. You can create wealth by using your imagination. You do not have to have an academic education to use your mind because it is almost natural that man employs his mind. This is what I started with when I first said the difference between us and the animal is that the animals do not think about what they are going to create before creating it.

When we work we think about it. Before we make a chair, we actually conceptualise it. We have it in the idea form and the ideas are important in terms of doing this.

Professor Rex Nettleford, who is a Caribbean intellectual, has not been driven out of Jamaica or out of the Caribbean simply because he has been involved in the trade union or dance movement, or because he is an academic at the university. He is an extremely diversified Caribbean person, and many of

our people have those similar qualities in terms of their abilities.

What have we fostered in the country? We have said that the present Minister of Education (who I now have to support against the past Minister of Education) is funny simply because he thinks and he talks or someone like me, who has been actively involved in the quest for what is Caymanian.

What is Caymanian culture? What is Caymanian art? How can we lend ourselves to the further development of Caymanian culture and art by employing ourselves in the dramatic development in the Cayman Islands?

I spent so much time at the theatre in the early days, trying to dedicate myself to drama and writing plays. It is not easy to write plays in the first place. Do you know why? It is not because they are hard to write but because they are stupid to write. It sounds pretty stupid. You sit down and say this and that. You have to get over it to believe in it because you are not going to do anything if you are not committed. You have to believe.

So, how do you get from the point of saying, *"Well, I would like to do something for my country"* to the point of committing yourself to doing something for your country? Then commitment always has a price. That is where we have the problem.

All those who are going around and talking about having Caymanian culture today, the question started back in the 1970s when we started the In-Theatre Company that became the National Theatre Company, which then became the Cayman National Foundation. There is a root. There is a basis. There is a foundation that was there. So, why is it that in all this people have not paid more attention? Why is it that the Education Department has not housed my work in the schools? Why is it that with all of the things we are bringing the kids in to do we still do not recognise what little we have produced?

It is a real problem how we talk about all these things and someone who is around and has done something is still not good enough. I want to find out—and maybe the present Minister of Education will tell me at some particular point—what is wrong with what I do. What is wrong with it?

When I heard Professor Rex Nettleford speak, I said, *'Well, hey'*. I have done an interview with him on television. I have heard him speak. He gave me, at least, the possibility to say, *'Hey, look Frank your ideas are not all that crazy'*. It is not all that weird. It is not really all that strange. The only problem is that you keep talking to people who do not think. That is what is crazy! You talk to people who do and will not think because that is not common. It is not sensible for people to think. If you think, you change things and then you start questioning. You do not want people in this country, of course, to question. God forbid should they question!

The point is we are all complaining about things not being right, about the dominance of this culture against our culture.

Why should children be looking towards Black Entertainment Network? Why should they be looking towards dancehall? Because some of them see that there might be a future in that for them. They might be able to come out and make some money. It is not just because they want to look at it to be bad, but they want to look at it to learn some things that other people think may be worth paying for, whether or not we agree with that. They are looking at ways to improve themselves, whether or not we think that is happening. People are not that way—when they do something they are not looking at self-interest. It is all part of trying to find and discover you.

Now, when we were talking about culture back in those days we were talking about identity. We were talking about the role in which race plays in also creating for us a social cultural identity. All of those things were looked down upon. We were considered to be black power radicals in the Cayman Islands back then. That is really strange considering I am so black anyway. I have got to somehow believe in black power because I got to believe, at least, in my own power, if nothing else. That just goes to show that what we have had in this country for such a long time is that denigration of everything that is African, everything that is black.

I listened to some kids from Jamaica play the drums yesterday and I went out there and danced because they pulled me up. When I was finished I gave the little girl \$25. As a matter of fact, if they were around here, I think I would probably pay them as much as I could to get them to entertain me, to cool my soul. That music was so great to me. It was so profound. It was the greatest philosophy I have ever heard in the Cayman Islands. It was much better than anything that I had written.

I believe that my journey in life was to meet that musical base somehow and be able to talk about that. A man without a culture is a man without a soul.

I believe it was a good move in terms of *Cayfest* because when the Minister for Tourism brought that here I said, 'Well, oh boy'. It started in a funny way, but at the end of the day I see what the Minister is saying and it is not that you always have to say Caymanian culture.

You have to say human culture. If we allow our children to see those drums and the way those kids were organised in that band, they were just like a gang. They were like a gang. Do you know why? They were solidly together. They were bonded together. They were brought together by a common identity, a common purpose.

They had uniforms, they had symbols, they had everything that any organised unit would have—a cadet corps would have. Anything! Do you know the difference? They were creative. They were using their imaginations. They were entertaining us. They were

making us feel that we were a part of something and that they were a part of something greater.

There you go when you talk about culture. These are the things that we need to look at in culture. These are the things that we have to examine. This is the new start that this new Government needs to encourage. It is wonderful to see that we are coming to the point where we are getting back to ourselves, that we understand that man cannot live by bread.

I will not criticise the church, Mr. Speaker, but church is not the beginning and the end to people's lives. There are people who have other desires and we have to cater to them as well, as long as those desires are within the realm of our laws. We cannot say to people that somehow they are not going to be able to enjoy themselves and feel good and feel free. Any society that begins to stifle that need that people have will find itself with problems. Even in slave society, when people had to work so hard and did not have any freedom, one of the great ways to preserve that regime was to allow people to enjoy themselves and play their drums and dance, and feel somehow that they had this humanness—to get in touch with this humanness and discover it in this communal kind of feeling in which they had.

So, I want us to understand that we are never going to find a true Caymanian culture unless we understand that Caymanian culture is a part of African culture. Until we come to the point of understanding that our identity is very much informed by that, we will find difficulties in accepting things that Frank McField does because when I do it they will think it is something else.

What is Caymanian about anything? We take it and, as individuals who have been influenced by the Cayman Islands, we work upon it and we create something that is there and that is Caymanian. We do not have to say that this is the way Tom Jones and others thought back then, because then we become stifling. We stagnate. We lose the dynamics which we need to have in order to be creative. Politics is art. Art is politics. We have to see the inter-connection between the two.

Mr. Speaker, would you like to have a break now?

**The Speaker:** We shall now suspend proceedings for fifteen minutes.

#### PROCEEDINGS SUSPENDED AT 11.28 AM

#### PROCEEDINGS RESUMED AT 12.05 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continuing on the Throne Speech and the Budget Address.

The Third Elected Member for George Town continuing.

**Dr. Frank S. McField:** The attempt that I have been making is to create an overview, a picture. I know that we do not all seem the same. There are differences. However, if we can come to some kind of understanding as to what the real conditions are in this country, as to what the real social problems are in this country, then we might be able to debate on the possible solutions and where we will get the funds to implement those solutions.

I am 52, almost 53. I was born in this country and raised here until I was 15½. I went over to the United States, then to England and then to Germany and back here. I almost did that circle again, Mr. Speaker, I feel that I am a person who believes that variety is the spice of life—that differences are creative and positive. They do not always have to lead to conflicts and confrontations. I have been able to find many things in many other countries that I believe we can use in this country usefully.

What is important is that we, as Caymanians, work on moulding these things in such a way that will shake them to benefit us in the Cayman Islands. It is as though the human being has been working on his natural environment for generations, moulding it in such a way that it benefits him. It is the same that we must do with that international environment that has impacted our society. We must use it, shape it, manage and control it in such a way that it benefits us, not solely destroys us.

We have to know our history. We have to know our social history. We have to know the strength of our personalities. We have to know that, without a strong feeling of who we are and what we are, we will have difficulties when we come up against other people. We will be more confrontational. We will be more defensive if we do not have a good feeling of what we are and who we are.

First of all, it is important and necessary that an individual be pleased with him or herself because then you do not see what someone else is because they are different from you and threatening to you. As a matter of fact, it can compliment you. That is so with a man and woman's relationship—the mere fact there is a difference attracts people. So, differences do not always repel, they can also be useful and attract.

We have to understand that the shoemaker and the carpenter are attracted to one another because of their differences in profession. Because of those differences, each can rely upon the other for what it is that he does. Whereas, they were the same, the shoemaker and the carpenter might not have any grounds for any kind of social solidarity.

So, differences from the very beginning can be okay. This is why I believe that I am not against foreigners. I am not against rich people. I am not against someone who has something that I do not. I believe that I am okay, and as a result there are things that I might want and there may be ways that I need to improve myself. At this particular age, I am also willing to exhibit a certain amount of patience in getting

where it is that I want to go. I do not have to have the laws removed, types of positions others may have or contributions they may have made in order for me to come to the forefront of a situation. I do not believe this is what the Caymanian people are asking for.

I think that if our people are not grounded with a good idea of who they are they are going to be more resentful of other people. They will be more propelled to create conflicts and confrontations with other people in order to prove that they are as good or better. It is a bad syndrome to get involved in, yet we have seen it in many other countries. It is really a result of that kind of inferior way of thinking.

When we begin to think of ourselves as inferior yet we say to other people, *'I am not inferior. I am better than he in this and that'*, it becomes very confrontational because we then start to look for something wrong in everything that other people do and that is not good. So, I think we have to give our people a good idea of who they are. The arts and social development programmes can assist in encouraging the development of an identity that is dynamic and not static, that sees differences as useful and not stifling.

I have great hopes for the future of this country once we get people to a point where we become analytical and we stop ridiculing ideas and saying that because a person always talks they are not useful individuals.

There are those people who are still talking to me about how I never did a decent day's work in my life. I never had a job in my life. I was never really productive, according to them, at a point in life when I should have been. These are things that are thrown at me by Members of the present Legislative Assembly, as well as Members of the past Legislative Assembly. Yet, these are the same people who talk about Beethoven, Shakespeare and Bach, and how important culture is and all of this.

I am the one who is the published playwright. I am the one who went to London back in the 1980's and practically starved in order to learn a little bit about the art of playwriting and to try to see if I could get some of my plays performed while the theatre movement was ongoing here. Yet, at the same time, as many sacrifices as I have made for the arts, I am still looked down upon as someone who never made any contribution to this country, which is ridiculous. I am not saying this just to make a point from my position as an individual. There are many people who realise that had I been a different colour there would be no problem in recognising me and saying that what I had done in this country was useful.

So, we need to understand that race is an important consideration in this country, and not only what Frank McField thinks about the social importance of class and colour. Other people think about it, but they apply it when they deprive people of the possibility for recognition.

It is in all of us regardless of our racial background to want to be recognised for what it is that we

have done that is useful. If we do not recognise people who do useful things they will look to get recognised in other ways and we see this in a lot of our communities today.

For instance, in George Town there are a lot of our people who have not been recognised. A lot of people have seen my plight, for instance, and have said, *'Hmm, education makes you crazy'*. I remember when we were growing up, there was one thing that we were always told: if you learn too much you will go crazy because your mind can only take so much.

So, there was a built-in fear in our society to cause us not to think, not to challenge and not to want to become educated because we did not want to go mad. It is true. Do not learn too much because books will send you crazy, or you are a real sissy because you are feminine if you have books under your arms. There was also that fear, which is still dominant in many of our communities.

If we become more competitive, if we look to educate more of our people, to go deeper we have to recognise that there are a lot of things acting against a culture of learning. There are a lot of obstacles in the establishment of a culture of learning, but there would be no improvement in this country without it.

Now, many people think that we have a social problem and that we can identify the causes and change this and that. However, we are not going to the root of the problem and not getting the entire community involved in the problem on a psychological and sociological level.

We need to see that our task is before us. That is what human society is all about. It is about work. Whether or not that work is in terms of shaping the natural products like bricks or moulding social products like people and social institutions, we work to improve so that the life of the individual in the society, and the society as a whole, can be improved.

We have to understand this when kids in our country feel that because of the colour of their skin they are ugly or that they are not useful. The point is: tradition has continued so harshly in this country. It is not that it used to be if you had African features that that was somehow a crime. It still is.

A lot of parents still complain about the fact that their kids are taunted in school by other children with different complexions, as if there is a competition to see which child is better; the one with the lighter complexion is better.

There was a situation I was told of by an Art Teacher who went to one of the Sister Islands. There was an art mural or something like that which was done. One of the kids painted a picture depicting another child with a darker picture than how she saw her own. The girl was unhappy with the picture and she cried. She complained to her parent, who went to the teacher, and eventually they had to take away that picture.

So, when we see that there are gangs in our schools and there are kids who seem to be marginal-

ised, who seem to not belong and as though their value is not as important as the value of other children, we have to also admit that has been caused by the way in which we have regarded the race issue in our country. It is something that we do not talk about because to do so is to want to make problems, according to most. However, we know people talk about it anyway.

So, let us see whether or not we can help those persons that feel that because of their complexion or race somehow they are socially less valuable to us in society. We need to look at that problem. Teachers need to be aware of those problems. Of course, if you bring teachers from the United Kingdom or Canada, those teachers are not going to be as sensitive about those problems as are teachers from the Caribbean, who teach these kids about having pride in their African heritage.

Of course, we also see this problem in the prison, where a lot of people are there simply because they are dealing with identity deficits. They use drugs to create some kind of communal feel again, an identity for themselves to create some kind of social bonding with other individuals in a society based upon some other aspect which could be drug taking and the philosophy related to that.

If we do not recognise the role in which this has played in weakening a lot of the personalities in our society, we look superficially at many of the problems we have that have transported themselves into the workplace as well, where day-to-day confrontations between the European Manager and the Caymanian clerical staff begin to have the appearance not just of a labour issue but a race issue as well.

Those persons who are not aware that these things happen in a society where people say, *'the reason why they are treating us like this is because we are Caymanians'*, still say, "we are Caymanians". They do not say, "we are non-white". Basically, what they mean to say is there is a colour distinction in those industries and a discrimination based upon colour or race.

We need to understand what is happening in the workplace, in the schools and other areas with regard to how this particular issue is impacting on our wider society and, subsequently, the politics of our country.

All of this is new and enlightening, and government will not hesitate to consider it and enforce it when it chooses people to work here. If we are supposed to extend the dominance of a particular racial group in this country by the employment tactics at present, all we are doing is exacerbating the problem.

Recently, I learned of a young lady from Trinidad who was performing drama at the prison. I volunteered and became involved as well. I was invited to a programme they held at Fairbanks Prison, which incorporated drama to assist people with their self-esteem and enable them discover that there was something within them they could develop to make

them human and give them social human worth. The young woman was eventually replaced from that job by a lady from England who came to join her husband who was already here.

Now, it goes to show, again, how we decide upon the worth of individuals and the contributions which they can make to our society. A lot of times the contribution that we feel they can make is based upon neither their qualifications, nor their ability to fit into a social/cultural system. Often, the contribution is racially decided because they are from there, they are better and, therefore, we will be more improved by employing them among us.

We have to be aware of the way in which discrimination has worked adversely against us and how we have discriminated against our own merely out of a lack of knowledge of who we are. Some of us today are very upset because those very same people come and tell those who have given them the job that they are not like them, that those persons who have given them the job are more like me.

We have to understand that the importation of persons into our society, in order to complete this colonial stratification system, is no light task in terms of trying to change it because those persons come here and eventually acquire their own peculiar interest. They form their own groups. They create their own cohesiveness and their own solidarity and they maintain their own interest.

So, although the Cayman Islands might not have started as a society that was stratified along racial and class lines, it has thirty years after economic development. The grass-root Caymanian can see this and talks about it at home and their kids listen. Then we wonder what is happening to them, what is in their minds and what motivates them. They are different, and they know they are. Yet, no one gives them the impression that their differences have a social value and are precious and useful to us or that they have a cultural heritage and should be allowed to discover it, to activate it and to act like they are useful regardless.

We have to look at history. We have to look at our ideas. We have to look at what is deep inside of our psychology and our sociology.

I have made the journey towards looking at myself and I am not always sure there are things that I would not like to improve in terms of the way I view the world. However, I did not create myself. All I can hope to do is make whatever changes within me that are possible and make adjustments in order to improve me as a human being so my journey will be about discovering truth and not hiding it.

I hope that this new Government will give us the freedom to explore ourselves, to find ourselves and to be able to talk about ourselves publicly, without any degree of condemnation. What happens often is as soon as we begin conversations, they must be in the back room or the kitchen or different places like that.

I am happy, again, that the history of these islands will soon be published. I hope that those who

read the history will understand that it is their history. It does not necessarily mean that their history must inform what their limitless future can be, but they should not condemn and reject the history simply because there are things that show, in fact, our society was not necessarily founded upon equality.

There were those who had and those who did not from the very beginning; therefore, it is not a new concept. It was not, as many tried to prove, as though it was a society without differences or without conflicts. The fact that conflicts never manifested in ways they do in other countries was due to factors which are important to consider, not because there was equality from the very beginning. People were told what they could and could not do.

I am pleased I have made the journey as a Caymanian through this initiation process here in the Legislative Assembly, reaching a point where I can speak about national consciousness on this particular level. I know I speak for many people out there who have wanted people to speak as honestly as they can for a long time.

We do not always do what we should. We are not always right. However, we have a feeling somehow that our country would be better off if we freed ourselves from certain types of fear. We tell ourselves what we need to take into consideration in order to be good, productive people and creative people.

We are a country that cannot entertain its kids in dance troupes because they do not want to go to the dance classes. The Government gave some \$352,000 this year to the Cultural Foundation, yet we find kids who are not willing to act in plays or become members of dance companies. We find that primary schools flourish with kids wanting to dance, sing and paint and be creative, but they do not want to do these creative things anymore by the time they get to high school. Those who do are considered to be outcasts merely because others cannot identify with those things as being a part of their culture.

However, it is a part of their culture because, although most groups might not have formal theatre, there were storytellers in this country a long time ago who were extremely dramatic. We had "village idiots" we called them, who always entertained us. We laughed and enjoyed ourselves. We had people who performed what we can now consider to be art. So, all society needs art and the artist in order to have that mirror to look into not only to laugh but to cry.

Everyone on this island attends funerals at one time or another. We are brought together at a particular time in our lives when people are grieving in such a way that we often never experience. Yet, theatre is like that as well. It brings us together on an emotional level. Good drama. Good tragedy. It brings us together in the theatre much like we are brought together at funerals as well.

Theatre brings the society's soul together. It creates that special moment where we do not notice the divisions but we see the closeness and the emotions,

the ideals and our dreams. We realise that the dream is not individual but collective. It is that collective dream, that collective consciousness that art helps to maintain. Therefore, every well-developed society must develop its art and artists in order to accomplish just that.

We are at a point where government must lead by ideals, not by pushing paper. We must have a government that is willing to always speak to the people about all issues. The people are not only interested in the budgets or day-to-day management affairs; the people are interested in the ideological management of its society as well.

I would hope we get to a point where we develop our society in such a way—ideologically, sociologically, economically and politically—that maturity will lead to Caymanians wanting more control over their lives and the sovereignty of this country becomes a question of life and death that we do not compromise at any time because it is sacred. Although, what is that sovereignty without the soul of the nation discovered?

The only time that sovereignty really and truly can exist is when we understand the spirituality of a nation—the spirituality of our communal existence together. So, when we talk about sovereignty, we have to understand the principles and feelings behind it.

The Ministers' Association and others talk about the moral orientation of this country and the fact that we seem out of sync. The boat called "Great Britain" that is pulling us along morally is pulling us too fast and we, as the little catboat behind, are going under because of the disregard to any special sovereignty. If we cannot accept the moral government of a country then it is time that we begin to look elsewhere. A country that allows itself to be ruled by a country it thinks morally incapable of offering direction is worse than the country directing.

People believe that the legalisation of homosexuality in private is wrong and ministers and churches preach that it is wrong as well. Yet, at the same time they hold up and say that those who preach that the Cayman Islands' Constitution should be advanced and they wish to bring this country into independence and so on, they find this imposition and want to complain to Great Britain. They want to complain to us about it without understanding the role the churches have played in this country in ensuring that politics be politics as usual; mainstream and conservative.

There are no heroes stepping forward to fight this battle, but it is a worthwhile cause to be considered in any case. Although I might not necessarily say that what Great Britain is asking is wrong, I believe the way they went about doing it is terribly wrong. They are treating us like kids.

I at 52 years old in my stage of development am no boy to anybody. I will not have anyone tell me how

I should regard my God or anything else I believe to be sacred.

This is where we part company, when people have no respect. The reason they do not have this kind of respect is because we had for so long the kind of political directorate that just sat down and said 'Um hum, yes, Sir,' pretending the whole time like they are a bunch of boys.

[Members' interjections & laughter]

**Dr. Frank S. McField:** I believe the Leader of Government Business knows that I am a good enough actor to be able to act out that previous person's role without calling his name.

When I came into the Legislative Assembly and was able to get into some of the meetings we had with some of the people from England, from the FCO, I understood right away the mentality of our people in positions of power.

I lived in England. I went to school there. I worked on a playground in Nottinghill Gate with young kids. I interacted with persons in the society. I supported the miners when they were on strike in the 1970s. I have a feeling that somehow people who have gone to war, like the English, have so many times to fight for things they believe, have to be talked to like you are willing to fight for something too. They will treat you like a nobody if you are not willing to talk to them like you are ready to fight for something. The only people that are of any worth are, like Martin Luther King said, persons who are willing to trade something for their ideals.

We have people who want their cake and eat it too. We want to be governed by Britain because they are the best governors, always been the best for us. Nobody has looked at how we have been retarded in terms of a mental, social, political and philosophical development. We are at a point where we need a concept of our nation, because if we do not get one soon we are going to completely sink. We are being pulled along too fast by the destroyer carrying this little catboat.

When we speak of the realm where they are at, they have a history which got them there. There is nothing wrong with them being there, and I do not pass judgment on their moral outlook. People who have been at war and revolutions have had famines and plagues and have gone through the cold winter conditions. They come to a point where they have some agreement among the nation as to what is permissible and what is not. The mere fact that we in these small Islands must somehow adhere to whatever it is that they can, that takes no count for the kind of organisation process all these countries have gone through.

Totally different communities!

Totally different relationships with God!

Totally different relationships with whatever!



So, we realise differences are important. Rulers can only govern from a moral perspective and there is no other way. How can Great Britain rule us from any other angle other than from their moral perspective? If their moral perspective is incorrect, then their rule must be as well. In addition, if the rule is incorrect, then it can no longer be tolerated. I will no longer tolerate that rule if it is incorrect.

Now, this does not necessarily mean that we enter into any period of disobedience to the laws of Mother Country. What it means is that those persons who say that there should not be constitutional advancement or a political hierarchy in this country based upon a Chief Minister and other ministers in this country, attempt to destroy that absolutely necessary move at present to create difficulties.

I see that you are moving to your microphone.

**The Speaker:** At this time we shall suspend proceedings until 2.15 pm for lunch.

#### PROCEEDINGS SUSPENDED AT 12.44 PM

#### PROCEEDINGS RESUMED AT 2.23 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continuing on the Throne Speech and the Budget Address.

The Third Elected Member for George Town continuing.

**Dr. Frank S. McField:** I have almost completed my contribution. According to your clock, I am one hour and four minutes from the mandatory shutdown, and I am confident there are those who are quite content with that. However, I believe my contribution at present should seek to outline the points that would provide us a better understanding of our current predicament which is not only financial but ideological.

I said that the relationship between Great Britain and its Overseas Territories—the Cayman Islands in particular—has entered an age where there are not only ideological differences, but differences with regard to economic pursuit as well.

We find our economic interest on the side of those that seek to develop a global economic system including possibilities for taxes in different areas being spared. The United Kingdom and other jurisdictions form the Organization for Economic Co-operation and Development (OECD) and are in pursuit of what they consider to be tax havens. They not only, from a practical viewpoint, see us as an obstacle, they also see the whole concept of people evading taxes conflicting with their *lassiez-faire* idea of social, corporate responsibility.

So, the two necessary conditions for the recognition of the differences are in place: the ideological moral—or, as some people like to say, the religious differences—and now the economic differences. People in this country have come to recognise that

that is a fact. How would you reverse it? There is no possibility to reverse the moral or ideological differences between us and the United Kingdom since our heritage dictates that, although we are a sharing and caring community, it is humanistic that our humanism does not afford us the luxury of disobeying the commandments of the Lord.

We can see, therefore, that for politicians today to enquire about how this relationship will be possible in the future is no longer a subversive attitude anymore. Years ago, the very churches that were for the passive approach to these types of issues have now had to become more active in terms of being the ones out there to protect the moral order of the society.

Regardless of whether or not those believe that you cannot legislate morality, there is a relationship between morality and law. The moral consciousness of the people is what should inform the laws because when the laws are broken, it is the moral indignation that people feel motivates them to create certain types of penalties for the offenders.

We must not go too far in believing that we can clearly distinguish between moral conduct and legal conduct. The relationship between the two is important. If our laws are to represent the moral consciousness of the Cayman Islands people, they must take into account what it is our culture can or cannot tolerate. It is at this particular point that some leaders in the Christian community have said that this particular homosexual law will just be the beginning. It will just be the framework for a series of legal, cultural and moral changes that will force us to tolerate behaviour in our society which we oppose, not just privately but publicly.

Now, regardless of what side we find ourselves on, we understand, therefore, that in the future we will have ideological conflict and, perhaps, a crisis in terms of an ideology and morality with the United Kingdom. Therefore, I will continue to say that until we come to a point where we can become more accepted and people can acknowledge the idea of a Constitutional review—the Cayman Islands not only reviewing its Constitution but learning how to structure its own decision-making process in such a way that it has its own indigenous leadership system.

We depend upon the Governor, who is a representative of the Crown, to be more than he should in this day and age. We put the Governor in a Rolls Royce and we have someone driving him up and down, from work to home. We put a British flag on it and we wonder how our people cannot learn how to love what is Caymanian.

We go there and we see he is being served. If any of our politicians were to ever ask for a favour (like when they show up at Customs or Immigration, to be put through a little bit more speedily than our normal citizen) our citizens would eat our heads off.

From the very beginning we appreciate this image of what is good, perfect and better. We cannot play the role of being good or perfect. If we are not

allowed to play those roles then there will be some kind of leadership deficit in this Island. If we did have an ideological crisis that could be produced by virtue of what is happening in Europe, then we would fall apart because we would not even have our local authority to rely upon.

We can develop, if anything, a parallel leadership system in this country. I am not saying we want to replace the colonial leadership system, but it should be a parallel leadership system where we Caymanians are involved in the decision-making process and are treated as equals not only in the Executive Council room but also publicly in the wider society.

There are those who have noticed that some of the ceremonial functions that have taken place—for instance, on the Queen's Birthday where awards were given out to persons—are now taking place at the Governor's Mansion without any explanation given to us at the Legislative Assembly as to why this very important ritual they still have control over does not happen among us any longer.

As a man coming from theatre tradition, I can say that rituals are important. We see that. We know that. We have experienced it. We know the role they play in building the concept of a nation. If all the rituals we have were based upon colonial authorities we must be part of in order for a sense of leadership structure, this governmental hierarchy in the country we do not know, then that is not only defeating us, it is defeating the very reason why we are here. We are here to share in the power and the decision-making process.

Government is what government is: a hierarchical system without any distinctions between the amount of authority which the people and their representatives have, or the people put in place to rule over those who are not elected.

We need to get involved in encouraging our people to see the usefulness of nation building at this time and the usefulness of knitting the grass-root communities together by organising not only in trade unions but in other kinds of fraternities and organisations that will lead to the re-establishment of social bonds. This will lead to the establishment of a new cohesive and collective solidarity among the people that will give us the possibility to rule our country in a democratic manner and ensure that anarchy does not take advantage of the retrogressive type of political leadership which we have had in this country over the last twenty-something years.

I recall specifically some of the things that the late Honourable Jim Bodden tried to do. He is our National Hero. Why is he a hero? Do we ever think about why he is our hero? He is because we could identify with him and it is more positive and more rewarding to identify with someone that is among your own rather than from some other place.

The great thing about Mr. Thomas Russell is that he never stood in the way of that happening. After

late Honourable Jim Bodden departed from the halls of this Parliament it was as though new people who came made sure that we took the Island back to a point where it did not have any local political hero or leader. In not having a leader, the people are without voice. The people are without direction. The people are without a vision because a leader is a vision. The leader is visionary. The leader is pointing in the direction.

The group of persons who came to power between 1984 and 1992 served specifically to take this country back politically so that we were still not at the point where we could, from among us, chose a Leader, a Chief Minister, because that somehow would threaten the entire society. We do not believe in ourselves. We do not believe in each other. We do not believe that we could be fair to one another. Well, maybe we need to try to see what would happen.

So, there are reasons, therefore, why I am saying that the constitutional advancement is necessary. A maturity in the way we think is necessary. The development of a national consciousness is necessary. A feeling of self-reliance is necessary. A feeling of self-importance and greater self-esteem among Caymanians is necessary. That should be fostered, motivated and moved by government as well.

The present Government cannot survive without supporting these things I am talking about, and one of the reasons why is because people want them. People understand that there must be a greater feeling of self-reliance, sovereignty, self-determination and being Caymanian. We realise that people want that. I realise that if this Government was not filling that vacuum it would mean that it was trying to take the country back into the dark ages, as far as I am concerned. I would be one of the first people that would start to criticise Government for doing so.

If Government accepts the recommendations I have been making over these few hours with regards to improving our consciousness level, our value of self, our value of each other and our working together; if they recognise the sense of looking at society in this way and employing their resources such as to activate this type of mechanism, the Government can have my support. The Government will have my support because I realise that once they begin to change society in this fashion, the reactionary forces out there will come and cry, *'Wolf, wolf, wolf. Fire, fire, fire. They are going to take you down the drain,'* and this and that. Things I have been hearing for years!

I want to make it clear to those forces who have been self-serving over the years and have found themselves in the government of this country between 1992–2000, that did nothing to improve upon the state of government in this country but to learn how to spend money in order to pacify people and get them to continue voting for them during that period. Even by using the country's resources in such a misguided way as to create all of these social favours, they still could not maintain power simply because, ideologi-

cally, emotionally and otherwise, they did not have the best interest of the people at heart. They did not feel the pulse of the people. They were not a part of the rhythm of the time. Their rhythm was out of tap. They had no rhythm. They had no soul. They had lost the ability to co-ordinate and to co-operate. That is why they are not here.

I can defend my position today when I say I will work to ensure that that kind of misguided leadership does not return to the halls of this country. If I must do it on the outside I will. If I must do it in here I will.

I understand that man is more than bread. Man has a soul and that soul is not just the one we talk about that goes to heaven. That soul is the one that allows Shakespeare, Bach and Beethoven. If they can love those people who are special to them, I know there are those of us who realise that our soul must also have things that are special to us.

The fruits that cause that soul to sing great music of harmony are what we need. We need a renaissance in this country. We need a new beginning.

I believe the young men that we have elected to the Legislative Assembly will help us see to it that the Cayman Islands become a place we are eager to participate in. How empty it is sometimes for those of us who are caught in these new jobs, who go home and have nothing to look towards. Even when you look on television you do not see anything about yourself or your community, really.

I would like to conclude my debate by going into the issue of labour a little bit. I spared getting into the question of labour simply because we had discussed the need for the modernisation of the Trade Union Law and the government did accept that Motion. I would also like to speak to Immigration, but I will leave that because I have an Immigration Motion that is coming up in this House and I will be able to speak to that.

I have used this opportunity to briefly, in certain cases, speak on issues that I think will help us to gain a conceptual framework for the advancement of our country.

We know in the area of labour in America, for instance, they say that a growing body of American research indicates that work problems increase. As the problems increase there may be a consequent decline in physical and mental health. We see in our country's hospitals that the beds that we thought would be sufficient are no longer and the hospitals are filled with people. The mental and physical health of our people has been partly impacted by the work problems.

Family stability; community participation; cohesiveness; balance; social and political attitudes; increases in drug and alcohol addiction; aggression and delinquency. All of these things we see in our country. They must be researched in order to see work issues or work problems, as they increase for citizens, can impact. Now they think everything is wrong because of irresponsible parents not work problems.

Many of our workers at all occupational levels feel locked in, their mobility blocked, and the opportunity to grow lacking. These are all what we call social problems. These are all social and political problems people feel. If there was a political directorate that was dedicated to the improvement and the uplifting of the Caymanian people, that political directorate would make sure that the Caymanian people had more say in the workplace.

Caymanian people are not going to have more to say in the workplace simply by us, as a Government, creating a Labour Law which talks about minimum standards to protect those people. The people in the workplace will only be protected if they learn how to work together as a unit in order to improve their working conditions and maintain those improvements which have been gained.

No government seems to be willing to want to support the concept of people organising. Yet governments are talking about constitutional advancements. Governments know that to have constitutional advancements—at least advancement in the leadership structure—we would likely have to have the existence of political parties.

What are these political parties going to be? Will they be elite or embedded in the grass-roots community in the workplace? How will they extend themselves into these domains if there is not some kind of organisation in the workplace? It is easier to organise people around the pursuit of work issues that affect them on a day-to-day level and that have to do with income and the distribution of income than to organise people around their political ideology and rhetoric.

That is the reason why labour unions have played significant roles in the establishment of political organisations and movements in other parts of the Caribbean and the world. It makes more sense to the working people to join an organisation that can have an impact on their day-to-day lives rather than joining an organisation like a political organisation that is talking about democracy and the exercise of power in a very abstract manner.

Yet, we have these new generations of politicians in here who seem not to agree with that and seem to believe somehow that we are going to have our political maturity simply because they are politically mature. We are going to have our change simply because, in their minds, they have change.

Change has to be a collective process. It cannot just be individual. It cannot just be a process involving fifteen Elected Members. It has to be a process that involves all the people of the Cayman Islands, including those who are here as extended residents or persons who have been on work permits for a long time, say 15 to 30 years. These people must also be involved in change. Therefore, the question of immigration is going to be very important in terms of developing a political ideology and a strategy for this country.

We have to have a political ideology that talks about nation building and the importance of national

consciousness. We must not fall into the pitfalls of petty nationalism where differences between people become more important than the contributions different people can make to our blessed social order. We must have a political philosophy that makes it possible for us to see the usefulness and the creativeness of involving those persons who have been here for long periods of time.

Even some people whom we might think are not on our side or for us but against us may merely be waiting for the framework for some kind of collective concept to become a part of, some kind of movement to integrate themselves into. They may be waiting for this whole concept of this new 'Caymanianness' to become a part of.

That new 'Caymanianness' must be one of the future and not of the past; it must be limitless in its potential. To be limitless it has to be fair. It has to create trust. It has to create openness and accountability truly, not just in passing papers from one government department to another or from one person to the next person.

The openness is what we are talking about here today. We must be free to talk about ourselves and how we feel, whether or not that is correct. We must be open with how we perceive things because only then can we change our perception should it be wrong.

The role that immigrants have played in this society is significant. The role that foreign capital has played in this society is significant. I am not against the role that either capital or immigrant labour has played, but in parts it has helped to structure our society that is no longer equitable. We, therefore, need to look at the way we have to alter this in order that the original Caymanian people can become a part of that new Cayman as well.

I think the time will come for us to recognise that we will not go forward by trying to have an economy the size of this one controlled by 25,000 or 30,000 people. Our expectations are too broad. Our needs are too great. What have we become used to? What have we become addicted to from all these goods, services and strange things? We see ourselves as having more access to materialism than people in the countries making these materials.

So, there is a price that we will have to pay, and I do not even think that we have a choice anymore in paying that price. I think the choice was made a long time ago, whether or not we want to be bound to that. The choice was made when we opened our country up without any kinds of restrictions and when we opened up a country that had weak, social institutions in the first place—weak in that the norms were not permanent enough to repel other norms that were being imported.

In a lot of countries when you go with your money, people realise that you are coming in with your way of life and say, 'No, we do not want your way of life. We want our way of life, so we have to

*reject the money simply because we don't want to change our way of life'. We invite all of these things because most of us want to change our life anyway!*

Many of us are hypocritical today when we talk about getting back to the old days because no one wants to go back to the old days. They do not even want to come to see a play about the old days.

I think we have to admit who we are and where we are. The point is: we have a partnership with other nationalities and other cultures in this country. I can see the usefulness of employing those nationalities and those cultures to shape a new Caymanian culture. Culture is dynamic anyway, not static. All societies, all civilisations have benefited from others. There has been no such thing as a pure culture, no such thing as a pure race. There is no such thing as a pure religion. All systems borrow from each other, which I think is good.

So, with that we should not have to feel awkward about the fact that Cayman is using kids from some place else. Some were not even born here but grew up here to run, to play football and cricket.

Do you know what people used to do? All people borrow. The reason why I am here in the Cayman Islands is because a long time ago my forefathers were borrowed or stolen and brought here. So, if people will steal people and bring them into the country because they need more, what is the problem when people are volunteering to come? It is because we do not know history.

Most countries went off and conquered other countries in order to get people to be in their armies. As an immigrant to the United States I had to register with the Draft Board when I turned eighteen. I was from the Cayman Islands and the Selective Service was selecting me, too. As a matter of fact, it was a part of my obligation to make sure that I made myself available.

So, the United States has been successful in wars not necessarily by using Native Americans or indigenous Americans, but by using people who want to become a part of America. That is not any different than Rome was at one time. Although Roman citizens were restricted, Rome found itself in a situation where it had to extend citizenship in order to maintain Roman domination. How can you have an empire when only the citizens are the core group because they become smaller than the extended group?

So, growth presents a real problem for anyone who has to manage it. If you are not able to have that metamorphosis, that transformation of that ruling group, then you are going to stagnate.

We have a similar situation whereby people who have been here for a while have learned our culture. I do not necessarily mean the pure Caymanian culture. I mean the Caymanian culture that is being created everyday by the interaction between people in this country. So, you do not say, 'Well, he was born there and he should not participate and run for us'.

Runners that we have as our 'star' athletes today are Cydonie Mothersill and Kareem Streete-Thompson. I remember Kareem as a little boy coming to the theatre with his mother. I think his mother was from Jamaica and he was born in the United States. Cydonie's mother is probably from Jamaica.

What is important is that we say we are the same. If someone says, 'Well, that person from the Cayman Islands is really a Jamaican' because a Jamaican living in Jamaica will probably look at us and say, 'Oh, well he is from Jamaica'. That is what they tell America. They say, 'No, he is not American. Einstein, he is German'. We know that one.

It is important what we think, not what they think. If we say they are Caymanians, they are Caymanians. If they say they are Caymanians, they are Caymanians. Let the other people say what they will because most will try to own anything good. As long as they are successful everyone will try to own them, but we want to own them too because they want us to own them and they want to own us. We need to develop that relationship.

We will find people in a lot of areas where we will feel that they are not necessarily what we consider to be those original Caymanians, but those original Caymanians will eventually become involved in part of that process, too. It keeps the process alive as we see in sports today. When the original Caymanians want to become involved, of course, they have a possibility to become involved.

I actually have a confession to make, and I think it is about time that I make it.

*[Interjection by Member: Oh-oh!]*

**Dr. Frank S. McField:** I know that everyone knows that I am a Caymanian. However, my mother was born in the Isle of Pines, Cuba. My mother was raised in Cuba. My mother's father was a Jamaican. However, being a McField, no one will ever challenge the fact that anybody carrying that name could be anything else but Caymanian.

It goes to show that a lot of us are from mixed parents in any case. It is the mixing in the Cayman Islands that makes it exactly different from other cases, whether it is nationality, racial or religious mixes. That is what makes us different. So, we are not unlike America in the sense that we must come to find a new usefulness in immigration, assimilation and integration.

Immigration, assimilation and integration are different than this whole system of work and work permits. I think we need to make a distinction between that when someone has been in a country that is not developed but in growth, and where even the original people have not been here all that long—not to the extent where we have definitively forever moulded our social, economic and other institutions.

We were a territory settled by persons with the great work of changing the natural resources and

shaping them in such a way that we could identify what it is we want and what we say is a process that we consciously started, as far as I am concerned, not too long ago. The conscious building of a Caymanian society where we felt that we were exercising consciousness and control is not a process that is very long and it gives us the possibility to be able to assimilate and integrate new arrivals who are willing to be a part of our blessed social order.

The question is, therefore, if the numbers of Caymanians are getting fewer in relationship to the numbers of persons who are here actively working and living, it is simply because we have failed to understand the dynamic ways in which we can use those persons who have been among us long enough and who have proven their ability to make them a part of our numbers.

If every time we count out the people who have been here 30 years and the children that were born here and have been here 21 to 22 years after their birth, of course our numbers are always going to look smaller in relationship to the numbers of people who continue to come in.

Now, I do not think that the fact that we want to integrate persons who have proven themselves to us will make us weaker as a group because they will become a part of that group. They are a part anyway. The only thing that is confirming that fact is the legalities. To say that they are still a little different from us, well, each person is different from the other. Each district has a little different accent, if you check it out in Cayman. Even in little areas in Cayman they have a little different way of speaking from one another. Human beings will always be different, so this should not be a problem.

I hope that the question of immigration will be amply answered by this present Government and that they will be proactive in terms of making the decisions to integrate long, deserving immigrants into the ranks of this country.

With regards to work permits, I think we have to tighten this up. I think we have to recognise somehow that many employers do not have anything in common with us other than the fact that they use this territory as an area to exploit labour. From their point of view of having our social, cultural and political interest at heart, they may as well be in Timbuktu. They do not really care where they are; they only care about what they have and what they can achieve.

We cannot leave the importation of labour up to people who have no sense of social responsibility. The *lassiez-faire* theory must give way to a government-interventionist type of philosophy with regards to the importation and employment of labour. I do not see that we can continue to have in this country the idea that people will come here and work for years.

Although I had a little bit of a problem with the rollover concept in the beginning—not from a moral, political point of view, but I was trying to understand certain business people and reflect their interest

within the context of my position—as I move along I do not see how it can be reconciled.

I think at the end of the day we need to do two things: we need to integrate those long-term residents—the children who were born here and plan to produce children and also make those children Stateless; and we have to ensure that the numbers coming here are not staying so long that they create in our country some type of roots and that we ourselves do not feel so morally obligated to them that we cannot ask them to leave at the end of a particular time. Human beings are like that. We grow on people and people grow on us. It is not easy to say, 'look, you must go'.

I believe I will support that concept of the rollover system, which was obviously one of the areas that the Leader of Government Business was talking about and where he felt it would be a compromise in terms of the whole question of integrating and then bringing in a rollover. That would be the only way the integration would be possible.

The integration is so important to me that I am willing to go along with that particular idea. So, I am going to be encouraging Government to do whatever it is that they can do to get this going.

I am not sure how much time I have left, but if I do have some time I would like to go—

**The Speaker:** Seventeen minutes.

**Dr. Frank S. McField:** The Second Elected Member from George Town is giving me some time, but I think I have had enough time.

Before I finish, so that no one believes I am ignorant to the fact that there is a budget, I will make a few comments about that.

Without going into the budget, I heard the Second Elected Member from West Bay talk about it and I was very impressed by the thorough job he did. I had conceptualised similar opinions about the budget and the borrowing patterns and habits of the previous government.

I cannot support the tax measure of this present Government. However, it would be wrong for me to know that, although they must tax, somehow I should be saying that the taxation is a result of their actions. I am in disagreement with the taxation, but I must point out to the people that the taxation is the result of the actions of the past government.

If there is a shortfall in expected revenue and if there is a move on the part of the past government to remove taxes from certain foodstuff we will have to get the money some place else. Mr. Speaker, you know that was a reaction to the Motion I was bringing to take taxes off food. I am sorry but I do not believe there should be any taxes on food. I do not support taxes on food. I am not going back on that position.

If you remove taxes from food (which I would see as something like \$8 million - \$9 million that you are

losing, plus a slowdown in the economy from the point of revenue) you will have a deficit anyway.

You see, when we start picking about figures as if liars cannot figure, we forget that these figures are understood by the people out there, not like how certain people try to bring it to them. What I call it is *Trumanomics*, which is the method of using a deficit and creating a surplus. We did all the time with Cayman Airways.

[Laughter]

He did it all the time with Cayman Airways, and I was always shocked that this man could get up in here and show us how the airline was making a profit. Everything around him makes profit because of subsidies. You start off giving this person a subsidy and all of a sudden the person has made a profit. You know, it is very misleading.

Let me tell you how the people out there feel about the budget. The people believe that the country is in a difficult situation. They are concerned. However, they know they did not have the possibility to remove the government before November. If the people had, things would not be the way they are now. However, because of the kind of country that we live in, we had to wait until the full four-year term was completed, and it was only after the election that this could happen.

Now, I will not hide the fact that I felt there was something wrong with a country where you can shut down the Parliament and where the Parliamentarians are no longer needed do not even have offices. Up there in the Glass House the same people we elected to be accountable to us and are no longer here, who are they accountable to? There is something wrong with that system.

Of course, the people were able to go up to the Glass House and do certain things. I watched the roads being filled up with asphalt and these thick things that would make you think you were driving off some mountains if you drove off them. As a matter of fact, some of the roads were so high that I thought they were trying to build mountains in Cayman because we were so in need of them.

The money was being wasted. People were hired at Public Works that never had jobs. There were all kinds of things that were going on in the country in order to create the impression that the government had the interest of the people at heart.

I was always against the last government. Regardless of any respect I have for the First Elected Member from Cayman Brac and Little Cayman, and the Third Elected Member for Bodden Town, they knew that when I campaigned I was campaigning against Mr. Truman Bodden and *Trumanomics*. They knew I would campaign against Mr. John McLean in East End. They knew how I felt about the land deal that caused us to bring a Motion against the Minister that was the Member for East End at the time. They

knew there was no way I could possibly trust anything that he was telling people at that time because none of them told the truth when it dealt with the Land-Deal Motion. We were short by one vote to remove that Minister, the same Minister that I saw on television last night talking about the amount of problems we have that are created by this present Government.

The problems were created by the lack of honesty and transparency in the last government, and *it's a true ting, dat*.

**The Speaker:** I would ask that you inject that this is your opinion, please.

**Dr. Frank S. McField:** Mr. Speaker, a very strong opinion of mine that is.

Before we get to the point of going into the Finance Committee and looking item-by-item, my problem with the Budget, as the Financial Secretary has presented this to me, is that we are in a very peculiar position. However, I believe that we can get out of this position and it is also part of my responsibility to make sure that we do.

The last government policy, which started back in 1992 of building civic centres, district clinics and a major hospital, committed the present Government to the spending it must make. For instance, look at the recurrent expenditure for the hospital which is what, \$45 million? As the Second Elected Member from West Bay said, when you borrow money to build rather than save money, you are committing yourself. In every sense they committed them because they built and they thought that was what people wanted. They thought it was right.

If you have created the commitment, then you cannot run away. People cannot move away from that and blame them for the fact that they must be committed to the commitment that you have made for them. That is the way government is in any case. Government is not a few elected people, it is a continuous institution. All that happens is that the political directorate changes so the government that we had last year is the same government. The only thing is that there are different political decision-makers in those seats. There have been no other changes and people need to understand that.

It is nonsense for the past persons who occupied those seats to accuse the present people occupying those seats as the reason why the Budget is the way it is. I am not saying that there could not have been neater cuts and other things, but the present Government never invited me to the Glass House to give them any suggestions about anything or to ask my opinion about anything.

When the present Government went to divide their committees up and so forth, they never put me on any board. As a matter of fact, I was on the Civil Aviation Board and they took me off that. So, you see, I was not a favourite of the present Government either.

We understand why however, and it is because we had a little disagreement about a specific problem. However, let us keep it to this specific disagreement, the choosing of the Executive Committee, and not about how the past government ran the country. We never disagreed about that. We agreed that the past government ran the country terribly. Let us be clear about that. Let my constituents be clear about that. I will not get into that point.

We know that they are talking about taxes on children and so on, but who brought the taxes on the school fees? Who upped the school fees? It is not the present Government. They voted against it. So, we need to bear these things in mind because it is so easy to try to pretend somehow that people have not been following politics in this country.

Why do you think that we had such a change in the district of George Town? Although only one Member changed, it was a significant change. The Leader of Government Business was removed from his seat. Do you need any clearer message other than people were dissatisfied with the government? *Gee!*

If I had stayed too close to him, they were going to take me out, too. The Minister for Health, he was gone, too. He had to get down on his knees and pray.

*[Laughter]*

**Dr. Frank S. McField:** So, there was a change. The people intended for there to be a change because they were not satisfied with the management of the country.

They come back so soon after the nightmare to frighten us again. They should have waited a little longer before rushing out here to crucify them with the problems they left, the cross they put on their backs. It is one thing to put a cross on someone's back, but after you do then you push him down rather than help him carry it! That is really low down. That is low down. That is not fair.

Cayman Airways!

I was on the Civil Aviation Board, and we kept telling the Minister at that time that he needed to do something about the debts that Cayman Airways had accumulated with the Civil Aviation. The way they ran the situation was as though there were no differences, you see, so they passed these things around in such a way that anything would look good, as long as they had the manoeuvring room. I suspect they also knew that things were looking pretty bad.

The economy of the world is changing and we have to have faith that we will get through in a favourable way. Those of us who understand economics understand that it is important to keep people's faith high so that confidence in our economy is secured. When they come out and do what they do they are the ones who put the economy and the faith of the economy in jeopardy by the way they try to benefit from the kind of situation in which we are in. They are the ones who are politicising this situation.

I am glad that the Third Elected Member for Bodden Town is not associated with this particular movement because it is out of order.

Having a recurrent expenditure that is high is a result of progress building. If you do not have money to build these buildings, to pay for the utilities and for the staff, your recurrent expenditure would probably not be high. Because of the tremendous growth which we had between 1992 and 2000 we find that this is the time when everything grows. If there had been a different kind of management, if people had said to themselves, *'Look, what is going to happen now is that world economics is like this: You will have about eight years of boom and then a little recession/depression again, and then you have your boom and your little recession'*, that is predictable. That is what they should have predicted. Because they had predicted that, then they would say, *'Well, rather than borrowing to buy, although we can afford to borrow because we are below that 10.3% of our recurrent that would go towards paying of the loans, let us still not borrow'*. *'Do you know why I am saying don't borrow'*, Mr. Truman Bodden should have said, *'If we borrow and build, do you know what's going to happen?' We are going to have to support what we borrowed and built. That is going to cost money and then you know we should be thinking about tomorrow. Although we are not here we still have to think about our country.'*

For the remaining three minutes, let me say this: that would have been prudent management. Prudent management is not spending all you have and then when it is someone else's turn they have to borrow because you have spent all the savings. You spent all the savings, turned around and started making fun of them because they had to borrow.

I feel that what they have done is they have spent all that was made in the golden years between 1992 and 2000. They expended themselves in order to look good among the people because somehow that government was a failure earlier on, as it had a mandate to "Caymanise" and it never did. It had a mandate to develop a collective consciousness that it never worked with. It had a mandate to politically move this country forward and never did.

In other words, the last government tried to buy its way through and it succeeded in doing so for four years. Even though it had some very popular people with it to help it along, there were some very unpopular people.

So, at the end of the day the reason why we have this type of budget is because we must now borrow to pay recurrent expenditure. Those persons who should have been responsible for keeping down the growth of recurrent expenditure did the complete opposite.

I hope that my contribution to this Throne Speech and Budget Address for the year 2001 takes its place among what I might consider to be some of the more analytical ones. I hope that one day when

students come to look at it, they will remember that I thought of those in the future when I did what I did today.

Thank you.

**The Speaker:** We shall suspend proceedings for fifteen minutes.

#### PROCEEDINGS SUSPENDED AT 3.25 PM

#### PROCEEDINGS RESUMED AT 3.48 PM

**The Speaker:** Please be seated. Proceedings are resumed.

Debate continues on the Appropriation Bill, 2001, Throne Speech and Budget Address. The floor is open to debate.

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

Before I begin my debate, I would like to take this opportunity to thank and congratulate His Excellency the Governor on his second Throne Speech delivered the 9<sup>th</sup> March 2001. His Excellency outlined many important issues affecting the Cayman Islands and I look forward to working with other Honourable Members of this House in addressing these issues.

It is encouraging to see that the Department of Tourism is exploring opportunities to diversify our tourist accommodation offerings. It is even more encouraging to see that the Ministry of Tourism will be leading the development of a co-operative to help the small independent operators improve their reach into the tourist market.

I have personally experienced some of the difficulties the small operators are facing today.

Back in 1986 I, along with some other small watersports operators, went to the Minister of Tourism at the time to ask if there was any way he could assist us in retaining some of the tourism market. We were being pushed out of business, one-by-one, by the major foreign control watersports operators. We were told by the Minister that there was nothing he could do unless the laws were changed because we were operating in a free enterprise system.

So, you can see that the small businessmen have been struggling for at least fifteen years, but the struggle has been going on much longer. Unfortunately, the struggle is getting harder and harder with each passing day.

The laws have not changed in this respect, however, there has been a Land and Sea Co-operative put in place so that all the small operators who could not get a piece of the pie before can get their share like everyone else.

I commend the Honourable Minister for Tourism for this bold initiative he has taken because it is through this effort the little man will be able to put food on the table and send his children to school.



In my opinion, the Cayman Islands are still the best place in the whole wide world to live. The warmth and tranquillity that is found here can be found nowhere else. Our beaches and crystal clear waters are second to none. We must do whatever we can to preserve that peace and tranquillity. However, we do not have the mountains, the rivers and the waterfalls or the eco-tourism to offer as a tourist attraction like some other destinations.

On 6 March 2001, the *Cayman Net News* carried the headline, "Dolphin at Turtle Farm".

Swimming with the dolphins has proven to be a very successful and safe tourist attraction in such destinations as Florida, Mexico, Cuba, the Bahamas, Anguilla, Tortola, Jamaica, the Bay Islands and Honduras. I feel that this is a much needed attraction for the Cayman Tourism Product, and I will welcome this facility in the hope that it will take some of the overcrowding away from Stingray City, especially during the peak cruise ship days when it is not uncommon to have 400 or 500 people there at one time.

Some of these facilities are used as research institutes to study the dolphins. Students from all over the world utilise these facilities during their studies while they are in university. I would hope that this could also be added to the local schools' curriculum, as I am sure that any of our students who are interested in marine biology would appreciate an opportunity such as this.

The Turtle Farm is already one of our biggest tourist attractions. I would think that adding the dolphin facility could only enhance our tourism product, and I for one would support such a proposal if it were brought to this Government.

It is also truly encouraging to see that the Department of Environment has plans to carry out a review of the marine parks. Over the last 14 years the marine parks have worked well and have proven to be very successful.

Before the marine parks were introduced I remember quite vividly we could sometimes search the North Sound for two hours and hardly get enough conchs to fish with. Since the introduction of the marine park system, thousands and thousands of conchs inhabit the marine park simply because they are protected.

There were other areas where there was no conch, which had been totally annihilated and overfished to the point where you could not find any. The marine parks were introduced in those areas and now conch is very much in abundance.

I feel the time has come to make some changes in the marine park system to make it even more effective. However, before the changes are made I think it would be especially helpful if the Department of Environment consulted with the Marine Conservation Board and other focused groups, as well as the public, in order that they can get as much feedback as possible to help improve on what we already have.

In addition, the time has come for legislation which includes all reef fish having a size and quantity limit in effect. As it stands right now, our reef fish are at the mercy of the public. Unfortunately, the public is having no mercy on our marine life.

In addition to all reef fish being protected by size and quantity limits, I feel that all of our ornamental reef fish should be protected regardless of the size by-law.

In days gone by, the local fishermen would draw their fish trap, take what they wanted to eat or which was good and edible and release the rest. Today, any fish from 2½ inches on up is being kept as food.

If you go to the tackle stores the clerks will tell you that sales on their bigger hooks are not moving, but the smaller the hook the better they sell. They have already caught most of the big fish and now they have to catch all the little ones. These are very serious issues that have to be addressed, and the time is long overdue when we should be addressing them.

I will support additional legislation in regards to our conservation laws. However, I do feel that it is imperative that Government get input from the public, and other focused groups as well, before these restrictions are put into legislation. While it is the Government's responsibility to protect our environment, we also have to be very careful not to create any undue hardships for the little guy.

In the *Cayman Net News* on 16<sup>th</sup> March and 30<sup>th</sup> March 2001 there were two very interesting articles on commercial conch farming in the Turks and Caicos Islands. I think this could be a viable opportunity for us to take advantage of our huge demand for conch and the very limited supply.

It appears, from all that I have heard, that the Cayman Islands have ideal conditions for conch farming. I would hope that in the near future Government will have an opportunity to look into the possibility of conch farming. In addition to supplying the local demand, it would also create a new industry and provide employment for local people.

With the Cayman Islands being the high-end tourist destination that we are, I feel that it is very important we make our visitors feel as if that is where they are.

When tourists get into a taxi at the airport, dock or hotel, or onto a bus at the bus stop at the side of the road it is important that they have a good impression of the driver taking them around the island. Unfortunately, this is not always the case.

I feel it is time that we introduce a standardised dress code for ground transportation operators. If independent transportation companies want to have their own uniform that is fine, as long as it is acceptable by the Traffic Department.

While I can think of nothing more frustrating than being stuck behind a slow moving vehicle, driving 15 miles an hour in a 40-mile hour zone, moving from district to district, it is unfair to expect the owner of a piece of heavy equipment who must move his equip-

ment just a mile or so to another job to lose 4-6 hours of work because he cannot move his equipment at certain hours. I feel that there has to be some compromise between the operators and the Traffic Department on moving the equipment with certain guidelines.

Road rage is a major issue now in the United States and in other parts of the world and it is due to frustrations. We have to do whatever we can to avoid that kind of situation on our roads. We already have enough problems and we do not need to add to them.

The Port Authority. While I agree that the George Town facilities need some repairs and upgrading to be more efficient in the way of handling cargo, I think that the Port Authority needs to look at the hours of operation more closely in order to have the most efficient use of their time.

I too, like most Cayman men, have been a merchant seaman. In practically every port I have been to throughout the world the pilot would meet the ship at the sea-buoy and take the ship to the dock unless fog or some other weather condition would not allow it. Once the ship was secured to the dock, the mate on duty made arrangements for either loading or discharging, whatever the ship intended to do. I am confident that with your background you would know more about that than I could ever know.

The point I am trying to make is that it did not matter whether it was 2 in the afternoon or 2 in the morning; these ships were kept on schedule whenever possible. It made no difference. Day or night they were working around the clock.

As it stands now, the George Town port facility, in my opinion, is being utilised to approximately one-third of its capacity simply because they do not operate at night. If the dock was utilised, I think it would be a more efficient operation with regards to moving the cargo. In addition, it would also help to alleviate some of the major traffic congestion that we have in the heart of George Town, especially on cruise ship days.

On the other side of the coin, I think more emphasis should be put on the cruise ships tendering facilities which are now very much inadequate to handle the amount of cruise ship passengers visiting our islands.

For years the cruise lines have been complaining about the long delays in getting their passengers on and off the island because of the docking facility being too small, too overcrowded and tenders having to wait in line for unreasonable periods of time. The money that we propose to spend on the dock, I feel, could be better used in providing a better facility for the cruise ship tenders in view of the fact that tourism plays such a vital role in our economy. In addition, we want our visitors to have a pleasant and enjoyable experience whenever they visit our Islands by having a proper facility for them.

Civil Aviation Authority. The Owen Roberts International Airport has served the country well for many years now. However, I feel that with the tremendous

increase in visitors through our airport, the much larger aircrafts and increased number of aircrafts coming to our Islands, the time has come to expand the Passenger Terminal. It should accommodate the peak traffic periods, especially in the arrival area when there are 3 or 4 flights arriving just about the same time.

As it is now, sometimes passengers are standing outside waiting in lines because there is not enough space within the arrival area. This is a problem that could be very uncomfortable for the passengers if it is a rainy day or night, and I feel we need to address that problem.

I can remember as far back as the late 1970s and early 1980s when I was a pilot for Cayman Airways. All of the pilots kept wishing and hoping for a parallel taxiway. Without one sometimes you would taxi away from the terminal and hold short of the active runway. Sometimes you were there for 10 - 15 minutes, waiting for either departing traffic or landing traffic. If there was a parallel taxiway in place, those timely delays could have been avoided. In addition to that, it would also greatly enhance the movement of aircraft on the ground by not having to wait for the runway to be cleared in order to taxi.

Additionally, I feel if we are going to cater to the European tourism market we have to extend the runway to accommodate the long haul flights, meaning the direct flights to and from Europe. At present, the flights that come have to go through the Bahamas because they are restricted by the length of the runway. In order for them to get back to Europe, they must go through the Bahamas, refuel and then head across. If we had a long enough runway they could do the direct flight with no problem. Many other Caribbean destinations have such facilities. I feel it is time to extend the runway if we are going to be competitive as well.

Even though the nav aids (navigation aids) at the Owen Roberts Airport are fairly modern, there is always room for improvement. I can remember when I was flying. On several occasions, especially in the summer months, if there was bad weather we had to divert either to Montego Bay or to Kingston, Jamaica because we could not land here. If we were approaching Miami, Houston or Atlanta where they have the best of nav aids, in similar weather conditions we could have safely landed.

All I am saying is that the addition of more modern nav aids would be a great asset to the Owen Roberts Airport and it would make landing, arriving and taking off in Grand Cayman a safer operation, not to mention how much the pilots would appreciate it.

Under Housing, I am encouraged to see that the proposed merger of the AIDB and the HDC financing arrangements would be more conducive to the small local entrepreneurs, as well as the low income borrowers trying to own their own home. Addressing our housing needs has to be one of the top priorities of

this Government, especially for the lower income families.

Some of our people are living in substandard conditions simply because they cannot afford a decent apartment or to rent a house. This is one of the reasons why there are so many shanty towns springing up all over Cayman. Many of these sheds are being built without planning permission and some have no running water, bathroom facilities or electricity. Yet, they are being built and rented just as fast because so many of our people cannot afford anything else. They have to have a roof over their head, so they take what they can to stay out of the weather.

I look forward to the day of a mortgage where the low-income owner can repay \$500 or \$600 a month. I feel it is desperately needed. Hopefully, with this new merge it can be achieved in order to relieve some of the financial pressures off the little guy.

Every family wants to own their own home, and it gives the family a great feeling of accomplishment when the children have a place to call home instead of being relocated to another apartment every year or so.

The editorial in the *Caymanian Compass*, Friday, 23<sup>rd</sup> March 2001, was entitled "Making Ends Meet". It went on to say, "**It was costing the Cayman government more to operate than it was taking in**".

That is exactly the same position that many of our people are finding themselves in today. It is costing them more to live than they are making and a great percentage of that cost is due to the high price of housing.

The Editor ended by saying that this is a task that can no longer be regulated to the backburner. The need is acute and the time is now. The housing need is also acute and we must address this problem now.

For many years there has been talk about Cayman having its own mental health and geriatrics facility. This is something that has been needed for a long time. It is hard enough taking care of sick family on the island, but to send them overseas is even more difficult. This will be a welcome addition to our health services, and I hope it will become a reality in the very near future. I certainly welcome such a facility.

The Second Elected Member in his debate spoke of attending the Cayman Against Substance Abuse (CASA) Graduation Ceremony on Thursday, 22<sup>nd</sup> March 2001 at the Boatswain Bay Presbyterian Church. I too attended that ceremony and I must say I thoroughly enjoyed the entire evening. The young ladies sang and performed their special items exceptionally well.

I would like to take this opportunity to publicly thank and congratulate CASA and the West Bay Community Development Action Committee (CO-DAC) for piloting such a much needed, worthwhile programme. I also to thank all the parents who attended the graduation and I urge them to continue

working with their children and getting them involved in programmes like this.

There were eleven students enrolled in that programme: eight girls; three boys. All the girls attended the graduation ceremony and received their certificates. However, I was troubled to see that not one of the boys attended the ceremony. What is even more disturbing is, after speaking with one of the coordinators of the programme, I was told that the boys seemed to have lost interest in the programme. It is imperative that we, as parents, get involved with our children in such programmes in an effort to keep them away from the major problems that we are faced with on the drug scene in our Islands today.

His Excellency the Governor also spoke of the National Drug Council (NDC) establishing the first community intervention programme at the Scranton site, then West Bay, North Side and Cayman Brac. I would like to see such a programme throughout the entire Cayman Islands and all districts, in an effort to combat the drug problem, which is rapidly getting out of hand.

I would like to touch very briefly on the Budget Address delivered by the Honourable Third Official Member on Wednesday, 21<sup>st</sup> March 2001. In the Financial and Business Services' sector the future looks bright for the Cayman Islands.

For example, the Cayman Islands Stock Exchange experienced strong growth, with an increase listing by 83.3 percent and a market capitalisation by 66.2 percent. The number of banks and trust companies increased from 570 in 1999 to 580 in 2000. Mutual funds and the insurance industry remain robust, with the mutual funds experiencing the largest annual increase in its history.

Growth in insurance licences was a modest 3 percent. However, growth assets increased significantly from US\$12 billion to US\$14.9 billion, or 24.2 percent. Company registration increased by 17.6 percent over 1999. In the area of shipping, gross tonnage increased by 37.8 percent during 2000.

The figures were very impressive for 2000. However, let us look at the sector that truly affects the little guy.

In the Tourism sector, we are aware that the cruise ship arrival declined, and there is also a question of the true number of air arrivals.

Activity in the Construction sector showed a significant decline in 2000. Planning approvals fell 20.9 percent.

In addition, Unemployment is at 4 percent even though there are approximately 14,000 work permits issued at this time.

To add insult to injury, Consumer Prices are up 2.3 percent. However, I did not see a cost of living increase mentioned.

In closing, it seems as though in these beautiful Islands of ours the rich are getting richer, the poor are getting poorer and survival is getting harder with every passing day. I thank you, Mr. Speaker.

**The Speaker:** I shall await a quorum.

*(Pause)*

**The Speaker:** I will entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

## ADJOURNMENT

**Hon. Edna M. Moyle:** I move the adjournment of this Honourable House until 10 am tomorrow morning.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10 am tomorrow.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 5 APRIL 2001.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**5 APRIL 2001**  
**10.17 AM**  
*Fifteenth Sitting*

*[Prayers read by the Hon. Minister responsible for the Ministry of Planning, Communications and Works]*

**The Speaker:** Please be seated. Proceedings are resumed. Item 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**Apologies**

**The Speaker:** I have apologies for absence from the Honourable First Official Member who is presently off the Island, from the Honourable Minister for Education, Human Resources and Culture who is off the Island on official business, and from the Third Elected Member for West Bay who is off the Island on Government business.

Moving on to item 3 on today's Order Paper, Statements by Honourable Ministers and Members of Government. Statement by the Honourable Second Official Member responsible for the Portfolio of Legal Administration.

The Honourable Second Official Member.

**STATEMENTS BY MINISTERS AND  
MEMBERS OF THE GOVERNMENT**

**INDEPENDENCE AND INTEGRITY  
OF THE JUDICIARY OF THE CAYMAN ISLANDS**

**Hon. David F. Ballantyne:** Mr. Speaker, recently concerns have been expressed in various ways by the judiciary and through public media, touching on the independence and possibly the integrity of the judiciary of the Cayman Islands. It was questioned in one case whether the absence of security of tenure, of senior members of the judiciary may contribute to what were seen by the questioner as conservative rulings.

In response, representatives of the legal profession refuted any such suggestion, pointing out that the judges do have security of tenure and are not on contracts subject to annual renewal. That is also my understanding, namely that instruments of appointment of the currently serving judges are unlimited in time. There are additionally constitutional safeguards protecting the terms and conditions of judges during their tenure, and laying down strict conditions for determining whether and how a judge may be removed

from office. All of these provisions exist in order to preserve and maintain the impartiality and independence of the judiciary. Their emoluments and allowances are required by law and the Constitution to be a charge on the revenue of the Islands, and not liable to reduction during a judge's term of office.

From time to time dissatisfaction may be expressed by members of the public with the outcome of a particular case, or the way in which a particular manner was handled. In a country which respects freedom of speech, it is to be expected that no one is beyond criticism or comment. This is right and proper in a democratic society. Occasionally, however, the criticism goes beyond fair comment and may amount to contempt of court in the form of scandalising the court.

The Grand Court, as a superior court of record, has the inherent jurisdiction and power at common law to deal with persons guilty of contempt of court. This is specifically preserved by the rules of court. It is right for the court to deal itself with what is known as contempt in the face of the court. An example of such contempt would be wilfully insulting a judge or wilfully interrupting the proceedings of the court. In such a case, the court adopts a summary procedure but principles have been developed by case law to provide time for reflection by the judge as to the best course to take to consider whether the contemnor, that is, the party alleged to have made the contempt, should have access to legal advice and most importantly an opportunity to apologise.

In *R v Hill* [1986] CLR 457 CA, the appellant had been held to be in contempt after shouting from the public gallery that the judge was biased and a racist. His appeal was dismissed on the ground that the insult deliberately directed at the judge, was of a gross and scandalous kind and was a classic example of contempt, palpably calculated to interfere with the administration of justice.

There are other instances where comments are written in the press or said on the radio and television which refer to court proceedings. Such matters, may, if the occasion concerns the judiciary, be referred by them to the Attorney General for consideration as to whether proceedings should be brought for committal for contempt of court. Until of late, the most recent were two such matters referred in mid 1999. In one case, for good reason and on advice, it was considered prudent not to bring proceedings, partially due to the party concerned being out of the jurisdiction, and partially due to the need to establish in proving the contempt of scandalising the court that there is a real risk that public confidence in the judicial system will

be undermined. This is not easy to establish to the criminal standard of proof. This position appeared to be accepted by the judiciary, despite understandable sensitivities to the kind of criticism.

In the other case referred to, a relative of a person convicted of serious offences wrote the same letter to many persons in public life claiming that the judge was “racist and a prejudiced man who was obviously demented, evil and wicked.” In such circumstances, the consequences of proceedings have to be weighed up as opposed to alternative action. After consulting with others, including the Solicitor General, I decided to deal with this case by means of a warning. In that written warning it was made clear that the allegations in the letter were without foundation and considered extremely serious. The allegations were plainly intended to diminish the authority of the Grand Court and so constituted a contempt of that court.

The signatory of the letter was advised that the allegations rendered her liable to legal proceedings brought by the Attorney General, and in the event that contempt was established would expose the person to a fine or imprisonment.

It was recognised that the relative was likely to have written the letter while distressed following the conviction of her relative for serious offences. For that reason only, I decided not to bring proceedings, but any repetition would not be tolerated and would result in proceedings. No further action was required as the allegations were not perpetuated.

The public interest that I seek to protect and uphold is the public confidence in the legal system, including the judiciary, to maintain their reputation for fairness and integrity. The power of courts, of record, to punish contempts is part of their inherent jurisdiction to enable justice to be administered in a regular and orderly way.

Returning to the recent past, there have been expressed by the judiciary concerns about what are seen as an increase in quantity and intensity of unwarranted attacks on the honesty and partiality and integrity of members of the bench, by members of the public. Three such instances have been cited, including that to which I referred earlier regarding the alleged but inaccurate reference to the lack of security of tenure and its possible consequences. The other two episodes concern remarks alleged to have been made on radio phone-in programmes, in one case alleging that bias by a magistrate had been reflected not only in the decision, but also in the choice of magistrate to hear the case. In the other case it was apparently alleged that preferential treatment was accorded to a potential accused on grounds of race of colour.

The Cayman Islands is known to be a tolerant society. This should not extend, however, to conduct calculated to undermine the judiciary. While it will not be necessary or desirable to bring proceedings in every case, as judgment must be exercised, if as the judges perceive there is, in recent events, the emer-

gence of a trend capable of lowering the judiciary in the eyes of the public, I will utilise the power at my disposal. It may be noted that the case of Ahnee vs DPP [1999] 2WLR 1305, illustrates the modern ambit of the offence of scandalising the court, and why the jurisdiction to invoke proceedings for this type of offence is rarely invoked, and I quote from the case: **“The offence (scandalising the court) is narrowly defined. It does not extend to comment on the conduct of a judge unrelated to his performance on the bench. It exists solely to protect the administration of justice rather than the feelings of judges. There must be a real risk of undermining public confidence in the administration of justice. The field of application of the offence is also narrowed by the need in a democratic society for public scrutiny of the conduct of judges, and for the right of citizens to comment on matters of public concern. There is available to a defendant a defence based on the ‘right of criticising, in good faith, in private or public, the public act done in the seat of justice.’ See Reg v Gray [1900] 2QB 36, 40; Ambard v Attorney-General for Trinidad and Tobago [1936] AC 322, 335, and Badry c Director of Public Prosecutions [1983] 2AC 297. The classic illustration of such an offence is the implication of improper motives to a judge. But, so far as Ambard’s case [1936] AC 322 may suggest that such conduct must invariably be an offence their Lordships consider that such an absolute statement is not nowadays acceptable. For example, if a judge descends into the arena and embarks on extensive and plainly biased questioning of a defendant in a criminal trial, a criticism of bias may not be an offence. The exposure and criticism of such judicial misconduct would be in the public interest. On this point their Lordships prefer the view of the Australian courts that such conduct is not necessarily an offence. Rex v Nicholls [1911] 12 CLR 280.”**

In concluding, let there be no doubt that as Attorney General, I have acted both here and in previous jurisdictions as Attorney General to uphold public confidence in the judiciary, including successfully prosecuting for contempt two attorneys attempting to undermine and remove the chief justice in a neighbouring jurisdiction; and that I will continue to act to uphold the independence and integrity of the judiciary. It is, of course, always open to the judiciary to act in the same interests; sometimes all that may be required is an explanation of the true position to allay any public criticism or concern, as occurred recently in relation to a issue regarding the liberty of a subject. Such a public statement may be made by the judiciary, or the Attorney General, if consulted. It may also be added that the media has a responsibility to ensure as far as possible the accuracy of reported facts.

I will, in attempting to fulfill the responsibilities of the office I hold, continue to monitor events and if

matters are referred to me, I will give them proper consideration. Thank you.

**The Speaker:** Moving on to item 4, Government Business, Bills. Second Reading of the Appropriation Bill, 2001. Continuation of Debate on the Throne Speech, delivered by His Excellency the Governor on Friday 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday 21 March 2001.

The Floor is open to debate. Does any Member wish to speak? (Pause) The floor is open to debate. Does any Member wish to speak? The Elected Member for East End.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE APPROPRIATION BILL, 2001

##### DEBATE ON THE THRONE SPEECH DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

##### TOGETHER WITH

##### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**Mr. V. Arden McLean:** Thank you, Mr. Speaker

As I rise to make my first contribution to the Throne Speech and Budget Address, I am honoured to be a part of this Honourable House. I must first of all thank the people of East End for placing such confidence in me. While I am honoured, I am also disappointed in the protocols of this country.

As a new Member, I thought protocol would dictate shortly after the elections how the Governor would have wanted to personally meet with the 15 elected Members, giving them the position he, as leader of this country, has in regards to Members' expectations and what expectations Members could look forward to from him. This was mentioned before, but I am disappointed because up until this day I have not been introduced to the Governor—particularly as a rookie.

To add insult to injury, yesterday I received a note from one of my colleagues, with a few dates on it saying when the Governor could meet the new Members for lunch or dinner, with or without spouse. In any democratic society where democratic elections are held, the one phrase voiced as soon as the elec-

tions are over, is “the people have spoken.” More importantly, the people must be heard; and to be heard, the people of this country sent 15 Members of their society to this Honourable House on November 8. Some respect must be afforded to those 15 Members.

I understand the separation of powers. The people of this country sent 15 of their peers to represent them and to govern them. The Governor of this country falls in

the ambit of governing the country, therefore, in my view there should be a relationship between those two bodies. Since November 8 when I was elected, I have seen

very little relationship between those two bodies. I am disappointed first as a legislator and then as a citizen of

this country; that has to change. I do not need to meet the Governor now. I trust that my position on it will change the protocol in this country, in the future.

My other disappointment has been with the former ministers of this country. I have a very good memory—particularly concerning politics! I can recall when the 1992 Government lost the election by a sweeping mandate and the former Government took power. To everybody's surprise when it happened, there was a commission of enquiry into the conduct of the former Minister of health.

I have seen much in the last eight years. We have heard of mismanagement of public funds, but nevertheless, the more recent former government was given the opportunity to govern without too much abuse. I understand people have to defend themselves but it has gone a little bit too far now. If we were to look at the manner in which the previous Government mismanaged the public funds, there is reason to bring a commission of enquiry into their conduct too. It is time that those three former Ministers set about dealing with the law firm, the fast food, and the agriculture and leave the running of the country in the hands of the present Government.

Every few weeks we hear of another press release by the former Government. We would like to know if these were the same people the country entrusted with the responsibility of governing who are now scaring the people and potential investors of this country. The Third Elected Member for George Town spoke about ‘Trumanomics’ a few days ago. I wonder if they realise we, the 14 Members and I, did not put ourselves here? The people of this country got rid of them and duly elected us on November 8. Do they not understand that they were not listened to on November 8? How are they going to be listened to now? They must wait and take a backseat and if they want to return in 2004, then they can. The people may reelect them. However, right now they need to take a backseat and give this Government a chance to run the country. Believe me, there is sufficient intelligence and ability on this Backbench to keep this Government from running astray. We do not need the former



Ministers to tell the Government—we can deal with them!

The country must know that no one in here is going to tell Arden McLean what he must do because I have a mind of my own. I do not need any former Ministers to calculate any budget for me. They must also understand that my life has been what I call a spade a spade, even if it digs my grave in the next minute. Give the country a chance!

I needed to get those two things off my chest—about the Governor and the former Ministers. They all need to behave themselves and have some respect for the people of this country because in both instances there is no respect shown for the people of this country. I will move on now to the Throne Speech.

Over the many years that I have followed politics, I have seen many Governors come to this Honourable House and deliver the Throne Speech. Each year it seems to repeat itself: what we are going to do for our people in the coming year; and in a lot of instances, it is paying lip service because a lot of the things are never completed. I trust that this Government will live by the Throne Speech.

I noticed that the Governor started off his Throne Speech with Information Technology; that is the new buzzword in the whole world, "IT", and it should be no less in this country. However, when I sit on the Public Accounts Committee and hear public servants say that their system is obsolete, I trust—

**The Speaker:** May I interrupt you for just one moment? I would ask you not to bring matters of the Public Accounts Committee into your debate. Be careful of what you say. Please continue.

**Mr. V. Arden McLean:** Mr. Speaker, thank you, but that was a re-broadcast on Radio Cayman.

**The Speaker:** Maybe I should inject further: That does not become a public document until it is tabled in this Honourable House.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I will need your guidance as I go along because as I already said, I am a rookie.

Information Technology is good for everyone in this country. It makes no sense to get all the new technology in the world and not use it; we have to train our people to use it. Training is the second order of the day, as soon as we have completed installing all of the necessary programmes needed. I would like to ensure that there is training available for our people, particularly in the public sector, when installing new technology.

The Governor went on to speak about the Judiciary and that a drugs court is being looked at. I welcome that! However, we also have to look at alternative sentencing. I do not support the sale or use of illicit drugs. By the same token, if we condemn every

young person who gets involved in drugs to prison, we will never rehabilitate them. We need to find alternative sentencing for young people in this country.

I recently visited the prison and it was my understanding that there were 27 prisoners under 21 years of age in there for different reasons, not only for drugs. But we hear horror stories about our young adults who we hope, will be the future of this country, and who we constantly incarcerate. Every crime must have its punishment, but we, as legislators, need to play our part in the rehabilitation process. New and alternative means of sentencing is used elsewhere in the world such as Global Positioning Systems (GPS), where offenders have to wear a band around their legs and are monitored. They go from their homes, to work and back, and have to be there within a certain time. They are constantly monitored.

I believe the objective of any punishment is to take away one's freedom. You may be at home, but your freedom can still be taken away. Those are the kinds of alternative sentences that we need to rehabilitate the young people in our country. One mistake does not deserve years and years in prison. We have all made mistakes and are glad that most of us have learned from them. I look forward to new alternative sentencing for young people.

I would like to see, and invite the judiciary to start a small claims court in this country. I know two of my colleagues should understand what I am speaking about. There are so many businesses in this country complaining about small amounts owed to them and lawyer fees are higher than what is owed; Therefore, It makes no sense to pay a lawyer to go to court. I challenge the judiciary to start looking at a small claims court.

I will now discuss the Royal Cayman Islands Police Force which I support; it is our only means of protection and defence. However, there is much to be desired in the form of policing our country. In the eastern districts there is an insufficient amount of policemen to police. I hear over and over about how it takes 6.4 police officers to cover any area for 24 hours. Well, if they need 6.5, then we will have to find those six and then that half too!

Crime in this country (as we heard in a recent reply to a parliamentary question) is on the increase. There is no excuse why the police force cannot be fully complemented. My view on this is that if you provide the tools the employee has no excuse for not doing the job. If the Commissioner of Police has a proper complement of police officers then he will have no excuse.

I noticed where the Governor said that the Drug Abuse Resistance Awareness programme (DARE), will be extended from three to six schools this coming year. From three! Mr. Speaker, I wonder why this has not been in all schools? Maybe the Government will reply on this. We need to cut the use of drugs in this country at the bottom. If the demand is reduced, the

supply obviously has to dry up also. If we start with our young, I am sure the demand will be reduced. I would like to see DARE extended to all schools in this country because it is necessary. We spend so much on drugs, and then we leave our kids out in the process.

I notice that the Drugs Task Force makes very few trips to the eastern districts. They concentrate on George Town and West Bay, as if they are the only districts drugs are coming in and being used. If it means we need another 6.5 police officers, then we will have to get them.

In December, Finance Committee approved monies for the police force to replace the engines in the patrol boat called *Protector*. I think it is still on the dock, so we are not being protected; I stand to be corrected on that, but I certainly do not see it out on the water anymore. The time has come for us to look at improving the interdiction, importation, the manner in which we try to stop the importation of drugs. We need to improve the facilities available to the police force. Cayman is no different from anywhere else.

We hear rumours of how drugs reach our shores, nevertheless, as a result of insufficient equipment to carry out the job is the reason why we do not see enough patrolling. We need to give the police force the proper tools and equipment, maybe some type of aircraft and certainly a different boat other than the *Protector*. The name does not suit that boat because it takes hours to get to East End from George Town where it is docked. I do not know who gave it that name, but we need to think about renaming it.

The police force is our only means of protection and defense locally because by the time England sends its troops anything could happen. Therefore, we need to support our police force and give them the necessary tools and equipment.

I now move on to the Prison Department, another aspect which needs attention. On a recent visit to the prison, it was extremely obvious that we have neglected the prison. I witnessed the Inspector of the prisons who is from England, condemning the West Bay lockup, recommending that it be closed because we house not only our young adults but children. We hold children there at the Governor's pleasure awaiting trial.

He went on to say that the manner in which our children are incarcerated is inhumane at the West Bay lockup. It is necessary that every one of the politicians go and visit this place to see exactly what conditions he is speaking about because while he dramatised it, it is still necessary for us to look at it.

We hear that there are proposals in for a youth remand centre which has been on the table for quite some time. Maybe the Government can now come forward and say when they intend to build this remand centre. I am sure the Lady Minister who has this responsibility will get up and let the country know when we will have a remand centre in the Cayman

Islands. I am sure that the Leader of Government Business will support her in this endeavour, and so will I.

While I believe the punishment must fit the crime, I also believe that we must put provisions in place to rehabilitate our prisoners. Certainly, it is the responsibility of the Governor and this country is anxiously awaiting his comments, or his position on how we are going to rehabilitate through a parole system our long term prisoners and those who are in there for life.

The idea of a halfway house has been around for a very long time and no one seems to be paying much attention to it. I cannot blame that on the new Government, but since they are in position to look into it, I trust they will do that.

Anywhere else in the world there is a... and if I may use the words of the Second Official Member, a ROBUST programme in place to rehabilitate citizens who have been incarcerated for long periods of time. We cannot have them stay there, being fed forever and we are not trying to somehow put a programme in place to rehabilitate them. The excuse of saying it was done for one and he committed a crime, or that too much crime is being committed, is not good enough. That is no reason not to have a programme in place. I am not saying what this programme should be, because it is the Governor's responsibility to look at this. I trust he will look after it consulting with Executive Council and the Leader of Government Business so that they can decide, and possibly circulate some proposals.

The conditions at Northward Prison are not that good either. On a recent visit there I saw a visitor's centre being erected which is being paid for by the general public through donations to the prison. It is a serious matter in this country if we cannot build a visitor's centre for the prison. Why have we neglected the prison service for so long? No one has paid attention to the needs of the prison; the same way they have not paid attention to the needs of the police force. Whoever is responsible need to start paying attention because as I said earlier, I am gifted with a very good memory and I have four years in here to remind everyone.

If I may go back and touch on the Royal Cayman Islands Police Service, there is a very important issue I think the country needs to be reminded of also. On November 8, during the general elections in East End and being a candidate in that particular election I saw a situation which, in my opinion, brought a dark cloud over the political process in this country. One of the candidates in that election was allowed to have an armed police officer within the polling station for his protection. The responsibility for that lies squarely on the powers that be, but I consider it a serious affront to the people of this country.

I am a first-timer in this Honourable House, and the day that I have to have an armed guard escort me

through East End, that is the day I will leave this country.

For many years we have said we do not want to repeat the mistakes of our neighbouring countries, politically or otherwise. I am convinced we have only paid lip service to that all these years because on 8 November I realised that was the beginning. I trust it will never happen again in this country. I wonder how the populace would have gotten to that particular person if elected. Would it be through armed guards?

This country has not reached that point yet. Whoever was responsible for sending that police officer to East End with a gun under his arm I implore them to never let it happen again. We are not the place which time forgot, and we certainly have not reached the point where candidates are being threatened in this country. I was shocked!

Another area I would like to touch on is that of Government Information Services (GIS), in particular Radio Cayman. I recently received a letter from the Music Association which said that they were not being given equal time for their music on Radio Cayman. I have not paid much attention to that area, but after receiving the letter, I started paying attention; and they are correct. It appears that we do not want anything which is Caymanian; we want the American stuff and the rest of the Caribbean, but we do not want to listen to local musicians. I do not know if it is because we do not captivate the kind of audience we would like, but I am challenging GIS to give our musicians equal time; I think it is fair. This is a government radio. We cannot dictate to the others, but I think we should play local entertainment because if we do not promote our own, they will lose. I throw that challenge out to GIS.

I know there was a new song in November something to the effect of "You will not get my X on Election" I guess because it is after the election that is the reason why it is not being played now, but it is nicely put together. We hear of the Barefoot Man, Andy Martin, and MOJ - these are our local musicians and we should promote them.

We have a situation where Caymanians are becoming disillusioned. They have to because these are the things that are not happening for them; they do not play a part in their own country, and until we start embracing our own, we will never be a nation of unity. All we ever do is talk about what we are going to do for our own people and turn our backs on them. That is why those three former ministers are in private life now.

As I turn to the Personnel Department, I notice where the Governor said that Personnel will soon start utilising the new individual performance management process which was introduced in January. This is a very good thing, but it must be used the way it was intended in order for employer and employee to know exactly what their responsibilities are and what is expected of them. If we do an appraisal and leave it on the backburner or put it on the shelf, it is

no good; that is not the purpose of an appraisal programme.

I am sure that in time the public service will understand and get to enjoy the process because it lays out exactly where they are going, how they get there; it is needed in the public sector. They need to know exactly what their future is instead of being stuck behind one desk with no idea of how they can promote themselves and what kind of succession programme is in place. A good appraisal system will give them that and it is all for the betterment of the civil service.

Under the Portfolio of Legal Affairs, in my opinion, the Law School should be removed from under this portfolio and put under the education system; that is my humble submission. I believe that any education programme needs to be under education and I am going to support the Law School being put under the education ministry. I am sure the prosecutor's office cannot go under the Ministry of Education or that of Works. I do not think that any learning institution in this country should be anywhere other than under the Ministry of Education.

The Financial Reporting Unit (FRU), which was the subject of much questioning in this Honourable House on Monday, still has a lot of unanswered questions. Someone needs to give the Legislators in this country the answers to those questions. I cannot speak for anyone else, but I was not satisfied with the replies forthcoming.

I understand the need for the FRU and I understand the need for confidentiality in the FRU. However, I am still convinced that the head of the FRU reports to no one, therefore, the FRU seems to be an entity onto itself. You cannot have one man and then three different heads having one-third responsibility for this individual; there must be a clear line of authority and responsibility. Therefore, from that perspective the answers will be forthcoming. When the Second Official Member has maybe one-third or a little more, and the Governor has a little share; then the Commissioner has a little share of the responsibility . . . we cannot expect the Second Official Member, with all due respect to him, to come to this Honourable House and answer all the questions.

He is placed in a quandary where he cannot answer for the Governor; he cannot answer for the Commissioner of Police, he can only answer on his little piece of the responsibility. I am sure it is as frustrating for the Second Official Member as it is for some of us on this side of the House. It is for me. I am sure it is for the Commissioner of Police because he has administrative responsibility, yet the budget for this falls elsewhere. This needs to be straightened out. I will move on to another area.

**The Speaker:** May I interrupt you for a moment?

If you are moving to another subject, it may be a convenient time to take the morning break. We shall suspend for 15 minutes. I ask Honourable Members

to please be back in 15 minutes, we have a long road ahead.

#### PROCEEDINGS SUSPENDED AT 11.32 AM

#### PROCEEDINGS RESUMED AT 11.56 AM

**The Speaker:** Continuation of Debate on the Throne Speech together with the Budget Address.

The Elected Member for East End continuing.

**Mr. V. Arden McLean:** Thank you again, Mr. Speaker.

I was moving on to a different subject when we took the break. I would like to briefly touch on the Statistics Office. The census conducted in 1998 is yet to reach us. We have seen much about press releases, in recent times, since the new Government took office. Nevertheless, I have yet to receive a copy of the census. It would have been in the best interests of this country for its Legislators to debate the census during this time. I trust that it is forthcoming in the not-too-distant future. Unfortunately, those of us who have already debated the Throne Speech will not have the opportunity to discuss the census.

There is much discussion on the streets concerning the census. I believe it is a good yardstick to see where this country must go and where it came from over the previous ten years. Nevertheless, we do not have it and I would appreciate if a copy of the census could be made available, even though I shall not be able to debate it.

Under the area of Shipping Registry, I notice where the Governor said it is planned to introduce a new Marine Pollution Law. After spending four years on the Planning Authority and years as a marine engineer, one of my big concerns was all those little live-aboards that occupy our canals. Mr. Speaker, you were also a member of that Board and I am sure you will recall my grave concerns about pollution in our canals because of waste from these little boats.

It appears that since that time, it has gotten even worse. Boat owners come to this country and park their boats in the canals by their little lots and there are no holding tanks. There are no provisions to pump those tanks out, and beside that, they live rent free. It is, in my opinion, fast polluting our waters, and waters where I have seen children fishing in these canals. We need to put legislation in place to prevent people from doing that—not from living on their boats, but certainly, while in this country they must have holding tanks for all waste. It must be pumped on-shore and processed at the government's sewerage system.

It is polluting our waters and I trust that the new Marine Conservation Board will look into this as soon as possible. It appears that everybody comes to this country to live big while destroying what we have to leave to our future generations, and we do nothing about it. If the White Paper speaks about the envi-

ronment, then we know we have neglected it. We are caretakers of our environment for future generations and I will touch on that when I come to marine conservation.

I also noticed recently, through the courts, when a boat captain was charged for destroying marine life along West Bay Road. I wonder who is responsible for monitoring the passenger liners that anchor in our harbours every day. My experience tells me (and I am sure you too, as a former captain, Mr. Speaker) that they are not allowed to dump anything in any territorial waters. During my former profession, whenever a ship enters territorial waters, it is monitored constantly. If it is believed that one plastic bag or if smoke comes from the stack of a particular ship, they are charged. Nevertheless, I drive on the waterfront every day, and on most days I see exhaust smoke billowing from the passenger liners.

I am not trying to throw a monkey wrench into the gears to prevent passenger liners from coming here because they provide a good source of revenue for this country and its people. But by the same token, they know the rules of the road; they know the rules of the sea; they know the rules of any country—with the exception of Cayman with no rules.

It is all well and good to charge one little yacht for knocking over two little shelves along West Bay Road, but what about what is being dumped into our harbours?

What about the freight ships which tie up alongside the dock for days? Are they being monitored? What about the luxury yachts sitting right out in our harbours? Is the Shipping Registry monitoring these boats? We talk about the fishermen going out there and throwing their anchor over and destroying the marine life, but what about the fish being polluted right here in our harbours? Nobody is concerned about that.

I was of the impression that the head of Shipping Registry would be monitoring all these things, including smaller boats being surveyed and required to pay for a licence, making sure all safety equipment would be on board. If our marine life plays such an important role in tourism, we need to protect it. It is not about taking the conchs and the whelks and the lobsters, it goes further than that. Every person who comes here on a boat must be monitored because we cannot allow them to dump everything in the sea around this country and no one is concerned about it. It destroys and pollutes the marine life and our waters. We also have to think about the tourist and residents swimming in these waters. It does not mean because we are in the Caribbean sea, which is limit less, that we should ignore these important issues. It creates a problem and government needs to look at preventing this problem.

Every little fishing boat that comes to this country must be monitored. They stay in our harbours for five, six, ten days and nobody except customs and immigration clears them on arrival; then they can do

as they please. We have to stop the pollution of our territorial waters. If we are going to rely on tourism, and we are going to utilise tourism to get revenue to run our country, we must protect our waters. I am asking for boats in this country to be monitored more closely.

I now move on to the Ministry of Education, Human Resources and Culture. I note where the **“Ministry will liaise with the Chamber of Commerce on a public/private partnership to include a National Mentoring Programme, the development of a National Youth Service, and the E-business partnership with schools.”** I applaud the government for getting the Chamber of Commerce involved with education.

During the election, I was invited to forums conducted by the Chamber of Commerce. They said that there were ten topics they would be asking all candidates for their position on. Those ten topics came from a list of some 60 topics circulated to their membership who were asked to prioritise the top ten the new Government needed to address. There were concerns about the White Paper, questions about the OECD, and we had questions about long-term residency—an important issue, but surprisingly there was not one question on education—a more important issue.

The membership of the Chamber of Commerce did not, in my opinion, consider education a top priority in this country. That is an affront to the people of this country because we hear all the time about how our children coming out of the schools, cannot be hired by the businesses because they are not literate. Nevertheless, it was not a priority to the Chamber. I applaud the government for bringing them on board to help with education. It was very disappointing, Mr. Speaker.

I spoke to the Manager of the Chamber of Commerce about my concern of education not being questioned, and I think, it was mentioned in West Bay, which was the next site for one of the forums. Mr. Speaker, I am telling you, this Honourable House, and this country that education is more important than long-term residency. There is no maybe or perhaps about it. Education of our people, our children, takes priority over long-term residency. We will get to long-term residency today too, but in the main time we are on education and that is what I will discuss.

I am glad for the Minister of Education. This country has waited for 25 years on the First Elected Member for Bodden Town, to head Education. He has proven himself in other areas. He has been a very good teacher in this country and he is well suited to be the Minister of Education. He must not disappoint this country. He must bring reform and establish partnerships with the business society. The business society must put money into our education system—money, time, resources. It is time we stopped playing hopscotch with our children’s education.

For too long, Ministers have played against one another with the education system to gain favours in elections. That must stop! This goes for all of the past Education Ministers or Members of Executive Council; we have to stop playing hopscotch with education. I expect the present Minister will understand the needs of our children, especially since he is a former teacher. But he also needs to be sensitive to our teachers.

Teaching is a profession. We are constantly losing the Caymanian teachers. Why? It is because we do not give them any incentives to remain in the system. We constantly abuse them and when they go out into the private sector, we start to complain.

I am glad the Minister has asked his long time friend, the Second Elected Member for Bodden Town, to head up an enquiry as to why Caymanian teachers are leaving the service. The Second Elected Member for Bodden Town also is an educator. I am sure he understands why he left. It is no different today because they are still being pushed out of the system.

In truth, the same teachers who taught me should now be teaching my son, but we change them so often because they come from overseas. The Caymanians are not given an opportunity for long-term service in the teaching profession because former Governments have put pressure on them. Everybody who went to MICO College came back here armed to teach the children. Of course, the powers that be, called them “black power.” As soon as somebody stands up for their rights in this country, they are ostracised. We noticed the Minister of Education was ostracised and so was the Second Elected Member for Bodden Town many years ago. From an honourable profession, they had to go out and mix cement. This is what is happening today also.

My question asked in this Honourable House, a few weeks ago was how many teachers’ aides were in the East End School and the answer to that was there was none. Nevertheless, there are nine in Savannah. I am not blaming the Minister because the information came via the department, but I would like to know, was that a deliberate attempt to mislead this Honourable House?

It is unfair that we treat some schools in this country completely different from others. East End School has been neglected for too long. Fortunately, the Minister of Education and the Second Elected Member for Bodden Town were both principals at East End School. East End is no less because it is remote; just as Cayman Brac and Little Cayman are no less. Everybody must understand that I am here to ensure that East End is remembered and education is going to be at the forefront of my goals during my tenure in this Honourable House.

East End School was built about 20 years ago. At that time it was built to accommodate 10 to 12 children per classroom. It accommodated those children and it did well. But in recent times there are

more children going to the school and it accommodates 23 per classroom now, twice what it was intended to do. We hear the former Government talking about how much they did for East End. They did not do anything for East End School. I hope this Government does not fall into that, because I will remind them.

When the other schools in the country had computers, East End School was left behind. The same technology available to schools in George Town, West Bay, Bodden Town, or wherever, is going to go to East End also.

I am awaiting the Minister's [of Education] policy on how politicians can visit the schools too. I believe that if I am the representative for East End, I should have access to the school. I should be able to go there and assist the teachers. It is needed! It is necessary! My responsibility lies in liaison between the teachers and the parents, and we are going to come up with a policy. I do not expect to go there and disturb the school, but I support the school and the schools need all the support they can get.

I have asked the other five newly Elected Members, or rookies of this Honourable House to support me in going to the schools and visiting with all the children. We need to make sure that children in this country understand we are not above them—we are a part of them and they are a part of us. I would like to know what the policy is going to be on that because I am making it known for the record that we want to visit the school and interact with the children. I trust the policy which is expected to come soon will not deter that. I am not prepared to apply one year in advance because I do not have much time in here.

On the Alternative Education Centre, the Governor's Throne Speech said that it needs more secure accommodation. I really think it needs more secure accommodation or, alternatively, it needs teachers who can keep the children in the alternative centre. These kids leave when they want and come when they please. In any country, there is going to be troubled youth. We need to deal with them accordingly. I know of kids going to this Alternative Education Centre—they check in and then they leave. How can we have an Alternative Education Centre . . . well, maybe the kids are using their own alternatives. We need to control these children.

It is said that it may be accomplished by moving to the old Lighthouse School when the new school in Red Bay is completed. That makes the situation even worse because that is not secured. Somehow, the Minister of Education has a big battle on his hands. He has given me confidence in more recent times because he laid on the Table of this House the Review of the Cayman Islands Education Department which was unknowing to the people because the past government did not publicise it in the year 2000 when it was completed. The people of this country deserve to know.

There is nothing wrong with making this public. We all have strengths and weaknesses. But the problem with the former Minister of Education is that he believed he had no weaknesses. Perfection was the order of the day! And his colonial attitude was that you only let them know a little bit. That is wrong! There must be transparency in the governance of the people.

The education review had a number of things in it where we need to see improvement in the Education Department. There were a number of recommendations to get those in effect. One section said, **"Many of the strengths and inadequacies of the department are well understood by senior staff in the department, the ministry and by some school principals."** This is the reason why our education system has been in shambles for so long; because everybody goes off on their own little tangent—

**The Speaker:** I would ask that you inject that it is your opinion that the "education system has been in a shambles for so long."

**Mr. V. Arden McLean:** Yes, Mr. Speaker, it is my opinion, it is not a fact. But over the years, no one took the bull by the horns. I said earlier that we were playing hopscotch with it and that is exactly what we have been doing with education, in my opinion.

The fact that the Minister made this document public shows his intent for the future of education in this country, from his perspective. I trust that the ministry and the department will support his efforts and he will do likewise for the department and the ministry also.

On the issue of human resources, we still do not know what is going on with the Labour Department. But that is an issue which has to be dealt with. We can say what we like about the Third Elected Member for George Town, but during his first four years he brought to the forefront the inadequacies in the law and in this country with employers in this country. Regardless of how he did it, he seems to have gotten rid of a couple of managers at these hotels.

Our people are crying out for equality. We just saw the Labour Department lose two cases as a result of the inadequacies in our law. We need to bring our Labour Law in line with current practices in other countries in particular, what we think is in the best interest of our people. We hear of the Cayman Islands having one of the highest per capita incomes in the Western Hemisphere. I am not convinced that that high per capita income is shared by all Caymanians. If you are going to lump it together, divide it and get the average, it is not Caymanians who are sharing in that.

The foreign labour throws that way out of proportion, and that is one of the reasons why I support a minimum wage. Lest this country misunderstood me when I made a contribution to that, I am going to support a minimum wage in this country, not only for

Caymanians, but for the foreign labour that has been exploited for too long. Every time the subject about minimum wage comes up we get these big red flags from employers talking about the cost of living going up. If we are one of the richest countries in the Western Hemisphere, why are some of our working people being paid less than \$3 per hour? It is impossible for me to accept that this country cannot pay our people more.

The Labour Department cannot enforce anything on these people. The inadequacies of the law are preventing them from doing anything about it. The Second Official Member said that recommendations to Government from his portfolio would be made on how to strengthen the law. I am all for that and I will support that.

Each time we hear of horror stories concerning labour it comes to the forefront and then it dies a natural death and nobody picks it up again. The Third Elected Member for George Town shouted yesterday how he supported me in the general election. This is not payback, but I am going to support him with the efforts on streamlining and reforming the Labour Law which he has been dealing with for many years. I believe this new Government will listen to him and hear, and will understand the need to streamline and enforce it.

Caymanians and foreigners on the lower end of the income scale have been exploited for too long. I do not expect any Caymanian to want more than good pay for a hard day's work. I will support anything that puts that in place.

I also see where the ministry intends to liaise with the Chamber of Commerce to ensure stable and progressive labour relations. That's good! I am glad the Chamber is going to play its part in these labour relations. But I warn them that we must not allow employers to dictate what must happen. They must play their part, but government must ensure that employees have an equal part and protection.

It is not government's responsibility to take care of all residents of this country, or any country for that matter. But it is government's responsibility to ensure that it creates an environment where every resident of this country can reach his full potential. It need not turn this country into a welfare state (which is fast becoming), but government needs to ensure that all residents are protected, particularly in labour. If it does not, then it will have to support them and we certainly do not need any more recurrent expenditure in welfare.

**The Speaker:** Are you moving on to another subject?

**Mr. V. Arden McLean:** Yes, Mr. Speaker.

**The Speaker:** This would be a convenient time to take the luncheon suspension. Proceedings will be suspended until 2.15.

## PROCEEDINGS SUSPENDED AT 12.45 PM

## PROCEEDINGS RESUMED AT 2.29 PM

**The Speaker:** Continuation of Debate on the Throne Speech together with the Budget Address.

The Elected Member for East End continuing.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

When we took the break, I was about to move on to the Ministry of Community Development, Women's Affairs, Youth and Sports. But before doing that, I would like to apologise to the First Elected Member for Cayman Brac and Little Cayman because I mentioned about former teachers being pushed out of the teaching profession, and she too is a former teacher. I just wanted to mention that I had overlooked her. It appears that all the teachers are coming into this Honourable House.

On Community Development, Women's Affairs, Youth and Sports—I have a lot of respect for the Minister and I look forward to good things from her, particularly in East End and North Side. There are a number of areas in sports, in particular, in East End that we are lacking. Very few sports personnel travel to East End to train and one of the reasons for that is probably because it is too far to travel. We have talent in that district and I expect the Minister to be sending us a few sports personnel shortly. She has given an undertaking recently that we will see some in the not-too-distant future.

On the Department of Social Services, this department has done a lot for this country, but there is still much to be done. As I said earlier, I do not believe the government is here to create a welfare state. But, by the same token, we have situations, particularly in East End, that nobody from the Social Services Department visits. If there is a referral, those individuals have to come all the way into George Town. Again, the Minister has given an undertaking that someone will occupy an office in that district for one half day each week. I look forward to that.

The reason some of our people look to government for benefits all ties into what this country has done for the lower income bracket, the indigent, and children. Somehow we have to start teaching our people how to fish instead of giving them a fish to eat. If we do not provide the environment for them to be able to fish, then we can expect no less than them holding out their hands.

Each day we see our people falling through the cracks, and they continue to hold out their hands to government. The crack gets wider and wider and only our people fall in; they become disillusioned with the system.

There are Caymanians who go out and make a decent living by holding more than one job preventing them from having to rely on government and social services. I recently had a young man tint my car. He works five days a week at an institution in this coun-

try, and seven days a week (part-time in the evenings and weekends) in his own little business. We need to somehow promote this cottage industry where Caymanians are given opportunities so that the country does not have to raise them and feed their children.

We complain about the amounts of money that government has to dole out, constantly paying out to people who ask for it. If opportunities were available to our people we would not have to make provisions for recurrent expenditure to help support these people. The banks and lending institutions in this country need to ease up on some of the requirements, and the Housing Development Corporation, which are the kind of institutions that need to give Caymanians opportunities in their own country.

We look at education. Most of the time, when people apply for scholarships, they have to put up all kinds of collateral. Most parents do not have the collateral. That is why it is said that education is for the select few. There are many children in this country that are very capable. Nevertheless, because their parents do not have the required collateral to get them scholarships, they fall through the cracks. They then turn to the social services and government has to support them. We have to go back to the root of the problem. We have to make our people understand the value of getting an education and give them the opportunity to get tertiary education.

Vocational training, technical training . . . and, yes, the Minister has committed himself to developing that area in education. In most instances, that is where the problem begins. If people are not educated and capable of getting a job, they fall right back on government. Government is not a bottomless financial pit!

During my campaign, I talked about socialised education. Let me explain what that means, in my terms. We need to support education by paying into it and if it requires that each person in this country has to pay \$300, \$400 per year in new taxes for tertiary education for our children, then it has to be done. Institutions that come here and make big profits need to pay into it also. The result of not doing it is that government is going to have to pick up the slack as soon as these people are non-functional in our society.

People are very capable in this country. If given the opportunity they will succeed. If we do not make the provisions for them we cannot expect them to get out there and do it for themselves, with no provisions are in place. They cannot do it! That is what we have always relied on, for everyone to do it. Housing is another subject I will intend to elaborate on.

We are forever calling Caymanians lazy. Caymanians are not lazy! I am going to show that Caymanians are not lazy and why they can go as far as anybody else can. This country is a very young country, in terms of education in particular.

Many years ago when I was in third grade, we used slates in those days (I think you are familiar with

this also, Mr. Speaker). After wiping off the slate between classes, we had to retain it in our heads. Nevertheless, we had people in this country, such as you, Mr. Speaker, who went on to university level. We had many, many Caymanians who wrote on slates, retained it, and went to sea to become captains and chief engineers. But those were the days when opportunities were overseas and we grasped those opportunities and went there to better ourselves.

Now, those opportunities are not available. Therefore, it must be this country. We must make those same opportunities available in this country. If we do not, the amount of money we give out in welfare will worsen in years to come. Caymanians must share in the opportunities in this country.

No one wants to take up the fight for the lesser Caymanians. We are satisfied with going about our lives and leaving those behind and we have always done that. We have had Throne Speeches on top of Throne Speeches and lip service paid to uplifting the Caymanians who do not have the means to get up there. This country is going to pay for Social Services. We are paying enough as it is, but it will be ten times worse.

I noted that the Water Authority under the ministry is continuing its work in East End. I look forward to piped water going to the Tortuga Club and beyond in the not-too-distant future. I do not want to hear what was said about electricity, that East End people cannot afford it—they can well afford it. Cayman Brac has said that their economy is down and they have plenty of water. They can afford it and so can the people of East End. It is expected that the water will be up in that area by December 2001 and I welcome that.

I see under Women's Affairs that the ministry will complete a draft national policy on gender, equity and equality sometime in March 2002. I look forward to that national policy being tabled in this Honourable House. I know that the Minister has been a driving force behind that ever since she was elected in 1992. I am sure that she will continue that.

On Youth, there was a point in my life when I thought that between my generation and my children there were very few we could leave this country to. I am here to say that was a mistake on my part. I witnessed the Youth Parliament here a few weeks ago. It made me happy to see young people discussing the affairs of this country in a very professional manner, and obviously with opinions of their own. This country will be in good hands if we have some of those as legislators and leaders in years to come.

I know it was my generation that was responsible for destroying the village concept. It is no longer available in this country. Most of us, including the baby boomers, grew up under the village concept. The "it took a village to raise" concept was very alive in this country until the almighty dollar destroyed it, by those of that age group chasing the almighty dollar. I do not know if we will ever get back there. It is a chal-



lenge for the Minister of Youth and I am sure she will address it. I look forward to her addressing it.

I hope we can get back to some semblance of a village concept in this country because that's where the social problems are coming from that involve our youth. If I may turn to the commission that is soon to come in youth violence, I think that it was timely of the two Ministers. Unfortunately, we are looking at the problem and not what caused that problem. It is this country that has caused that problem. We owe an apology to our youth for not paying attention to them. We have failed in our responsibility as adults in this society.

The Third Elected Member for George Town who will head up that commission is a most suitable person to do that. Indeed, he is the person who spearheaded many such enquiries. I can assure him that I will support him in his endeavours to see what we can do to curb some of the problems we are having with our youth.

I too have seen the decay of the fabric of our society. I have seen people mourn. I have seen the papers strike out at society about our youth and what they get into, but they too have a responsibility. Each member of the media has a responsibility to ensure positive reinforcement of our youth. Our culture is being eroded. These subcultures coming in are destroying everything we were. The media has a responsibility too. They must not always beat on the government, ridicule government for not doing something or for making mistakes; they must respond with positive publication and with cultural publications as well.

The Second Elected Member for Bodden Town mentioned the responsibility of the TV recently and he was taken to task. It is unfortunate that we all think that we are unto ourselves and that no one should mention us. I was somewhat disappointed that his remarks brought such comments from the TV station. They must be responsible also.

As I said, I look forward to the survey of our youth to see what can be done, in order to get them to go in a different direction other than where they are going now. At one time, I was prepared to call for a curfew. It is still my opinion that curfews work. They have worked in other places. There is no reason why anyone under the age of 18 should be on the streets after 10 pm without a parent or guardian. If they are, then their parents should be responsible.

It is very simple to enforce. I know that the Commissioner of Police has said that it is almost impossible. But, Mr. Speaker, the age of maturity in this country is 18 and at 18, they are issued a national ID in the form of the elector's registration card. Those who do not have it are under 18 and those who are 18 or older and do not have it should be penalised for not having it. Any foreigners who are here, have a work permit ID card. Those who do not are underage.

The Governor mentioned 12 and 14 year olds hanging around bars. There was a time in this coun-

try when that was possible, but not any longer. There was a time when the proprietors of these properties could claim that they asked the age and were told they were 18. That is no longer the case. The advent of the voter's registration card removed all that. It is simple: if you are 18 you have a voter's registration card. Therefore, the proprietors must ask to see proper identification. If the police find anyone under 18 in a liquor-licensed premise, the proprietors must now be responsible. There is no excuse! Everyone must play his part in curbing the problem we have with our youth in this country. We must not leave this up to the committee that will be chaired by the Third Elected Member for George Town. We cannot leave it up to him alone. That has been the problem all these years—leaving it up to government and doing nothing in the community.

Parents must be responsible too. I hear of 11 and 12 year olds in this country who are out of control and their parents are looking to pass them over to the government to control. The parents have failed in their responsibilities if that is the case, and the community has failed. We are all in this together, and it does not only affect the youth; it will eventually affect every living soul in this country.

No one is immune from what is on the horizon. I trust that every legislator in this Honourable Chamber will give full support to the Third Elected Member for George Town. We have created this; we have allowed our youth to do what they want to do. I am not saying we have to put children under lock and key, but we have to spend time with them and show them we love them. The new legislators here have all agreed to go to the schools and interact with the children.

Vision 2008 talks about our youth, giving solutions to the problems. I hope that will be implemented. It will assist the Third Elected Member for George Town. I also see the Young Parents' Programme, another worthwhile programme that will assist in this area.

Alternative sentencing has to be put in place to assist the youth of this country. The businesses must step forward also. I am not saying to the detriment of their businesses, but they must contribute to resolve the problems this country is having. They will be the recipients of some of the problems too if they do not try to help resolve them.

Under the Ministry of Planning, Communications and Works, I see where the ministry has seven main focus areas in 2001. One is the construction of new government office accommodations. I trust it is *construction* and not rental or purchase because we pay too much money now in rental when government should build its own offices.

Cayman Airways is another one. Now, that is one that needs close attention. The Leader of Government Business, who is responsible, has engaged the services of a well-known accountant to audit

Cayman Airways. It is expected that the interim report will be tabled soon. I look forward to that.

There is a lot of talk in the community about Cayman Airways. One opinion high on the agenda is that we should shut it down. I know that is going to get a lot of attention. I cannot support the shutting down of Cayman Airways without further study. But I know that the country wants value for money, and the country is not satisfied anymore with subsidising Cayman Airways without doing something about streamlining it.

We have hidden the cost of Cayman Airways for too long. It appears that Cayman Airways has been the political football for too long. This argument of having Cayman Airways because when a hurricane comes we will need it to take residents and tourists off the island cannot be supported any longer. That argument died a long time ago. Cayman Airways must be managed properly. We must stop using it for a political football and using it to dump our cronies in.

The Leader of Government Business recently stood in here and said that subsidy this year looks to be in the region of \$7m. I do not think we can afford to be putting \$7m into Cayman Airways every year. The mistake made with Cayman Airways has been to buy too many aeroplanes that were useless. They are uneconomical to run and then we forever dump in more and more money into maintenance on these aircrafts. We need to review it urgently and decide what is going to be the most economical way to run Cayman Airways. What is the preferred equipment to run Cayman Airways with?

I recently travelled from here to Miami on the latest aircraft which was acquired, and thank God that the flight was not any longer, because I would have been stuck in that position for the rest of my life! There is insufficient space! But the previous government—in their infinite wisdom—decided the more seats they could get in, the better. That is not the way to provide service to the travelling public.

God knows that I do not want to see anyone lose his livelihood. But, by the same token, they cannot expect Caymanians to be taxed continually in order to keep others alive. There must be alternative methods of running Cayman Airways to make it break even, or at least run with subsidy less than \$4m per year. I trust that Mr. Bodden will soon be coming with his interim report and it will be tabled in this Honourable House.

**The Speaker:** Are you referring to the Honourable Minister responsible for Education, Human Resources and Culture?

**Mr. V. Arden McLean:** No, I was referring to Mr. Naul Bodden, whom I mentioned earlier.

On the issue of petroleum storage and handling operation, the overall review done late in 2000, I am glad to see that the ministry is committed to assessing the liquefied petroleum operation in this country,

because it is an accident waiting to happen. It has been for many years.

What is worse is that it is amongst every school in this country. No one wants to address moving it because of having it ideally located next to the unloading berth off South Sound. There are alternatives because there are other places around the island that are safer areas for the storage of this petroleum.

The time has come to get a dock other than the one in George Town for importation of diesel and gasoline, propane, cement, right through the middle of George Town. There are other places for that as well.

I want to turn to the Planning Department. Having been a member of the Planning Department for quite some time, I recall the many issues I had with the 1977 Development Plan, which is woefully inadequate at this time. We do have a 1997 plan which is expected to be completed in the first six months of this year, and should be tabled during the September sitting.

The Development Plan made very little provision for lower income people in this country. That is an issue which needs to be addressed. For instance, under agricultural/residential zoning there is one house per acre. But if we get a designating order, it reduces it to three houses per acre. It goes without saying that in the agricultural/residential area this is where most of the land is left. Therefore, it does not make sense to bring it down to only three lots per acre; we need to go lower to make provision for lower income housing.

I stand to be corrected on this but as far as I can recall, there are very few places in this country with high-density residential zoning, and George Town is one of those places. There are some places in the other districts, but not a lot. It was all well and good in 1977, when most families had large tracts of property and they split it up amongst their children. We can see the direction the country is going in which it has been going in for the past ten to 15 years. We are creating more and more people in the lower income bracket, yet we make no provision for them.

There is nothing wrong with those people. They work for an honest living and there is no greater feeling in a man's life than when he walks into his home. It is far beyond many Caymanians' reach to own a home. The 1977 Development Plan made provisions for Caymanians who were overseas when a certificate of occupancy was needed. The little money they made, they would send home, build one piece and then continue building on every year. We made provisions for the situation then, so why is it we cannot do that the same now?

Everybody wants to talk about creating slums. We are not creating slums; it can be done well. It can be done in a proper manner where the people can feel that they are living in an environment amongst friends and family. I put the Leader of Government

Business on caution: Do not bring anything here that is not going to make a provision for the lower income bracket, because I will not support it.

I congratulate the acting Director of Planning. It is good to see another Caymanian in that area. I wonder if it is not time to separate planning away from building control because planning approves the structure, the development and building control controls how it is built. I am just wondering if that is not an area which needs to be looked at to see if there is a need for separation.

Before continuing on to Public Works I will touch on the Postal Department. I recall asking a question previously about the postal zip code was misunderstood somehow. I was really speaking about an international zip code—not in Cayman because once it reaches here it is fine. We know exactly where it goes, whether it is East End or Savannah Post Office, or any other post office. Reaching the Cayman Islands is the big problem and that is where the delay is. I wondered if there was any international zip coding done so that mail can be routed properly to the Cayman Islands without so many delays. I discussed that with the Leader of Government Business on a prior occasion.

It may appear that I have been on the subject of Public Works (PWD) for a long time. I have asked more questions on Public Works (PWD) during this sitting than anyone else, but it is not that I have a problem with the Leader of Government Business, but you usually ask questions on what you know about. I believe PWD is doing a fairly decent job. I had questions about the renaming of the Harquail Bypass, but I was by there recently and saw that it was renamed to Esterley Tibbetts Highway. That is very nice! At least we can identify who Mr. Tibbetts is.

I noticed where government is trying to acquire the land and extend it down to the SafeHaven area. I may be mistaken, but there was a point where I thought we said that the Harquail Bypass would not have any inlets or outlets. If we look at the first phase we will see that is the case. All of a sudden, behind the Galleria Plaza, there are many inlets and outlets. I would like to know who is benefiting from that and why it was done.

If we are going to make rules in this country, they must apply to everybody regardless of financial status. I also want to know who is maintaining the extension of the Esterley Tibbetts Highway. Does PWD go down there and water the plants and mow the grass? When we become obligated to anyone, we have lost the central piece of the puzzle and lost our ability to govern. I hope government is maintaining it. If not, by the next sitting of this Honourable House somebody better have some answers because I will be asking questions.

I am of the firm opinion that we need a national roads plan in this country. Yes, there is a proposed national roads plan. I have not heard what the time frame is for the completion of that plan and I look for-

ward to hearing when that will be completed. The PWD is by no means perfect, and I do not think it is expected that every department should be perfect. I am sure the Director and his Deputy are working towards that.

There are many roads in this country in need of urgent repairs, particularly in the eastern districts. These are inland roads, to a greater extent. The last government came to East End and put in this rough asphalt unlike the rest of the country where it is nicely laid. I will not allow anyone to forget that I am expecting the road to be completed.

Besides that, the roads into Gun Bay and Colliers are by far the worse in this country right now. Those roads are used as much as anyplace else in this country. We have two major tourist establishments on that end of the island with hundreds of condominiums, which equates hundreds of visitors, and the roads need to be addressed. Not only the visitors, but also the residents need these roads fixed. We have many residents living up that way and it has been many years that these roads were not addressed. We need to look into these roads, and I am asking the Member to do this.

I now turn to the Ministry of Tourism, Environment and Transport to touch on the marine parks and the upcoming proposals on marine conservation. I believe the two electoral districts in this country with the most to lose are East End, Cayman Brac and Little Cayman. East End is still considered one of the best areas to dive, to fish, to enjoy the marine life. When this Conservation Law came into effect many years ago it was ridiculed and opposed by many people. Today, I can safely say it was one of the better pieces of legislation that came through this Honourable House.

I believe that there were shortcomings in that legislation. One in particular was the lack of enforcement. Even with little or no enforcement over those years, we have seen the comeback of our marine life, yet we still have problems because people take above the limit allowed by law. If we ban the taking of any marine life, it will not change if we do not enforce it. So, I do not support the total ban, but I do support total enforcement.

Many times when I have been out fishing, particularly in East End, I have seen people taking advantage of the shallow areas along Colliers and Gun Bay, where there is no replenishment zone. If I can have my way, I intend to stop that by extending that replenishment zone. If we do not preserve, we will not be able to allow generations coming behind us to experience the life that we had. I want my grandchildren and their grandchildren to live that experience too. I, being the caretaker of that now, will put whatever is necessary in place so that generations can enjoy the marine life in this country.

I will not question when the Minister of Tourism bans Z-pots in this country because they are raping our marine life. We are going to ban them! Then we

are going to reduce the number of pots that people can have. I cannot support going down to one, but I will certainly support two pots per person.

We have to put enforcement in place. My proposal, in that regard, is to attach an enforcement arm of the Marine Department to the police station in East End and North Side. East End and North Side is where it is all left. The North Sound has been raped—it is all gone—because we allow all the tour boats 20 conchs per day. I do not think they can get any more than 20 per day, but when you have 200 or 300 boats, that is a lot of conch to be consumed in one day. Those who make a living off our marine life are going to have to understand that we have to slow down, we have to preserve for future generations.

I do not want to shut down any small business in this country because a lot of Caymanians fall into this category. We need to try and stop other people opening up these small businesses who are not from this country. That is where we are going to have problems because we run the risk of getting these people to come in here and work for us, then after four or five years they go and start their own companies. We are going to have to stop that. [Mr. Speaker, I would ask permission to pause a minute to speak to the Third Official Member]

I was speaking about the ability of foreigners coming into this country and opening their own businesses, particularly in the tourist sector which is affecting our marine life. We need to let them know that must be preserved for Caymanians who know the business of the sea. They may work for Caymanians, but they cannot start any business in the tourist industry/diver operation. We have to stop that!

When the review of Caymanian owned businesses comes along, which was recently approved through a motion, there is going to be a lot of wailing from a lot of people in this country, but the wailing will have to stop sometime because crying has never killed anyone yet. For too long we have allowed everybody else to do what they want—except Caymanians.

I was placed here by the people of this country and it is at their pleasure for four years. My mandate I understand is to govern in their best interest and to represent in their best interest. The way I look at life is that if the country has, I have. If I have and the country does not have, it does not make any sense for me to have; therefore, the country is what we have to look at. We have to stop looking at ourselves. We have to stop using our position for personal gain and look at the overall gain that this country is going to have as a result of our decisions.

I spoke about an attachment to the police station in East End and North Side to control that area. I must say, that in recent times, we have had quite a bit of enforcement and we have seen quite a number of marine enforcement personnel up and around East End and North Side. But it might very well be a little too late. I hope not. At the end of the day, whatever

we pay for enforcement now will be a small price. Future generations will thank us for preserving marine life in this country.

I support whatever is required to get more officers in place to enforce it. There are many people in North Side and in East End who are capable of enforcing it. They do not necessarily have to be hired as Marine Park Officers in George Town; we can identify people in East End and North Side who can do the job. If we do not want it attached to the police station, we can buy a boat, keep it at the person's house, and they can make their rounds every hour. The mere fact that the presence of an enforcement officer is there, deters people from taking marine life.

My other proposal is to extend the replenishment park straight across Tortuga Club because we have 300 to 400 tourists at that establishment on a daily basis and there is no replenishment park. They go out, pick up the conch, come ashore with it, and leave it on their porch. That is a waste. But, if there were replenishment parks where the establishment could enforce that you cannot take anything, then it would not happen. They cannot stop them as it is right now. This is a serious matter, particularly in East End, North Side and in Cayman Brac. But it is more serious in the North Sound. We need to try to replenish it; that place should be banned—period! Nothing should be taken from the North Sound for the next four years. I know the West Bayers are going to beat me for that one.

On the issue of the Port Authority, under that same ministry, the time has come for us to have an alternative facility for unloading bulk cargo. We unload cement in town, we unload all the fuel . . . I wonder if people understand the dangers of unloading this fuel so close to the populated areas. In my experiences of going to sea, when I was on board tankers as an engineer, there are no houses to be seen for miles. In most instances, we were so far offshore that we could not see land. However, we are right in the middle of the capital of this country unloading propane, gasoline, diesel, cement—everything that comes into this country is unloaded right in the middle of the capital. There is a safety issue and the longer we leave it, the more potentially dangerous it becomes. We have to find an alternative facility for unloading.

Regardless of what the importers of these bulk cargoes say, we have to remove it from George Town and we have to remove it from amongst our children. Every major school in this country is housed around the propane. It is ready to destroy every child of any age in this country. There has to be at least 2,000 children within a half-mile radius of those propane tanks. I do not want to hear the excuse that they have been there for a long time—which is what makes it worse! It was all right when the installation was new. I do not want to hear that it is tested because I know the dangers of it.

I see all these pressure vessels being driven around the streets in this country, which is another danger. It is then brought and unloaded at our public beach. Tell them to make good with what they are doing now, because in the not-too-distant future I am personally bringing a motion here to stop it. If one of those things exploded on West Bay beach, it would kill everyone within the vicinity of the public beach. It needs to be removed. These are the dangers we are talking about with this fuel and compressed air.

We just recently had an incident with it. There is too much risk taken and we are exposing our people to too many risks. When something happens, then we try to crucify the owners. Government has a responsibility to protect its citizens.

I went to the public beach just the other day and there is a sign up that reads "No Commercial Activity." Nevertheless, we have boats coming in right there and the compressed air suppliers are running the hoses across our beach and filling up tanks on the boats. There is danger in it! I do not even want to think what will happen on our public beach when any one of those hoses burst. They have to be removed! I am not trying to close down any small businesses, but I am not going to allow them to operate at the disadvantage of my family or any resident who goes to the public beach for enjoyment.

I would like to know how they got a business licence anyway. I would also like to know if on the application they said their place of operating business would be on the Public Beach, and who issued the licence.

I get a bit animated over these things, because it is exposing our people to potentially dangerous situations. The number of children that enjoy the West Bay Public Beach is countless. Nevertheless, for many years government has allowed the dive operating business to operate right on that beach amongst our children. I am challenging the government of today to stop it! We have to protect our residents.

I now turn to the Agricultural Industrial Development Board (AIDB) and the Housing Development Corporation (HDC). I really do not know if either of those have been effective since coming into being. They have done very little to assist, and the requirements are so far out of line with what is needed in this country. They need to be streamlined. I thought that the AIDB and the HDC were there to assist not only the middle class, but also the lower income bracket. It has not done that. For many years it has done nothing. And when I say "nothing" . . . someone will have to show me what development they have done because I cannot see it. They may have put up one or two little homes someplace, but that is not in the interest of the overall population. I do not recall seeing any development done by the AIDB or HDC did since their inception in this country. Until someone shows me, I will stay of that same opinion.

I recently travelled to Miami with the Minister of Tourism to look at lower income housing. That is why he can jump up here and say that I support him on housing. Yes! I am supporting housing in this country because for too long too many people have not been able to have a little home. A lot of it has to do with all the big contractors. I recall many years ago when we started talking about "pre-fab." Now it has gone to "pre-engineered" homes. There was a big outcry from the contractors about what it was going to do to their business. That is well understood.

In recent times, I have noticed the big five storey buildings made from pre-engineered material going up here. They put up the steel frame and slam, slap, slap, the panels together. Well, if that does not affect them, it should not affect them when we start helping the lower income bracket people in this country. I implore them to come forward and try to get some of the work because there will be plenty of work, and if they want a share of it, this is the way to do it while learning a new method of building so that the cost to this country is not so high.

Mr. Speaker, I believe we were going to break at 4 pm I do not have a watch, and I wonder what time it is.

**The Speaker:** Five minutes to go.

**Mr. V. Arden McLean:** Thank you, Sir. With respect to all businesses in this country, it is too far out of reach for the people who need the homes and government needs to step in and purchase the property. Fill it in and then use contractors to build the little homes. What causes it to be cost prohibitive is purchase of property. The cost of these homes must be between \$40,000 and \$60,000. The homes we speak about for \$150,000 are in another bracket and we can leave those in place, but we are talking about lower income people.

Those people are not really starving to death, they are making it; but they just cannot afford a home to call their own because they cannot save the money necessary to qualify at the bank. Government should step in and deal with assisting its people; make them have a sense of belonging in their own country.

Is it any wonder Caymanians become disillusioned? They see everybody else come to this country and make it, while they are not making it. It goes right back to the root of the problem with our youth. Give them an opportunity, let them see that their parents can own something in this country and then they will have something to strive for too. Right now, they have nothing to strive for, nothing to look forward to. *'If you are doing it to my mom and dad, you will do worse to me.'*

Government needs to put capital investment in getting homes for the people of our country and forgetting about the payback on it. We do it on roads to get elected! Thank you, Mr. Speaker.

**The Speaker:** It is my understanding that it is the wish of the government that we adjourn at 4.00. I will entertain a motion for the adjournment of this Honourable House.

### ADJOURNMENT

**Hon. Edna M. Moyle:** Mr. Speaker, before I move the adjournment I am sure that when the Elected Member of East End said "thank you Mr. Speaker" he had not finished his debate. He was just finished for this afternoon, right?

**The Speaker:** I understood that.

**Hon. Edna M. Moyle:** I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10 am tomorrow.

**AT 4 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 6 APRIL 2001.**



**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**6 APRIL, 2001**  
**10.18 AM**  
*Sixteenth Sitting*

*[Prayers read by the Second Elected Member for Cayman Brac and Little Cayman]*

**The Speaker:** Please be seated. The Legislative Assembly is in session.

Item number 2 on today's order paper, Administration of Oaths or Affirmations. Oath of Allegiance to be administered to Mr. A. Joel Walton, JP to be the Honourable Temporary Acting Third Official Member.

Mr. Walton would you come forward to the Clerk's table? Would all Members please stand?

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*by Mr. A. Joel Walton*

**Mr. A. Joel Walton:** I, A. Joel Walton, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, so help me God.

**Mr. Speaker:** Mr. Walton, on behalf of all Honourable Members I welcome you to the House for the time of your service here. Please take your seat as the Honourable Temporary Acting Third Official Member.

Please be seated.

Item No. 3 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the following: the Honourable First Official Member who is off the island, the Honourable Second Official Member who is on other responsibilities, the Honourable Third Official Member, the Third Elected Member for West Bay who is off the island on Government business, and the Honourable Minister responsible for Planning, Communications and Works, the Leader of Government Business who will be arriving later this morning.

Moving on to item No. 4 on today's Order Paper, Questions to Honourable Members and Ministers of Government. Question No. 53, a deferred question standing in the name of the Elected Member for East End.

**QUESTIONS TO HONOURABLE  
MINISTERS/MEMBERS**

**QUESTION NO. 53**

*(Deferred Wednesday, 4 April, 2001)*

**No. 53: Mr. V. Arden McLean** asked the Acting Honourable First Official Member responsible for the Portfolio of Internal and External Affairs, to explain the protocols of General Orders, Financial and Stores Regulations (FSR), and the Public Finance and Audit Law, and Regulations that govern the responsibilities of public service employees in relation to the performance of their duties, with respect to financial accountability.

**The Speaker:** The Honourable Acting First Official Member.

**Hon. Donovan Ebanks:** Permanent Secretaries and Heads of Departments are designated Controlling Officers for the purposes of Financial and Stores Regulations 2.48. Accordingly, Controlling Officers have the overall responsibility and accountability for the collection and receipt of all revenue, and for all disbursements of expenditure in respect of their Ministries or Departments.

Controlling Officers are personally responsible for the due performance of the financial accounting duties of their Departments or offices. They are also required to ensure that staff are aware of and comply with all relevant regulations, orders, directions and instructions issued by the Financial Secretary and the Accountant-General.

Section 14 of the Public Finance and Audit Law requires that "every Controlling Officer shall obey all regulations made and directions or instructions given by the Financial Secretary under section 12 and shall, if so required, account to the Financial Secretary for the performance of his duties as Controlling Officer."

The General Orders require that Heads of Departments work within the framework of the Financial and Stores Regulations.

**SUPPLEMENTARIES**

**The Speaker:** Supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I wonder if the Acting First Official Member can say if it is only Permanent Secretaries and Heads of Departments who are Controlling Officers.



**The Speaker:** The Honourable Acting First Official Member.

**Hon. Donovan Ebanks:** Yes, Mr. Speaker, to the best of my knowledge. The only persons who are designated Controlling Officers are the Permanent Secretaries and Heads of Departments.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. Can the Honourable First Official Member say whether or not Ministers of Government have the authority to authorise expenditure of government funds other than in accordance with budgeted amounts and items?

**The Speaker:** The Honourable Acting First Official Member.

**Hon. Donovan Ebanks:** If I apply the meaning of “to authorise” to be to authorise the Treasury, then Ministers have no authority to authorise payments, and controlling officers only have the authority to authorise payments in accordance with the budgeted allocations.

One clarification on the earlier supplementary would be that the Deputy Financial Secretary, while not termed a Permanent Secretary, is the controlling officer for the Portfolio of Finance and Economic Development.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say in the event of misappropriation of funds what the protocol governing such misappropriation is?

**The Speaker:** The Honourable Acting First Official Member.

**Hon. Donovan Ebanks:** Again, perhaps given two possible meanings to the term “misappropriation” . . . I am not sure which direction the Member is coming from. Obviously, misappropriation can involve utilising funds for personal needs, and such circumstances would need to be reported to the police, initially with a view to ascertaining whether or not there is a basis for criminal charges. There are also other disciplinary provisions that exist under the Public Service Commission Regulations.

If the misappropriation the Member is referring to involves using monies appropriated for one purpose to achieve another purpose within the ambit of the objectives or projects that Finance Committee has endorsed . . . For example, if I (in my former capacity) used monies appropriated for roads to do buildings or vice versa, then there is a responsibility on my part to notify the Financial Secretary, explaining why I feel

that has been necessary. If he supports the decision or feels the decision of the respective controlling officer is justified, he would approve it coming before Finance Committee for its endorsement.

If, on the other hand, it is not an action he can support, it would then be deemed misconduct and be subject to disciplinary proceedings. There is also a facility under the Finance and Audit Law where the Financial Secretary can surcharge an officer. That decision is usually taken in parallel with whatever disciplinary action may be taken in relation to the same offence.

I trust that touched on what the Member meant by “misappropriation.”

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I was specifically speaking about misappropriation, not for personal gain but for other reasons where they have been instructed by politicians to do it, and it is not approved through the Financial and Stores Regulations (FSR).

Mr. Speaker, I wonder if the Member can say what the specific disciplinary actions are.

**The Speaker:** The Honourable Acting First Official Member.

**Hon. Donovan Ebanks:** As in any incident of wrongdoing, the penalty that is ultimately applied depends on the nature of the wrongdoing and the circumstances under which it was committed. Certainly, in the FSR there is a facility for the Financial Secretary to surcharge an officer and require restitution up to the extent of a loss—not in excess of, but up to.

Under the Public Service Commission Regulations, which would be more applicable, there is a range of penalties from reprimand right up to dismissal. It is difficult to give the Member an answer of one specific penalty that would apply to such an offence without qualifications as to what the offence was, and the circumstances surrounding its commission.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member please explain what should be done if a controlling officer receives instructions from a Minister to expend funds, other than in accordance with the approved budget or the Public Finance and Audit Law or the FSR?

**The Speaker:** The Honourable Acting First Official Member.

**Hon. Donovan Ebanks:** If that controlling officer who is the head of a department, has not received that instruction through his permanent secretary, then he

should certainly bring it formally to the attention of the Permanent Secretary and the Financial Secretary as to why he or she is not capable of complying with it.

In the event that such an instruction were to be received by a head of a department through a permanent secretary, who obviously should have sieved it and not prevented it to go to the head of department, then the head of department should bring it to the attention of the Chief Secretary, who is head of the service, and to the Financial Secretary.

Ultimately, if a permanent secretary should receive such request or instruction, then he should bring it likewise to the attention of the Chief Secretary and the Financial Secretary.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Would the Member say what the consequence would be to the controlling officer who disobeyed the instructions of the Minister in the circumstances described in my last supplementary?

**The Speaker:** The Honourable Acting First Official Member.

**Hon. Donovan Ebanks:** There are many permutations to that answer as one wants to pull. Let us take the worse case scenario—which I certainly have never known of—where a Minister asks a controlling officer to do something, knowing there is no money to do so. It is reasonable to assume that if there was willingness to still make such a request, then obviously there would be one of two things: either the Minister would not be happy if his request was not followed, or he might in fact applaud the controlling officer's fortitude to stand for what was right.

In any case, I know of no reason why there should be any adverse repercussions to the controlling officer for failing to comply with a request or instruction that there is no authority to comply with.

**The Speaker:** Are there any further supplementaries?

If not, that concludes Question Time for this morning.

#### APOLOGY

**The Speaker:** Before moving on to item 5 on the Order Paper, on item 3, I omitted offering apologies from the Honourable Minister responsible for Education, Human Resources and Culture who is off the Island on government business.

I ask for the suspension of Standing Order 46(1) in order that we can take the Customs Tariff (Amendment) (Variation of Duties) Bill, 2001.

The Honourable Acting Third Official Member.

#### SUSPENSION OF STANDING ORDER 46 (1)

**Hon. A. Joel Walton:** Mr. Speaker, I beg to move the suspension of Standing Order 46(1) to allow the first reading of the Customs Tariff (Amendment) (Variation of Duties) Bill, 2001.

**The Speaker:** I shall now put the question that Standing Order 46(1) be suspended and order that the Customs Tariff (Amendment) (Variation of Duties) Bill, 2001 come forward.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 46 (1) SUSPENDED.**

### GOVERNMENT BUSINESS

#### BILLS

#### FIRST READING

#### CUSTOMS TARIFF (AMENDMENT) (VARIATION OF DUTIES) Bill, 2001

**The Deputy Clerk:** The Customs Tariff (Amendment) (Variation of Duties) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

Second Reading of the Appropriation Bill, 2001. Continuation of Debate on the Throne Speech, delivered by His Excellency the Governor on Friday 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday 21 March 2001.

The Elected Member for East End continuing.

#### BILLS

#### SECOND READING

#### THE APPROPRIATION BILL, 2001

#### DEBATE ON THE THRONE SPEECH DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

#### TOGETHER WITH

#### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. When we took the adjournment yesterday, I was about to move on to the Ministry of Health and Information Technology. Before doing that, I think it is necessary for me to make it quite clear to the public that this is not about bashing foreigners; this is about protection and preservation of Cayman and Caymanians.

I know the Minister responsible for Health has a challenging job in trying to straighten up the health services in this country. While it only speaks of health and information technology, it is one of the biggest portfolios and there is a lot to be done within that portfolio. Every family in this country has some horror story about the health services provided. In particular, it is based on personalities.

Besides that, the Minister has much work to do to collect the monies owed to government. We must be realistic about it. In my opinion, a lot of that money will never be collected, but nevertheless, we leave that on government's books as an asset—another good way of balancing the budget in previous years. I appeal to the people in this country who owe government for health services to pay those bills, especially those who can afford to pay. Government can no longer carry everyone.

Approximately \$40 million are owed to government. If we had that money, we would not have to be borrowing \$55 million. The more we can get out of that, the better the health services will become.

I also feel that the Minister has an uphill battle with information technology, particularly with Cable & Wireless. I notice that C&W is planning to lay off approximately 20 Caymanians and "outsourcing" a lot of their staff including their telephone operators. My information source advises me that the CEO of C&W (Caribbean) is from the Island of Jamaica, and goes on further to say that his wife is involved in politics in Jamaica.

Well, it appears they are making provisions for their people and we are not. They are taking from the mouths of the Caymanians. I trust that the Minister will not allow that to happen in this country. If the economy has slowed in Jamaica, it has slowed in this country too. We cannot afford to have anyone out of a job, not even one person.

We have an unemployment rate of 4 percent, and this is only going to add to it. But if I know the Minister, he is going to work with C&W Regional to ensure these people are not laid off.

I cannot understand how C&W is going to lay off people on the basis of preparing for competition when, thus far, I have not heard any talk from the Government about allowing competition into the Cayman Islands. I am laying that on the shoulders of the Minister responsible for Health and Information Technology, to prevent C&W from laying our people off. I know he is up to the task and he knows he has my support because whatever I can do, I am willing to do.

The E-commerce business is fast emerging as the new thing in this new millennium. If we do not keep up with it, Cayman will really be the place time forgot. I caution the Minister that it makes no sense to put technology in place and not use it in the right manner. C&W keeps complaining of the high cost of their operation. However, compared with other jurisdictions, the cost to the consumer is much higher. At one time it was said that C&W (Cayman) was subsidising everyone else. I believe that is still the position because now they are laying off Caymanians to save.

I challenge the Minister to ensure that persons who are laid off at C&W are on work permits because they have many of those. It must not be that imbalance where only Caymanians get laid off; that would affect our economy. However, those on work permits would not affect our economy very much except for the money spent on work permit fees, groceries et cetera. I trust the Minister will address this and soon.

I would now like to briefly address the Organisation for Economic Cooperation and Development (OECD), the Financial Action Task Force (FATF) and the White Paper, even though it does not reflect the importance if it is briefly addressed. England has said that this is a partnership but so far, I have not seen anything which says it is a partnership. We are told in the White Paper that if we do not comply they are going to do it through orders in council, which they have started to do already. Recently we had discussions with Members of the Foreign and Commonwealth Office (FCO) who very clearly said it is time for us to do something about the problems of immigration and long term residency in this country; otherwise, it will be done by them.

I respect that we have allowed these people to stay in this country for many years—some up to 30 years. That is a long time to stay in any country without tenure. I respect these people, but by the same token, those people from the FCO also advised us of their rollover policy in England. If England has a rollover policy, Cayman is going to get one too; that is very simple.

I believe that we need to review our immigration policies. They are inadequate for today. We need to ensure that Caymanians are protected and residents (other than Caymanians). The sooner we do that, the better.

The White Paper states that we must look at our Constitution in order for partnership of progress and prosperity. For many years, we have heard of politicians trying to frighten our people about what Constitution advancement and modernisation will do to us. Nevertheless, in the many years since the Constitution came into being, which was in 1972, we have had many amendments. I must say that all those amendments were made by the same politicians.

We had one amendment to the Constitution in 1984 and another in 1993. We all know who was in power at that time. The country was scared into believing that if we touched our Constitution, we were

going to become an independent territory. Well, that is not true. The same people who are spreading rumour and fear in this country need to stop it.

I look forward to a Constitutional review. In 1992 I supported the Constitution and in 1993 it was amended with chosen pieces. We call the Members of Executive Council "Ministers" but they do not have the authority or the responsibility of Ministers.

Cayman is far behind on constitutional development than any other overseas territory. Nevertheless, we claim to be one of the five top financial centres in the world, yet we cannot bring our Constitution in line with modern times. All those old colonialists who are out of power now had better stop scaring the people of this country.

It is good to know that we have young people in here who are very progressive and want to move this country to a point where it is manageable. The Constitution will give us good standing in the world amongst our peers. I look forward to having our own Caymanians review the Constitution and make the necessary recommendations.

I oppose to anyone coming in here to do our Constitutional changes. If they come in as an advisor they will be just that—an advisor. We know what we want and we know what we need. Anyone coming from America or England to review our Constitution is going to bring with him the American or English way of life.

England pushes a constitutional review on advancement upon us, but Great Britain does not have any.

I liken the OECD and the FATF to political will and economic might. For many years we were the place in the Caribbean time forgot. Suddenly the OECD, which England is a part of, decided that Cayman was getting too big and taking too much money from them in tax avoidance. It cannot be drug money laundering because many years ago this country went along with the Mutual Legal Assistance Treaty (MLAT); that worked very well. They are still trying to find out what we are doing to control ourselves by using other excuses to get in.

England needs to give us a little more support. I give the Government my support, but I am asking them to not roll over and play dead. It appears that one of the OECD and FATF members, America's Congress, is up in arms against controlling their people with their taxes.

I know this country was somewhat sympathetic to the Democratic Party when they lost the election in America, but it appears that the Republicans have come to our aid. They are the capitalists in America, and they do not want their money to be controlled by the State. I trust that they will stall it for at least four years. If not, Cayman could lose.

In my opinion, the team we have put together to negotiate with the FATF and OECD is a fairly good team. This is the first time I have seen any country send their heads to negotiate, instead of hiring a ne-

gotiating team who could have made the decisions here with the head of Government. Nevertheless, I wish them luck and offer my support.

The OECD and FATF are operating on the basis of their political will and economic might and they are trying to turn us into their police, to police their own citizens.

If we do not stand up to these people, we will be giving them more information on their own citizens when they can get it themselves. We need to address the OECD and FATF and stand strong as we have always stood in these matters.

I would like to move on to the Budget Address. I supported the tax measures for a number of reasons when it came to this House during the Budget Address. There are many Caymanians who produce water in this country and any merchant can import it for free whereas the Caymanians are disadvantaged. Anything Caymanians bring in to produce water has a 20 percent duty; this is not a level playing field and it is one of the reasons why I supported the tax measures.

Another aspect within this area is the wave-runners and boats. Something is wrong with the way it is worded. I do not know if it is a misprint, and maybe the Acting Third Official Member can reply to this; boats above 35 feet have tariffs of only 5 percent and those from 18 feet to 35 feet have 10 percent. If you can afford to buy a boat over 35 feet, you can afford to pay 10 percent. I would like to see that figure reversed. We have hundreds of wave-runners on West Bay Beach coming in tax free and are used as rentals. They make thousands of dollars off of these wave-runners and the Cayman Islands Government gets nothing; this is not a level playing field either. I respect the fact that there are private individuals who would like to have a wave runner.

I appeal to the people of this country to assist with the economic down turn and to give this Government a chance. There are people on this Backbench who will be watchdogs and the Government is not going to run away like previous Governments. I want to make it abundantly clear that I owe no allegiance to the previous Government, none to this Government or any future Governments. If it is in the best interest of this country, I will support it and if not, I will not support it.

While I supported this one, I warned them not to bring any more taxes into this House to tax the poor man, making sure any future taxes are for those who can afford it.

I am going to offer some suggestions to Government on how to make some revenue. We talk about level playing field—well, there is one which is not too level. I am faced in East End with many people from that district who work in the quarry business, as well as other quarries in this country, because there are other quarries where Caymanians are employed. Caymanians have to pay 20 percent on everything they bring into this country, whereas, previous Govern-

ments have allowed people in this country to import aggregate and only charge them \$1 per ton; this is not a level playing field for our people. It will push our people out of work. Hundreds of people are employed in this country in the quarrying business, whether it is marl or rock processing into different grades of aggregate. But nevertheless, they still have to pay 20 percent, even though, the money remains here, paying mortgages for Caymanians and dealing with other vendors within this country. Since we have aggregate being imported into this country at \$1 per ton, this would be a good area to apply 20 percent and get more money out of that importation.

We must stop the personality thing. Let us look at the hundreds of Caymanians who work in this industry. Are we going to pay them? Government cannot afford to support these people. Let us make it a level-playing field so that Caymanians can support themselves by being in a job.

I understand the review of aggregate in the country. I went to a presentation of an interim report on the study of aggregate, and I understand all the projected numbers of aggregate needed over the next ten years. But it can be done in this country. We can allow these people to go deeper—not over the water lens, but over other parts of the country. They can go deeper because we allow them to go 10, 12 feet. If you go 30 feet it does not make very much of a difference; the only difference is you will not have to use up more land space. I am certainly not supporting going deeper into the water lens. That is another area where we can improve the revenue in this country.

The Third Official Member said that the economy has slowed. Well, it is Government's responsibility to boost the economy at this time. I understand the need for revenue and recurrent expenditure, et cetera. He said that employment seems to have stabilised at a rate of 4%. I trust that this figure is for the unemployable. It is impossible to believe we have Caymanians who are willing to work and cannot get any work. We have more work permit holders than Caymanians in the workforce. Something tells me that we have to review how many work permits we have in order for these 4% Caymanians to get into the workforce.

I have seen other areas in this country where we can get tax revenue. I note that one of the tax proposals included spear gun licences. I do not know how we are going to get money on spear gun licences when we cannot import them or the parts; therefore, spear guns should be on the decline in this country. You cannot tax something that is not available and get something from it!

I propose that Government charge spear gun holders \$100 to import parts for their spear guns. We do it to our gun licence holders where we allow them to go overseas and import ammunition, shot guns, et cetera, charging them a fee for importation. The same fee can be applied to spear gun licence holders. We can still keep control over who has a spear gun and if that person wants to make two trips per year to pick

up parts, we will keep the spear guns in circulation and tax them later on raising the licensing fee.

We cannot ban them because they are already here. But we are not going to get the taxes if they are on the decline. If they cannot repair their spear guns, it does not make sense to keep up with the licence.

I throw these things out to assist, which I believe is my responsibility as a legislator. I notice on the hotel, condo and guest house room tax we do receive a bit of funds, but let us talk about the financial service fees and professional licensing fees in this country.

It really bothers me to see listed under the Trade and Business Licensing Law, fees of only \$750 for persons within the accounting field and other professional occupations. The proposal is to increase that by 100 percent. Do we think this increase will really hurt those accountants? Is this a sufficient increase? No! I do not want to take anything away from anyone, but these people have made millions of personal money in this country. I am sure they are willing to help the country which has helped them to get where they are by giving more.

Contractors and businesses employing ten or less persons are charged \$1,000. Businesses employing 11 persons or more are charged \$3,500. Under the Local Companies Control Law (LCCL) it is \$25,000 for whoever is issued an LCCL. That is one area where we need to look into and possibly disregard. I am sure they have 300 or 400 people working at any given time and it is unfair to the little small contractor who has five or six persons because he still has to pay \$1,000. One thousand for ten or less tells me that it works out to approximately \$100 per person. Why not charge the big contractors who enjoy this LCCL \$100 for every employee? They get the jobs.

In today's paper the Chamber of Commerce is agreeing to, and defending a motion brought to the House recently, which sets out provisions for Caymanian businesses. They are somewhat in line with my thoughts. The LCCL must be the first thing to go and the 60/40 needs to be reviewed as well.

Yes, there are special circumstances. There are very few Caymanians who can go and build a \$40 million hotel on their own. By the same token—

**The Speaker:** Excuse me for one moment. You have five minutes to speak.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

All the other works on the hotels must be preserved for Caymanians.

In closing, my one appeal is to my colleagues in this Honourable House. We are here to govern the people of this country. Let us work together in the interest of this country and help to steer the country as we go along.

I appeal to the people of this country to give this Government a chance. It is because of you why we are here; therefore, we are here at your pleasure.

I appeal to those three ex-ministers who are outside of this Honourable Chamber, to stay out of the running of this country because on elections day they were rejected by the people. Stop using scare tactics to put fear in the minds of the people and destroying potential investment in this country. The people did not listen to you during your campaign and they will not listen to you now!

I have to say to my good colleague, the First Elected Member for Cayman Brac and Little Cayman, "stay away from those ex-ministers also." This Government deserves a chance and that is why the country gave it to them. I support the First Elected Member for Cayman Brac and Little Cayman in her endeavours, and always will, but do not let that Trumanomics lead us the wrong way. They are out, and they are going to stay out.

The First Elected Member for Cayman Brac and Little Cayman is in, and whatever I can do to keep her in here, I will do, but whatever I can do to keep them out, I will do that too! I thank you, Mr. Speaker, and I thank the people of this country.

**The Speaker:** We shall take the morning break. Proceedings are suspended for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.26 AM

#### PROCEEDINGS RESUMED AT 12.04 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continues on the Throne Speech and the Budget Address. Does any other Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, I would like to say good afternoon to all Honourable Members of the Legislative Assembly, and good evening to all of the listeners of the general public, as this will broadcast in the evening. I would like to commence my first general contribution in this Honourable Legislative Assembly by expressing my gratitude to the good people of Cayman Brac and Little Cayman who have bestowed upon me the honour and responsibility of representing them over the next four years. This is a responsibility I take extremely serious and give them my assurance that I will carry out this role to the fullest of my God given ability. I give special thanks to all those who worked diligently for my election in 2000 and also during my unsuccessful attempt in 1996.

Many in this Honourable House have said, the most recent 2000 election has transformed the face of Parliament and resulted in a change of the guard and a shift in paradigm. This is indeed very true and I am exceedingly pleased to be a part of this new guard and a new model of thinkers. The 21<sup>st</sup> Century has found the Cayman Islands faced with many challenges, both on the international and domestic front. I am confident, and provide this country with my assur-

ance that this House is very well poised to cope with these challenges.

The Sister Islands which I have been elected to represent has a strong history as being the incubator for much of the brainpower, and the capitalist that has positively contributed to the development of the Cayman Islands as a nation. The composition of this Honourable Legislative Assembly for the 2001 – 2004 at-tests highly to this hypothesis. I commenced my political career in the 1988 General Election in Cayman Brac and Little Cayman as part of an effort to have you re-elected for our district. This makes it especially significant for me to find myself in this House with you Mr. Speaker, in the high office as Speaker of the Legislative Assembly for the Cayman Islands. This is a source of great pride, not only to me, but to the entire Cayman Brac and Little Cayman community.

In addition to you, we have the First Official Member from Cayman Brac. We also have the Leader of Government Business, the First Elected Member for George Town, from Cayman Brac. We have the Third Official Member, the Honourable George A. McCarthy with close Cayman Brac connection, and today we have his Deputy sitting in his seat who is also from Cayman Brac. We have the Second Elected Member for Bodden Town, who has a long standing relationship with the Sister Islands and who has contributed significantly to their development during his 8 year tenure as their representative. He is also married to a daughter of the soil. I also note with great pride, that one of the Civil Servant's representative from the Finance Portfolio who is here monitoring the contribution to the Budget Address and Throne Speech, and I anticipate to help in the preparation of this response, is also a Cayman Bracker and an economist, Mr. Strand Bodden whom I recognised, sitting in this Legislative Assembly today. Of course, you have the two elected representatives from the Sister Islands.

The Sister Islands have certainly contributed exponentially to the development of this great country.

I also find it relevant to mention the Honourable Minister responsible for Health and Information Technology, Mr. Linford Pierson, who, as all Cayman Brackers and Caymanians know, has always had a close relationship and has contributed significantly during his period in a previous Ministry.

With such a history of Sister Islanders representing the direction and future growth of this great country, it puts upon me an extreme burden and a strong path to walk towards, as a freshman in the Legislative Assembly.

As a prelude to my presentation on the Throne Speech and Budget Address, I would like to outline the vantage point from which I come, with regard to this contribution and all others in this Honourable Legislative Assembly.

Of recent, there has been great haggling between the current and past political directorate over the financial position of this country. I am one of less than a hand full of the 15 representatives in this Hon-

ourable House that can objectively decipher the abundance of information, some factual and some less than factual, because I was not supportive of the past political regime as public records will show, nor am I supportive of the current political directorate.

It is a matter of public record that I was, and remain of the opinion, that the current political directorate is not the optimal configuration of the 15 elected representatives best suited to guide this country into the 21<sup>st</sup> century. That is my view and I am certainly entitled to have my opinion. I welcome the current political directorate to prove me wrong, as in doing so this great country shall benefit and so shall I.

As stated in an earlier contribution in this House, as a result of me taking the position to support another configuration for the Executive Council, and voting accordingly, by default, the terminology that I borrow from my earlier contribution, I became a non-supportive Member of the current Executive Council. I became a backbencher and more importantly, I became an Opposition Member of the Backbench. Those on the Backbench who chose to support the current political directorate would be considered the supportive Backbench, the Backbench of the Government.

I give the people of Cayman Brac and Little Cayman the assurance that both the First Elected Member and I worked diligently for a seat on Executive Council for Cayman Brac and Little Cayman but, as you all are aware, the deck was certainly stacked against us. Over the past four years we recognised the importance of having a representative on Executive Council.

The position of Opposition is an important one and one that I intend to carry out constructively. Over the years, many have contributed to demeaning the role that an Opposition Member carries out in the parliamentary procedures as adopted under the Westminster style of government. The role of an Opposition Member is a very important one and one which I take extremely seriously. I say with pride, that I am a Member of Her Majesty's loyal Opposition. I intend to be the critique of the Government, and that is necessary to have a check and balance system to ensure that the monies and the resources of this country are spent in the best possible manner. We cannot intend or hope to have good governance without having an effective Opposition.

I join with the other Members of the Opposition in making a statement that we intend to constructively oppose, and not simply to oppose for the sake of opposition. We will look at each and every issue on an independent basis and make decisions accordingly. We will also ask questions and probe where necessary, but when the Government of the day or another Member of the Backbench brings something that we believe will be of benefit to this country, we will certainly be there to support it. We have demonstrated our ability to understand all sides of Government.

In our short period of this Legislative Assembly, I am proud of the position that the Opposition has taken. Erskine May, what is deemed as the guidelines of parliamentary procedures, has written extensively on the role of the Opposition and I encourage all of those who look at the role as a negative one to spend some time and review it to see the importance the Opposition plays in good government.

As all astute politicians should know, and I borrow this phrase from my good friend, the Honourable Minister for Education and a book he is reading, "All Politics Is Local." In this regard I must make a clear separation between what occurred during the past Government in Grand Cayman and that in Cayman Brac and Little Cayman. The reason that I do this is to once more outline the vantage point from which I come.

Over the past three years Cayman Brac and Little Cayman had a Minister, my colleague, Mrs. Julianna O'Connor-Connolly, as the Honourable Minister responsible for the development of the Sister Islands. In my opinion, we received more focus than the aggregate of past Governments. Consequently, although the past Government was greatly disliked by the people of Cayman Brac for what they were doing for the nation, them being the wise people they are were able to see a clear differentiation between the management of resources in Grand Cayman and those in Cayman Brac. On November 8<sup>th</sup> they elected the First Elected Member for Cayman Brac with some 76% of the votes cast—one of the highest percentages in this House. That is indicative of the acceptance by the people of Cayman Brac of what they saw quite clearly as getting what was long overdue—the fair attention to be given to the Sister Islands.

The district of West Bay was the only district in the entire Cayman Islands that a clear mandate was presented to its representatives. The four representatives campaigned together, had a common committee, presented the public with one manifesto and were all elected together. George Town, Bodden Town, and indeed the district which I represent, the sixth electoral district of Cayman Brac and Little Cayman; the job was a lot greater.

We were faced with a daunting task of reconciling the mandates that were sent to the individual representatives who campaigned on separate platforms, with separate manifestos, and separate priorities. The other two districts being East End and North Side having only one representative, was a lot easier. For the remaining three districts, we had to sit and reconcile the various commitments we made to the public and on which we were elected. This is one of the shortfalls of having an independent system.

I am pleased to report to the people of the Cayman Islands the one clear sentiment sent from the district of Cayman Brac and Little Cayman, in that they would like their representatives to work together. I am pleased to say that the First Elected Member and I have developed a very amiable and positive relation-

ship and I undertake to continue to work with her for the benefit of the people of Cayman Brac and Little Cayman. We have been able to get together, look and determine what we, as the only two individuals with a political mandate from the people of the Sister Islands, consider priorities in the short and long term. We intend to see that the wishes of the people of Cayman Brac and Little Cayman, as expressed through their votes on 8<sup>th</sup> November, 2000 be represented in this Legislative Assembly for the future of the Cayman Islands.

As a nation, we have failed in the past to draw on the lessons of history. I would like to spend a few minutes here to discuss and highlight to this nation some of the history of the Caribbean and how we can learn from this history.

The Caribbean represents 30 million people stretching in islands from the Bahamas in the north to Curacao in the south, a region that has a common history and similar patterns of development. The island nations have an interrelated evolution of economies, political institutions and social reforms. For centuries the islands formed part of large empires ruling over several continents. The colonial culture that emanates from our history governs most of the norms of today.

History tells a story of Anglo Saxons using black slave labour on Caribbean soil to produce sugar cane, coffee and spices and to remit all of the profits to European nations that ruled over them. It should be remembered that the slave is a representative of the common man of today, for all native Indians were forced into extinction. There were relatively few Anglo Saxon slave masters compared to the abundance of slaves. They controlled the slaves through suppression of education and cultural advancement, controlling the resources available to them and through a cultural inferiority complex.

In those days, the slaves truly believed that the slave master was a superior being and they owed a degree of loyalty to him. From the early days of slavery, racial and ethical blending occurred. This resulted in a multiplicity of racially mixed groups. The racially mixed, especially the light coloured Creole, commonly called 'coloured' succeeded a lot greater in the years to come, compared to the African descent. The light skin Creole benefited under the colonial system, even to a point where they became slave owners, and consequently, the light skin Creoles who benefited under this system are less desirous of change from this system.

The Third Elected Member for George Town said in his contribution, that the time has come for us to stop denying that there is a racial separation in this country. It is deeply woven into our history and evident in our present. This difference is not only evident in the social and economic stature of the racial groups, but also in behaviour patterns.

The Honourable Third Elected Member for George Town illustrated this by contrasting South

Sound to central George Town. I will also contrast the difference between the eastern districts of Cayman Brac to those of the western end. We have hid this separation in the interest of preserving the outside perception of this country of having a harmonious community, but at the expense of addressing the problem.

Mr. Speaker, at this point I would like to make an injection which I overlooked in my introduction, in giving you special thanks on behalf of the people of Cayman Brac and Little Cayman for your twenty years and continual involvement in the development of the Sister Islands, and all that you have contributed personally and as a representative to these Islands.

From the brief overview of the history of the Caribbean, one can clearly see the similarity between the history and the present. The colonial culture that has made it acceptable that we provide refuge in our country for the financially wealthy of the world to grow richer while enslaving the Caymanians, with most of the resulting profits being remitted overseas. That culture is one that emanates directly from colonialism and it is an acceptable part of the culture of this country. I make the submission here today, that we need to change this culture. It is time for the economic development of the Cayman Islands to start to benefit the indigenous Caymanians. I make the point when referring to the indigenous Caymanians, that at a later part of my presentation I will talk of long-term residents and my definition of a Caymanian.

Our financial services industry can really be classed as an offshore industry because the benefits certainly leave these shores. Similarly, our tourism industry utilises the lure of our picturesque beaches and Caymanian tax-payers money, as the sum of approximately \$20 million will be used this year to promote tourism and attract tourists to these islands, to benefit who? As history would have predicted, the wealthy Anglo Saxons, and, of course, the wealth generated from the hotel industry is largely remitted overseas.

Those light skin merchant class who has not been subject to the same political, intellectual and cultural suppression, under the old colonial system has worked for decades to ensure that the Cayman Islands will remain under this system. The same techniques as the slave masters used—controlling of all resources, suppression of educational and cultural advancement of the general public of the Cayman Islands, and instilling in the public a sense of inferiority.

For years, the district of George Town has cried '*Oh we need to elect Mr. Truman because he is the brains of the Cayman Islands*'—an expression of inferiority among the common people. I make the submission that, in my opinion, this is an unjustifiable escalation of superiority. I am pleased to see that the general election, in year 2000, has resulted in a positive change in this direction, replacing the past Minister of Education with a Third Elected Member for George



Town and the Minister of Education, the Honourable Roy Bodden.

At the end of the 18<sup>th</sup> century, the Caribbean's buoyant sugar industry began a continual decline and by the 1940s the industry was insignificant except in Jamaica and Cuba. Since that time, the Caribbean nations that were amongst the wealthiest of nations, as a result of the sugar industry, have struggled to find an appropriate and viable alternative.

The Cayman Islands' maritime industry was the early salvation of the Cayman Islands economy. This was soon joined by tourism and then by financial services. Successive Governments have recognised that the two economic pillars we like to boast about, tourism and offshore finance are both very volatile and fragile industries. No Government has addressed the issue of diversification. They have talked about the issue but we need to diversify our economic base. Tourism and offshore financial services are industries that have great flight risk because they are both very dependent on external forces that are beyond our control. All should remember the 1990 economic slow down in the United States and the direct knock on effect to our local domestic economy. This affected not only financial services, but definitely the tourist industry.

As what occurs in the external world is so important in determining what will happen and what occurs in our domestic economy, it is important that we take a careful look at the external world. I would now like to turn to analysing some of the external occurrences.

Globalisation of goods and capital market has altered traditional economic models and has made economies interdependent. The positive outcome of globalisation is commonly accepted, however, for the first time since the globalisation revolution, the world is feeling the economic pressure of a possible global recession that is compounded by the very same globalisation. The 21<sup>st</sup> century has found the world's two largest economies, accounting for 46 percent of the world output on the brink of what is considered a global recession.

A recession is defined as two consecutive periods of negative growth. By this definition the American economy has avoided a recession for the first half of the year as it grew by 1 percent in the last quarter of 2000 and a similar percentage for the first quarter of 2001. Just this morning the figures for unemployment of the United States were released for the first quarter, and we have seen an increase in unemployment to what I remember as 4.3 percent or 4.6 percent, suggesting that it is on the threshold of a recession. In addition to America, the other giant in the economy, Japan, has been experiencing persistent deflation that has resulted in the value of the national output to decline.

It is said that America is like an 800-pound gorilla, that consumption power fuels the growth through out the world. When America enters a recession, the entire world feels it, especially after the globalisation

where the entire world is dependent on this consumption power of the United States. With a slow down in the American economy, the demand for goods and services of the rest of the world will fall off and so will their economies. The American economy is driven by domestic consumer spending, representing 2/3<sup>rd</sup> of the Gross Domestic Product (GDP) the measure of their economic growth, their total output for the country.

The largest influencing feature on the propensity, the likelihood of one to consume is the confidence of the American people in their economy. If Americans are not confident in the future they will save and spend less, driving the economy further down. This lack of confidence, be it justifiable or not, will lead to a recession. I would like to read from a recent *Newsweek* poll. This comes from the *Newsweek* of the 26<sup>th</sup> March 2001. "Seventy-one percent of Americans said a recession now seems somewhat or very likely. Fifty-five percent say they have already delayed or cancelled major expenditures on items such as cars, renovations and vacations, and 69 percent plan to limit those purchases further in the months ahead."

Consumer confidence is down in America and we here in the Cayman Islands will feel the result of reduced spending which will lead to a slower United States economy. Globalisation has made the world more sensitive to changes in other countries, and countries more reliant on others. With Japan and America in economic troubles the demand for Asian information technology, a major export of the Asian region, has been negatively affected because of these world powers present economic position. These world powers, Japan and America represent the largest export market for the Asian products. Asian economists are reporting concerns over their region's economic growth.

In addition to the lack of confidence in the world's economy and especially America, it is also facing what economists call the wealth effect. Stock markets everywhere are tumbling, albeit the American stock market saw a one day improvement yesterday. Over the past year nearly US\$10 trillion has been wiped off global share values. Inevitably, this will have a negative effect on consumption, for, as the wealth of an individual declines, the individual will spend less, and as I said earlier, consumption is the driving force behind the economy of the United States.

Mr. Speaker, I am moving on to another subject you may want to break for lunch.

**The Speaker:** If you are moving on to new subject, this is a convenient time for the luncheon break. We shall suspend proceedings until 2:15 pm.

**PROCEEDINGS SUSPENDED AT 12: 44 PM**

**PROCEEDINGS RESUMED AT 2:26 PM**

**The Speaker:** Please be seated. Proceedings are resumed. Debate continues on the Appropriation Bill, 2001, the Budget Address and Throne Speech, the Second Elected member for Cayman Brac and Little Cayman continuing.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

Prior to the break, I took the opportunity to express my gratitude to the people of Cayman Brac and Little Cayman and went on to outline the challenges that will face this country in the 21<sup>st</sup> Century. I was currently outlining the economic situation of the world. I spent some time looking at the United States of America and its current challenge to avoid recession and how the United States' slow down is having a negative effect on the rest of the world's economy. I termed the United States as an 800 pound gorilla when we are looking at consumption power. The rest of the world depends on the consumption of the United States.

I spent some time looking at Japan as the other world power in the economy and how its economy was also in problems, and facing negative GDP growth. I was outlining at the time of the break the reasons why the domestic consumption in the USA is faced with the possibility of driving the United States into a full recession. I identified the fact that consumption represents two thirds of the United States total output, and the first and major factor that influenced consumption, being the confidence that the United States populous has in its economy. If there is no confidence in the economy, people will save and not spend, and thus, merchants become worst off and they do not invest and the economy takes a spiral downwards.

I shared with this Honourable House a *Newsweek* poll which indicated quite clearly that there is a reduction in confidence in the American economy. Seventy-one percent of Americans say the recession now seems somewhat or very likely; 55 percent say that they have already delayed or cancelled major expenditures on items like cars, renovations and vacations; and 69 percent plan to limit those purchases further in the months ahead. It is clear that there is a lack of confidence in the economy and that confidence is being passed to the full economy through reduction in consumer spending.

I identified the second influencing factor on consumption as the wealth effect, and identified the fact that US\$10 trillion has been wiped off the global share values over the past year. Thus, individuals are less likely to spend because they are financially worst off than they were a year ago.

The third factor influencing consumption is the fact that a decade has seen the United States' economy in positive economic growth that has been driven by consumer spending. This period has left the consumer of the United States with very high personal debt limiting their ability to help the economy. The resources are simply not there for the domestic spender

to be able to consume so that the merchants can have money, make profits and invest, and thus, create economic activity. These are real hard facts we must face looking at the fact that these changes in consumption patterns and level of economic outlook for the United States, and the rest of the world would likely have a negative impact on the Cayman Islands.

In 1990, we felt the exact effect. I recall the Government identifying the slow down at that time as being a result of the slow down in America, and a lesson learnt from the past is that we should take the necessary precautions today.

The Federal Reserve Chairman has taken aggressive action to curtail the downturn in the economy through interest rate reductions. The Central Bank of Japan has taken similar action, albeit a bit delayed. The Central Bank of Japan is driving the interest rate down to zero. It is an assertive project of the Japanese Government to have a zero interest rate, hopefully achieving this through the printing of money with hopes of having the desirable and likely effect of increasing inflation.

It is important we understand, that in our domestic situation we always speak of the negative impact of inflation, but in an economy deflation, which is the reduction in price level, this also has a negative impact. If I am in a period of deflation, the consumers are expecting that in the future, prices will be lower, thus they are not spending today; they are awaiting these lower price levels. As I said earlier, consumer spending is a major part of your gross domestic product.

Many believed that the European Union was immune to world economic pressures as a result of its insular approach. However, the European Central Bank is now downgrading their growth expectation to 2% for the year 2001. It was hoped that maybe the growth in the European Union might have cushioned the world's economy and saved the world from entering into a global recession. But, the European Union is also feeling the pressure of the downturn in the United States.

The Central Bank of the European Union is expected to lower its interest rate to assist the economy in fighting off the contagious recession fever of America.

In addition to the downturn in America and Japan, the two together represent 46% of the world's output; then a downturn in the Asian market, and, as I just mentioned, a downturn in the European Union's economy. The emerging economies of Argentina and Turkey are also experiencing significant slow downs and are implementing remedial methods for recovery. We can see the environment that we face in the 21<sup>st</sup> Century and how this has gotten worse with the recent tensions between China and America, and the possible and likely resulting negative effects on trade between these two countries; this could possibly be the final straw that broke the camel's back.

The jury is still out, as to whether the second half of 2001 will respond positively to the measures taken

by the Central Bank in Japan, the Central Bank in the European Union and of course the Federal Reserve's aggressive policy in the United States. However, it can be commonly agreed by all Members of this Honourable House that although we might avoid a recession we are sure to see a global slow down and, in my estimation, a slowdown of approximately 1-1/2 – 2 percent global economic growth.

Mr. Speaker, I bring to your attention that we do not have a quorum.

### LACK OF A QUORUM

**The Speaker:** Serjeant-at-Arms, please summons the other Members to the Chamber.

*[Addressing the Second Elected member for Cayman Brac and Little Cayman]* Please take your seat.

(Pause)

**The Speaker:** Before we continue, I would like to bring to the attention of all Honourable Members that it is your responsibility to make a quorum in this Chamber. Anytime it is called to my attention I must adjourn and I have to wait for five minutes. If the quorum has not been reached, I can adjourn without question and I shall not hesitate to do that if it becomes necessary. I ask for your cooperation by being in this Chamber while the debate is being carried on.

Second Elected Member for Cayman Brac and Little Cayman, please continue.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

With an expected global slowdown in the world to approximately 1-1/2 percent and as outlined earlier, our dependence on external demand for our financial services and our tourism industry, it is extremely important that we the decision makers, the policy setters of this country, are very cognisant of what is occurring in the external world. We cannot stay in this House and simply limit the scope of our consideration to what is occurring on our own shores. We must study quite carefully the world economy and its effect on us.

I have spent, what some would deem, as an excessive amount of time, but in my opinion, time worth spent on outlining the current economic situation that we find ourselves in, in the 21<sup>st</sup> Century.

These are challenging times for the Cayman Islands. As the world economy slows down, we can expect a negative effect on our local tourism industry that represents more than 50% of the total Gross Domestic Product (GDP) of the Cayman Islands. The other pillar of our economy is also facing immense challenges of its own. Financial services represents 30 percent of the total GDP of the Cayman Islands, and is being forced into a mode of transformation, as a result of international pressures from the Organisation for Economic Cooperation and Development (OECD) and its Financial Action Task Force (FATF).

The OECD is a cartel of the world's richest democracies that are taking aim at 35 jurisdictions on claims of inadequate legislation and enforcement mechanism. Through a commitment made by the past Government to correct such deficiencies, we have been able to avoid being listed on the OECD list of non-cooperating countries. However, we appear on the on the FATF's black list.

We have heard many negotiations, talks, seminars, on ways that we can come to a common agreement between the providers of offshore financial services and the OECD countries. We have heard of the possibility that we may be removed from the black list as soon as June of this year. It is important for us to understand the context we find ourselves in when negotiating and cooperating with the OECD and the FATF and for us to realise that we have taken a quantum leap when the OECD and the FATF has included, as one of its mandates, the prevention of harmful tax competition.

The Cayman Islands has always maintained a leadership role in the fight against money laundering. With the passage of the Misuse of Drugs Law, the signing of the Mutual Legal Assistance Treaty and the Proceeds of Criminal Conduct Bill, the Cayman Islands has demonstrated to the international community that we are an active partner in the global fight against illicit activity. However, it would appear that every time we meet acceptable standards of the international community, the threshold for acceptability seems to rise. We are now being asked to include cooperation on tax matters. This is certainly a new concept to the Cayman Islands and it is very unpalatable.

This jurisdiction has fought for years to create what is now the fifth largest financial centre of the world. All financial services including personal banking rely heavily on confidentiality. The Preservation of Confidentiality Law of 1976, and I stand to be corrected on the year, is a key piece of legislation that has aided us to reach the point of where we are at in financial services. We are the world's fifth largest financial centre and people have entrusted us with their wealth for years because we have respected their right of confidentiality. We have proven to the world that we are a true and active participant in hindering money laundering and other illegal activities; that is, activities that are illegal in this jurisdiction.

I am of the same view as the Second Elected Member for Bodden Town who pointed out in his contribution, that it is in vain to hope of ever reaching a point which will satisfy all the international requirements because those requirements will continually be changed.

The Second Elected Member for Bodden Town, my friend and colleague, Mr. Gilbert McLean, said it is time for us to take a hard-nose stand to these international agencies. I am also of that view.

It is estimated that US\$5 trillion is located in offshore centres. Despite what is articulated and defined

by the OECD and FATF, and any other initiative that may arise, as to their motive for reducing the effectiveness of the use of offshore centres, in my opinion, the truth of the matter is to have access to this US\$5 trillion for the benefit of taxing for their own coffers. I agree with the Second Elected Member for Bodden Town, that we are too much of a small nation, 39,000 people with a budget of just over \$300 Million, to be expected to be the tax collector for the large jurisdictions.

I have great confidence in our negotiating team who will be representing the interest of the Cayman Islands in that we can achieve some success. I urge and caution them of whom we are negotiating against; this is a group that have a separate and independent agenda from the one in which we are sitting around the table with.

I remember when the Proceeds of Criminal Conduct Bill was being proposed because it was during my employment within the Civil Service. It was stated that with the passage of this law it would put our standards of legislation up to, and sometimes above that of the large jurisdictions which now make up the OECD. It was also stated as being the piece of legislation that would get us across this hurdle. However, we cooperated, we negotiated, we surrendered and we passed and a few years later we are back here negotiating, compromising and cooperating again.

In my campaign in the year 2000, I urged that it was a great risk to be cooperating with someone whose goal is the full and complete eradication of offshore centres. It is my opinion, that this is the objective of these international agencies.

These countries earn taxes from taxing the populous, as all countries do, and when they view a loophole that has resulted as much as \$5 Trillion escaping their tax network, they will not surrender. I am proud of how responsive the Cayman Islands have been in dealing with these matters. I am proud that we have been able to sustain this industry for some four decades and that our forefathers had the wisdom and foresight to institute legislation that is still in place and is still proving to be beneficial to this country.

However, as stated in my introduction, in the history of the Caribbean, the region has a history of struggling for viable and sustainable economic alternatives. The financial service industry is one which is fragile and has a limited life.

As a small nation, we cannot expect to survive and to rely 30 percent of our GDP on success based on the deprivation of taxes in the United States and European nations. That is our business plan which has been our plan for some years—that we are going to survive on offshore finances which relies on \$5 trillion escaping the world's power tax regime. I propose to this House that that business plan has some immediate threats and we should seriously look at our economic base and ways of diversifying it. I am very cognisant of the difficulties in finding alternatives as the region has always found it difficult.

The recent election of a Republican President in the USA has placed economic fears in most however, for offshore financial service providers it has provided some light of hope. The Republicans seem to be much more receptive to the plight of the Caribbean nations and other financial centres such as the Cayman Islands.

In the contribution made by my good friend, the Second Elected Member for West Bay, he also touched on this issue and pointed out that the Republicans have demonstrated that they are willing to listen. They have not made any firm position on the OECD but have certainly said enough to indicate that they are not receptive to being a part of this global cartel that is aimed at eradicating small island nations like the Cayman Islands.

I read an excerpt by Republican Dick Arney "By every possible criterion, the OECD's efforts are misguided." Mr. Speaker, that is my view exactly. These efforts aim to eliminate what we have built over the many years and to place this and other small economies as being the tax collector for these large jurisdictions. My final point is, it is my view, that we should approach the Republican Government and make our position known. I strongly believe that we will have more success with a Republican Government than we would have with the Bill Clinton Government. It is time that we call upon our US attorneys and lobbyists to put pressure on the United States to aid this nation and other such jurisdictions, to ensure that this centre can see a few more years of success and buoyancy.

The OECD and FATF initiatives were first highlighted in this country, as much probity was given during the debate over what is termed "the White Paper". I am guilty, like most other politicians, who took the White Paper during the year 2000 general election and used it as a political football. However, the major points of the White Paper are important to this nation, and it is important that the general public and all Members of the Legislative Assembly, take the responsible role, in ensuring that the factual position outlined in the White Paper are not as harmful as many of us made it seem during the 2000 general election.

It was quite convenient to talk about the White Paper when it was a matter that the past Government was dealing with. But, on 8<sup>th</sup> November 2000, the good people of Cayman Brac and Little Cayman elected me to be their representative and to deal with the issues. So did the people of each and every district. We are now here in the Legislative Assembly to correct and to take the necessary action to put this country on the right track. We must look at the White Paper for an objective point of view rather than something in which the past Government committed to without proper consultation with the public, and other political rhetoric that was thrown around during the 2000 general election.

**The Speaker:** I will have to ask that you say that it is your opinion without proper consultation.

**Mr. Lyndon L. Martin:** Yes, Mr. Speaker. At this time, I think, it would be appropriate for me to say that everything I deliver in this speech, and all others, will be in my opinion, unless otherwise stated that I am quoting a source of facts.

I read a very interesting article written by Mr. W. S. Walker, published in the most recent issue of the *Cayman Executive*. I would like to publicly congratulate him on taking the White Paper and putting it into simple, understandable layman's terms so that everyone can have a true appreciation of what is covered in this Paper. We will see long term references to the principles represented under the position paper produced by the United Kingdom government on their relationship with offshore centres.

When we get to review the Constitution, we will draw heavily on principles represented in the White Paper. When we look at our total development in putting together a long-term plan for this country, we will all have to look on the position put forward by the Mother country. I am one that is truly appreciative of actually having the White Paper and knowing what the desires are of the United Kingdom as it relates to this jurisdiction. For too long, we have had to live on assumptions alone. We have made decisions for directions of this country, not knowing if it was in line with what the Mother Country had intended for this jurisdiction.

I would like to spend a few minutes for the benefit of the public to simply go over the major principles covered under the White Paper. I think it is exceedingly important because much of what we are going to speak about when we look at the Throne Speech, the development and Budget of this country, we will have to refer back to the White Paper.

There are basically four principles represented in the White Paper. Firstly, the United Kingdom has made it clear that the partnership must be founded on self-determination. Any overseas territory that wishes to remain British will be welcomed and helped. However, any overseas territory that wishes its independence will be allowed to opt for it.

For many years we have heard talks about reviewing the Constitution, advancing the Constitution and, most recently, modernising the Constitution. It is my proposition that when doing so, it is imperative that the Commission, who is put in place to do the review, will review it in light of principle number one. I am quite happy that the United Kingdom has provided us with such a clear position on how they feel towards the advancement, or the lack thereof, of our Constitution, and has put the will of this in the hands of the people of this country.

I will elaborate on this further, but during the constitutional review where such decisions will have to be made as to how much self-determination this country needs, desires and is most practical, it is my proposi-

tion that we have true Caymanian representation on such a commission.

The second principle represented under the White Paper is the partnership creates responsibilities on both sides. Britain undertakes to defend the Overseas Territories, encourage sustainable development and look after their interest internally. In return, Britain expects Overseas Territories to maintain the highest standards of probity, law and order, good governance and observance of Britain's international commitments. Again, this principle is welcomed. I am not saying that this principle is exactly what I would like, but it is welcoming to know exactly what the United Kingdom's position is.

Thirdly, the White Paper commits Britain to giving the Overseas Territories the greatest possible control over their own lives. So many of us have felt the pressure of being in a position where it is perceived to have the power of representing the desired direction of this country but have felt powerless because of the current constitutional structure. This third principle clearly provides us with an avenue to organise ourselves and make the necessary constitutional amendments which will provide us with greater control over our lives.

The fourth principle is that Britain is committed to provide help to overseas territories that need it. We have been fortunate over the years that we have not been a grant recipient of the United Kingdom's Government, but it is good to know that such a provision is available. I come from an electoral district that, as you know, feels strongly towards the preservation of our current connection with the United Kingdom's Government.

The district of Cayman Brac and Little Cayman, more so than most of the districts of Grand Cayman, have made it quite clear that we are very loyal and appreciative of the benefits that have been received from our current relationship with the United Kingdom. I am here as a servant of the people that I represent. I campaigned on a manifesto that had quite clearly printed on the back, that I stand strongly for the preservation of our political and constitutional connection with the United Kingdom government.

I am not saying that our Constitution does not need to be modernised; I am not saying that there is not some form of advancement necessary to provide greater control. I am simply saying that it is the desires of the people of Cayman Brac and Little Cayman, for which I am elected as their voice in this Parliament, that it is their desire for us to remain under the rule of the British government as an overseas territory.

The principles outlined in the White Paper further leads to our commitment as two small islands which represent a very small portion of land mass of the Cayman Islands. and even smaller portion of the population of the Cayman Islands. I am simply making it known in this House that the people of Cayman Brac remain of the view, that we must preserve our rela-

tionship with the United Kingdom, after reviewing the four principles set out in the White Paper as the United Kingdom's intended principles for our relationship.

The White Paper provided for a change in the name of what was "Colonies" to "Dependent Territories" and now, to "United Kingdom Overseas Territories" commonly called "Overseas Territories." That issue received very little controversy.

The second offering was that of British citizenship, extended to all citizens of Overseas Territories to adapt British citizenship, which would mean an amendment to the British Nationality Act of 1981. I understand that this particular amendment has met with some tie down or resistance and political manoeuvring in the UK Parliament. For the sake of clarity, it must be understood that the offering by the UK was not reciprocal. It was clearly stated that they were offering British citizenship to people of the Cayman Islands and other overseas territories at their desire, but were not expecting the Cayman Islands or other overseas territories to offer a similar citizenship to British nationals.

My suspicion of the genuineness of this offer and the insurance that this would remain an un-reciprocal relationship, I have voiced publicly. However, Mr. W. S. Walker pointed out in his article that there was a clear precedent for that, in that persons belonging to Crown Dependencies, Jersey, Guernsey, and Isle of Man also hold British citizenship with similar rights, but British citizens not belonging to Crown Dependencies require immigration approval to work in a Crown Dependency.

The British Government has demonstrated that they have been able to do this in the past and maintain it for some years. However, and this is a personal view, the option of being a British citizen is one that I personally would not desire. I am here in the Cayman Islands, and while I am above ground, I will fight the fight here. I do not want the option to simply pick up and leave when things become hard in this country.

Human rights were also addressed in the White Paper. First, the White Paper mandated the abolition of the judicial corporal punishment, which has not been imposed in the Cayman Islands.

Secondly, the abolition of capital punishment, which was only possible in the Cayman Islands for acts of treason and piracy has never been imposed.

Thirdly, the most controversial issue—

Mr. Speaker, I once again bring to your attention that we do not have a quorum.

#### LACK OF A QUORUM

**The Speaker:** Serjeant-at-Arms, please summons Members to the Chamber.

(Pause)

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman, please continue.

**Mr. Lyndon L. Martin:** I was mentioning the third proposal under the Human Rights caption of the White Paper, certainly the most controversial issue, and probably the issue that has made the White Paper an unacceptable proposition, to the general public. This deals with the decentralisation of homosexual acts between consenting adults in private. As we all know, that has now been imposed upon the Cayman Islands by an Order in Council. I want to clearly clarify, for the purpose of the public, that despite propaganda and scare-mongering techniques used, the decriminalisation of homosexual acts are simply limited to those among consenting adults and limited to acts in private. This by no means, allows for homosexual marriages, as has been said on the street.

Like most people, I am concerned over how the Order in Council was imposed. However, we should give the White Paper a chance and not say that everything in the White Paper is bad because this one proposition is not desirable.

Under good governance, finance, there are some areas which are of great concern to me. I believe that under the second principle of the White Paper there could be an internal conflict. The second principle states "partnership creates responsibilities on both sides and Britain undertakes to defend the Overseas Territories . . ." This particular overseas territory relies heavily on offshore finance. We should now be able to rely on the UK to defend us.

For years we have recognised and agreed to the first recommendation under good governance in this Parliament. We knew when the Monetary Authority was established it would eventually have to be independent of all government control. As I understand, it is currently putting in place a fee structure that would make it self-sufficient and necessary legislation will soon be coming to this House to fulfill this requirement under good governance.

Secondly, the White Paper requires that government practise sound financial administration with timely and adequate internal auditing. The Cayman Islands certainly fulfills that requirement.

Thirdly, the British Government requires the strengthening of guidelines to ensure proper government borrowing within established limits and the restriction of borrowing to funding of investment capital projects only after concessional funding sources are exhausted.

**Mr. Rolston M. Anglin:** Mr. Speaker, on a point of order. There is no quorum in the Chamber.

#### LACK OF A QUORUM

**The Speaker:** Serjeant-at-Arms, please summons the Members to the Chamber.

(Pause)

**The Speaker:** Second Elected Member for Cayman Brac and Little Cayman, please continue your debate.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

At the time of the point of order called by my good friend, the Second Elected Member for West Bay, for a quorum, I was outlining the third requirement under good governance as covered in the White Paper. It states that the British government requires the proper guidelines to ensure Government is borrowing within established limits, and the restriction of borrowing to funding of investment capital projects only after concessional funding sources are exhausted.

I will refer back to this guideline during my contribution on the budget. The last issue raised by the White Paper is in regard to tax, and the inclusion of cooperation and allowance of probity on tax related matters. This matter has now been raised and is being dealt with through the OECD and the FATF.

Those are the major points covered in the White Paper. I think we should welcome this White Paper because a clear understanding of what is expected of us will provide us with a document to determine how we can progress in the future.

**The Speaker:** If this is a convenient time, we shall take the afternoon break. We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.26 PM

#### PROCEEDINGS RESUMED AT 3.50 PM

**The Speaker:** Proceedings are resumed.

Debate continuing on the Second Reading of the Appropriation Bill, 2001.

The Second Elected Member for Cayman Brac and Little Cayman, continuing the debate.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

I would now like to turn to the Throne Speech that was ably delivered by His Excellency the Governor, Mr. Peter Smith, CBE. I would like to thank the Governor for presenting this Honourable House and this country, with this Throne Speech which sets out the policies of the country and reviews of each and every Ministry and Departments for what the country can expect over the year 2001.

Before speaking on the details of the Throne Speech, I listened quite carefully yesterday as the Honourable First Official Member spoke on the preservation of the respect for the judicial system, and the importance that such respect has for social order. Under the current Constitution, the Governor is listed as the head of this country. I also believe that a certain respect level is due to His Excellency the Governor. I have to express some disappointment, by taking the

liberty, on behalf of the House to apologise for any disrespect that this House has demonstrated to him.

In his Speech, the Governor spoke of the importance of information technology. I was pleased that he mentioned the availability of computers in our school system and how computer literate the populace of the Cayman Islands has become. I do agree, but there are a few concerns that I would like to mention.

I believe that our libraries should have internet access in this age of information technology. I was amazed when I went across the street from the Parliament to the George Town Library and found out that there was no internet service. In my district of Cayman Brac behind the administration building, I walked to the library to find that there was no internet service. We need to make internet available to the general public. It is such a valuable source of information that allows our populous to expand their attention from beyond our shores to the global arena by learning about what is occurring, doing research on projects for school, applying to universities. The use of the internet is so wide that we need to make it accessible to all.

On the same subject of information technology and the ability of the Cayman Islands, which he deemed as being extremely poised and ready to capitalise on the advancement and information technology industry, I also have to express that the Legislative Assembly of this country also needs to embrace information technology. I believe that each and every Member of this House should have access to e-mail and we should be doing most of our communication via e-mail. I know the Clerk and her staff have made advancement in this area and the service is available. However, it is not utilised to the point where the Cayman Islands should be utilising in the year 2001.

I am also somewhat disappointed, after receiving notice yesterday, about laptop computers not being allowed in Parliament. Laptop computers are a part and parcel of our information age. If laptops were allowed, I would be doing my presentation from a laptop screen rather than from paper. I think we need to embrace such advancements. We need to move with the times, be it amending of Standing Orders . . . we need to have such information available to all Members.

I intend to mention another short coming for the Cayman Islands, within the tourism arena, about the lack of use on information technology. However, I will elaborate on this more under the caption for Tourism.

In order for the Cayman Islands to retain its position as a leading offshore financial centre, a secure online communication and trading environment is essential to facilitate E-commerce. Individuals and entities in the international financial sector require what is termed as positive identification of the business counterpart. That is, we need to create an environment in which the users of our financial industry—and this is not only limited to the financial industry, although this is where the effect will be felt greatest—the users of our industry must be able to communicate via elec-

tronic medium and give instructions and directions to providers of financial services. But, to do so, it is imperative that this environment is safe, secured and that there is a provision for positive identification.

The past Parliament of the Cayman Islands passed the Cayman Islands Electronic Transaction Law, 2000, which accords the same standing in the Cayman Islands' law to an electronic signature as that of conventional ink signature. The reason this law was passed was on a recognition basis that E-commerce was the wave of the future. Members of this Honourable House and the general public, for E-commerce to occur, it is necessary for two components to be in place. We need to have a system where there is positive identification of your trading counterpart; when I am sitting at one end of a computer I must know that the person who is sending instructions to me is the person that he claims to be. I must also know that once those instructions are conveyed to me he cannot go back and say those instructions were not provided through him.

What I am referring to is whether or not the infrastructure is necessary for E-commerce to take off in the Cayman Islands. We need to use what is commonly accepted by the industry as being the proper infrastructure, that is the Public Key Infrastructure (PKI technology) and we must make sure that this environment provides for non repudiation, that is, we must know that this environment is safe to transact, that once instructions are given, we have the identification of that person, knowing that the person cannot come back and say those instructions were not given. Those are two prerequisites in the infrastructure of the information age e-commerce.

The PKI technology can come in two forms. That is, we can have something that comes in the format of a key that is injected through the UPS port of your computer, transacting a mathematical formula that turns the digital signature to a signature that is recognised by the person on the other end of the communication line, as being the digital signature that is only applicable to the individual, the counterpart.

For PKI to work, you need to have a certification agency. We need to have an established and globally recognised body in the Cayman Islands who will be issuing certificates of identification and the required UPS key or the alternative, which is the swipe card that goes into the keyboard. Once such certification is issued, we need to make sure that the electronic network is in place that will provide a safe environment that is not penetrable by any individual outside of the two transacting. This is done through a complex industrial standard encryption. We must know that once the information is transacted it is recorded in a safe environment that ten, twelve, fifteen years down the line the information or instruction is still available and can be taken to court because our new electronic law recognises the digital signature to be equal to that of a pen signature.

We passed the law but we have almost made the E-commerce age to pass us. It is time that the country embraces the technology available and recognises how this technology has changed the way the world conducts business. E-commerce is the wave of the future; we have talked about it, we have said that it is the way to go forward, that it is the third leg to the Cayman Islands' economy, and that it will provide great opportunities, but we have not done anything to embrace these opportunities, other than the passage of the law in 2000.

It is my view that the Government of the Cayman Islands needs to provide this certification authority. The Government needs to provide a mechanism in which individuals can seek for digital identification and that this identification will have global recognition to allow for e-commerce to transact. This is not an alien concept; it is the way that the industry is going.

It is not acceptable to me, and should not be for any Member in this House, that we have providers of financial services in the Cayman Islands that have to utilise certification authorities in other competing jurisdictions, in order to compete and in order to transact.

Mr. Speaker, Bermuda has a certification authority. We will soon have our providers transacting with certificates issued from Bermuda rather than from the Cayman Islands. We are missing the boat of E-commerce, and I am calling and challenging this government of today, to make corrective actions and ensure that this country benefits from E-commerce.

My colleague from Cayman Brac, and I were part of a group of individuals who brought to the government, a proposal from what is deemed as the world's largest internet security company. Their proposal suggested that we review the possibility of establishing a certification agency in the Cayman Islands. Being attached to this world recognised name in the internet business, along with their local partner, Cable and Wireless, would have given E-commerce revolution in the Cayman Islands the boost that it needs. It would have given us international recognition instantly. I am somewhat disappointed that months have passed and I have not heard anything of this proposal.

The proposers offered to the Cayman Islands, to be a part of the implementation of this exercise if the government chose to pursue this initiative. They also suggested that we utilise the same Monetary Authority as the issuing authority, which we will discuss later on in this Budget Address. This would provide international brand name recognition. It would provide the Cayman Islands with a differentiating factor that would allow the Cayman Islands to enter this E-commerce arena, although late in the game, but with a distinct advantage, and cannibalise on some of the other providers of the service, in order to get our fair share of e-commerce.

There is a local company that have chosen to enter this market, and I would like to congratulate KPMG Peat Marwick on their announcement that they will be launching what is called 'Certica' which is the Cayman



Islands Certification Agency. My concern with relying on the private sector to provide this service is that we are aware that the offshore financial service providers are in a very competitive environment. I am of the view and belief that if this service is provided by KPMG that you will not see other competitors of KPMG, such as, Ernst and Young, utilising the service. What will happen is that they would utilise the service of one of their branches, located in a jurisdiction that offers certificates of identification; maybe in Bermuda, which is one of our competitors.

It is time that this Island benefits from E-commerce. It is time that we put talk into action. This is especially important to me and also the First Elected Member for Cayman Brac because the proposal involves a very great benefit to the Sister Islands. This proposal as you know, Cayman Brac and Little Cayman is in great need for economic assistance, as outlined in the Throne Speech where the Governor said there was a need to create white collar work in Cayman Brac.

Mr. Speaker, this proposal is certainly of interest to the First Elected Member and I, and I am sure to you also, because this proposal included the use of Cayman Brac as a disaster recovery centre. As I stated earlier, the success and acceptance of the E-commerce infrastructure relies on the security of the communication environment. Part of this security means that the information transacted daily would have to be backed up in an environment that is safe from natural disasters, such as hurricanes. It is one of the distinguishing features of Cayman Brac—the Bluff provides that exact need—an environment in which a bunker style facility could be built to house the computer racks necessary to back up the information and keep it in a safe environment.

It was suggested by the proposers who are in the 'know' because this is the line of their business, that this would mean employing some 15 individuals in Cayman Brac to carry out white collar work. The number may seem small to most but in our population and in our economic situation, that would be a significant achievement for this Government. I look forward to pursuing this venture in conjunction with the Government because it has made such a commitment and recognition of the importance of information technology. I am sure it will not allow such an opportunity to pass us by.

The Cayman Brac community has taken action. The Community for some time has proposed Cayman Brac as an informatic industry centre, and that it should be used as a back-up centre for most of the businesses in Grand Cayman, including government. This group of private individuals, in Cayman Brac, has come together and included, under their ambit, the proposal from the company originating in Ireland. This is very much needed in Cayman Brac. As I indicated earlier, the First Elected Member and I, and the private group in Cayman Brac have not given up on this initiative and will be pursuing it privately, and in con-

junction with the Government of today. It should be noted that although this proposal and initiative originated in Cayman Brac and has extreme benefit to the Sister Islands, that this has an opportunity to enhance the Cayman Islands as a nation and as an offshore financial industry. It will ensure that our industry is keeping pace with changes in technology. I cannot understand why such a proposal has not been responded to positively by the Government and if it has been responded to, I am not aware, and I certainly tender my apologies.

When we talk of information technology and the availability of computers in all the schools in the Cayman Islands, I would be remiss in my duties as a representative for the entire Sister Islands, if I did not point out that the West End Primary School, although it has computers, it is the only school that I am aware of in the Cayman Islands without a computer room. The staff members of West End Primary School had to give up the staff room in order to accommodate the few computers that they do have. The people of Cayman Brac and Little Cayman deserve to have computer rooms in every school in Cayman Brac. I take this opportunity to mention that when touring the small school in Little Cayman, I was quite pleased to see a computer there.

All of our kids deserve the equal right to take advantage of the information age. I am currently pursuing a private initiative in conjunction with Ernst and Young to ensure that West End Primary School and all other schools in Cayman Brac have proper computers. I am relying on the Government to take the stand and make provision in the year 2001, during the summer vacation, to build the computer room. We need it, Mr. Speaker.

In the Governor's Throne Speech he spoke of the lack of parental involvement, he spoke about 12 and 14 year old children hanging around night clubs at midnight with inevitable exposure to real mischief. It is time that this country takes responsibility for the youth of this country. For too long we have looked at this generation as we class them, a generation of problems, without recognising that whatever problems this generation is faced with are problems created through our actions or lack thereof.

I am pleased to see that there is a commission of enquiry into youth violence. I am heartened by the discussions that have taken place on this commission. I am even more pleased that the original composition of this commission was amended to include a Cayman Brac representative, and a very capable representative, Miss Janice Bradshaw.

It is time for parents to take their role seriously and stop looking to the state for assistance in carrying out their parental responsibility. It is time that we address the disciplinary mechanism of our schools to provide our teachers with greater control over their students. I recall, as a student in the Creek Primary School, that the strap was my guidance for good behaviour; the fear that if I did not, I would have a red

weal to carry home to show my parents. We have taken the issue of protecting our kids too far to a point where discipline is not present. When I hear of gang violence that involves 12, 13 and 14 year olds—where are their parents? It is not that their parents are not aware that this problem is occurring; the problem is that the state has involved themselves too much into parental guidance and into the rules of school governing discipline.

Discipline is a fundamental part of moral building. It is necessary for a person to feel so that they will know when something is wrong. I am encouraging the Minister for Education to review the mechanism in the schools' system which governs discipline—the hierarchy that is necessary to go through before someone can be disciplined.

I am also of the view, that when a child is disciplined the parents should be informed of the reason for the discipline and exactly what measure was taken. I have also observed, as the Governor has stated, that we have 12 to 14-year-olds hanging out at midnight around nightclubs. I listened carefully and tried to appreciate the position put forward by the Member from East End for a curfew. I do not believe in curfews, I do not believe that we as a state should have to mandate what time the parent takes his child home or the time the child goes home; I believe that is the responsibility of the parent.

I will listen carefully and review with great interest, the findings of the Youth Commission because I do think it will reveal some of the hidden causes for young people to want to expose themselves to the elements of the world, prior to being of the mature age to appreciate and handle it.

I am pleased that the Government of today chose an appointed sociologist, Dr. Frank McField, to chair this Committee of Enquiry. He has demonstrated through his past four years in government and his many plays that he has a true appreciation of Caymanians, and what is necessary to correct the family structure. I look forward to his findings and the work of the Committee as a whole. I say to the Committee of Enquiry that it is a great responsibility you have and I urge each and every member to take this responsibility seriously.

As one of the representatives for Cayman Brac and Little Cayman, I would be remiss, if I did not point out, that the problems present here in Grand Cayman are different, not greater, not minor, but different than those faced in Cayman Brac and I urge the Committee not to attempt to provide an umbrella review. Review these situations independently because at the end of this committee's review, action will be forthcoming and I want to ensure that the action is appropriate to the problem.

Mr. Speaker, as we draw to the closing hour of today, I am not prepared to commence a new subject, so if this is an appropriate time to close for the day.....

## **MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** We have reached the hour of interruption so I will entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you. Mr. Speaker, some of the Members have indicated that they would be prepared to stay a little longer this afternoon and I would be happy to move a motion if the majority of the Members wish to remain for another hour, Sir.

**The Speaker:** I would like to take a suspension and have a discussion with you. Proceedings are suspended for five minutes.

## **PROCEEDINGS SUSPENDED AT 4.26 PM**

## **PROCEEDINGS RESUMED AT 4.30 PM**

**The Speaker:** Proceedings are resumed.

I will entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Planning, Communications and Works.

**Hon D. Kurt Tibbetts:** Thank you, Mr. Speaker.

In light of the fact that some Members are travelling this afternoon, I think perhaps we will simply move the motion for the adjournment of this Honourable House until Monday morning at 10 am, Sir.

## **ADJOURNMENT**

**The Speaker:** The question is that this Honourable House adjourn until 10 am on Monday. Those in favour please say Aye. Those against, No.

## **AYES**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10.00 AM Monday, 9<sup>th</sup> April, 2001.

**AT 4.31 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 9 APRIL 2001.**



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**9 APRIL 2001**  
**10.07 AM**  
*Seventeenth Sitting*

*[Prayers read by Fourth Elected Member for West Bay.]*

**The Speaker:** Proceedings are resumed. Item number 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies for late arrival from the Honourable Second Official Member and the Third Elected Member for Bodden Town.

Moving on to item number 3 on today's Order Paper, Government Business, Bills, Continuation of the Second Reading of the Appropriation Bill, 2001. Continuation of debate on the Throne Speech delivered by His Excellency the Governor on Friday, 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday, 21<sup>st</sup> March 2001.

The Second Elected Member for Cayman Brac and Little Cayman continuing his debate.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**THE APPROPRIATION BILL, 2001**

**DEBATE ON THE THRONE SPEECH  
DELIVERED BY HIS EXCELLENCY THE  
GOVERNOR ON FRIDAY 9 MARCH 2001**

**TOGETHER WITH**

**THE BUDGET ADDRESS  
DELIVERED BY THE HONOURABLE THIRD  
OFFICIAL MEMBER ON WEDNESDAY  
21 MARCH 2001**

*(Continuation of debate thereon)*

**Mr. Lyndon L. Martin:** Mr. Speaker, I trust that everyone has had a relaxing and safe weekend. This morning I would like to begin by extending an invitation to everyone to consider a visit to Cayman Brac and Little Cayman during the upcoming Easter weekend. It is a great opportunity for every Member of the Legislative Assembly and the listening public to reconnect with the Cayman of yesteryear.

On Friday I detailed to this Honourable House my position of how I became a Member of Her Majesty's loyal Opposition by default. I am committed to carrying out this role constructively. I further explained the importance of a healthy opposition.

I spent some time encouraging an appreciation of Caribbean history. I then went on to global economics, concluding that the world is expected to slow down approximately to a 1.5 percent economic growth in the year 2001 compared to the 4.2 percent stated in the Honourable Third Official Member's Budget Address. This was used as the basis for his projections when compiling the Budget.

I also spent some time putting to rest some of the general public's phobias on the White Paper.

**The Speaker:** If I could interrupt you for a moment.

I would ask you to make your summation as brief as possible because you are actually repeating what you have said already.

**Mr. Lyndon L. Martin:** Thank you very much, Mr. Speaker.

At the time of my introduction on Friday, I detailed the need for the Cayman Islands to put into place the communication network that allowed for positive identification of communicating counterparts, and for non-repudiation of communication.

At this time I strongly encourage the Government of the day to follow through on their proposal for the establishment of a certification authority for the issuance of certificates of identity, especially for the use of Cayman Brac as a location for a disaster recovery centre.

I was pleased that His Excellency the Governor addressed the need for economic development for Cayman Brac, especially the creation of white-collar work.

Many Members of this Honourable House and the general public have made recent statements representing a sentiment that is of great concern to me and should be to all the residents of the Sister Islands. Many have said that Cayman Brac and Little

Cayman are subsidised by Grand Cayman; that the Sister Islands get more than they deserve; that the budget of the Sister Islands should be proportionate to its population.

The Cayman Islands is one country with one Constitution and one Government; however, it is comprised of three islands.

The Budget has approximately \$4.9 million for Cayman Brac and Little Cayman for the year 2001 compared to anticipated collections of \$3.3 million. However, in addition to this \$3.3 million, there are various government fees collected by Grand Cayman because of the organisational arrangement of various departments that are directly attributable to the Sister Islands.

Secondly, the Sister Islands purchases many goods from Grand Cayman that pay duty at the time of being imported into Grand Cayman. These items would include: automobiles at 27.5 percent duty; construction materials in duty ranging from 15 to 20 percent; and many household goods at 20 percent.

I propose that the Sister Islands generate in direct and indirect revenue an amount equal or greater than the expenses of maintaining the Sister Islands. However, we should not be looking at it in this manner, for we are one country.

The success of the Cayman Islands has no jurisdictional borders. The laws of the Cayman Islands attract many banks, insurance companies, mutual funds, trust companies and exempt companies that contribute to the government coffers with relatively small infrastructural demand. This could have been done in Cayman Brac or Little Cayman, for the legislative framework is the same. However, the powers in the past chose to centre this economic development in Grand Cayman, but I will not attempt to suggest the motive for this lack of interest in the Sister Islands.

I would like to point out that it was not the lack of efforts from past representatives for the Sister Islands or private initiatives. I give special recognition to Mr. Nolan Foster, who for many years made representation to Governments on the need for Cayman Brac to benefit from the financial industry.

Year after year, decade after decade, Government after Government, efforts were focused on developing Grand Cayman. The stature and financial benefits that this industry and other developments provide should be shared and experienced by the Sister Islands.

We, the new guard, should step beyond the parochial politics and take a much broader and national approach to good governance.

A country as small as the Cayman Islands should be seeking to utilise all of its available resources in an effort to maximise the benefits for all the people of this country, in an equitable manner with special care to ensure sustainability. Mr.

Speaker, I beg your indulgence as I repeat: utilisation of all of our resources to maximise the benefits for all of the people of the country in an equitable manner

with special care to ensure sustainability. This should be the mission of all legislators of this country.

The Sister Islands have much to bring to the equation of the Cayman Islands. As a tourist destination the Sister Islands provide much diversification for the tourist product. Cayman Brac and Little Cayman have been named as the top dive destinations for several years. We have also successfully entered into the Nature Tourist market that has a strong European appeal. With global volatility it is important that we attract more European tourists.

Over the past two years the Nature Tourist product has been augmented by the placement of several interpretative and descriptive signs throughout Cayman Brac including Bluff Trails, of which four received new access stairs.

There has also been the identification and signage of 16 sights of interest to tourists and residents alike. To support these nature-tourist initiatives, a school leaver has been trained as a tour guide and it was hoped a second guide could have been hired and trained this year. However, it would appear that the compilers of the Budget are less cognisant of the need to develop this segment of our tourism market.

In the last year a nature tourism brochure was developed. The Brac Heritage House was built, envisioned to act as the centre point for the nature-tourism efforts, including: the station for the guides; the arrangement of tours; the viewing of artefacts.

I have had positive conversations with the Minister responsible for Community Affairs, and I look forward to the Heritage House opening soon. The grounds of the Heritage House are an attractive sight with great historical importance, as well as ideal for community events.

Little Cayman is certainly the jewel of the Cayman Islands. The time has come for us to capitalise on all the various attributes of the three Islands. It is time for Cayman Brac and Little Cayman to have its own tourism representative and a promotional budget to ensure that much needed domestic and international exposure is given to the Sister Islands.

I thank the Honourable Minister for Tourism for allocating a significant portion of his contribution to discuss plans for Cayman Brac and Little Cayman. The Honourable Minister for Tourism, Mr. McKeeva Bush, has always been kind to the Sister Islands and no less would be expected of him during his four-year term.

The Sister Islands Tourism Association has pooled resources from all of the tourism partners—airlines, hotels, condominiums and the government—to conduct a well orchestrated marketing campaign.

Once again, I would like to thank the Minister of Tourism who attended one of the meetings of the Sister Islands Tourism Association and provided his support and assurance that he would commit some financial assistance to the promotion of the Sister Islands. He also gave an undertaking at the meeting to

provide the much needed tourism representative for Cayman Brac and Little Cayman.

It is recognised that much work is needed to better position both Cayman Brac and Little Cayman in the very competitive tourism industry. Some of that work includes: the improvement of ground transport; an island wide beautification exercise; the development of a mariner; the addition of hotel accommodations, a much needed airport in Little Cayman; and other projects the Minister outlined during his contribution.

I am pleased to report that the long awaited Brac Club Project has gained wind under its sails. I have had several meetings with the developers recently, and the 41 condo project is soon to be mobilised. Fidelity Cayman Real Estate Limited has been appointed as the local representatives for the developer.

Such quality development is what Cayman Brac and Little Cayman require. I was delighted that the Minister responsible for Tourism detailed that in his upcoming attendance to a tourism investment conference he will be seeking to encourage investment in tourism products in Cayman Brac and Little Cayman.

The Sister Islands greatly benefited during the 1980s with the introduction of offshore oil transfers. Mr. Speaker, you will recall the economic vibrancy this industry brought to Cayman Brac and Little Cayman, and the revenue generated to the Government of the Cayman Islands and to Cayman Airways. The same features that attracted the industry in the 1980s and made it viable are still present.

I am happy to announce that I will be creating a committee to review the feasibility of re-establishing this industry in Cayman Brac and reporting the findings to government. This committee will be chaired by Mr. Raymond Scott and will have a wide cross-section of membership, including representatives from the National Trust.

It is my submission that a land-fixed storage facility is the most suitable method of re-establishing this industry. It would have the greatest potential for sustainable, economic contribution to the Islands.

On Friday I also mentioned the use of Cayman Brac as a disaster recovery centre and a general back-up centre for the local financial industry and other providers internationally. The topography of Cayman Brac makes it one of the highest, flat surfaces in the region. I emphasise the word 'flat' because it is certainly not the highest in the region, it is the highest, flat surface.

The Bluff is higher at its edges than in the middle which provides an ideal environment for protection from the sea and wind. I would like to see a bunker style building on the Bluff with double back-up generator capacity.

The attractiveness of Cayman Brac as a back-up location is strengthened by the availability of fibre optics telecommunication lines, with excess span capacity and regular jet service to and from the Brac.

In the event of a primary problem in Grand Cayman, or in any place in the world that utilises the Brac Disaster Recovery Centre to back-up their information, a recovery team could be on the Brac in a matter of hours and consequently reduce or eliminate any interruptions to their operation.

I am sure that the Cayman Islands' Financial Centre would benefit from the use of the Brac disaster recovery centre, for the users of the financial industry would be greatly comforted to know that their information can be backed up in a hurricane and disaster-safe location. More importantly, it would be backed-up within the same jurisdiction—these Cayman Islands—and protected by the same Confidentiality Preservation laws.

It must be remembered that in the event of a disaster the providers of financial services are not privy to pick up and carry information to the United States because they would be subject to great probity.

Many financial services providers in the Cayman Islands use other jurisdictions to back up their information, some of which are our competitors. I strongly believe that a disaster recovery centre in the Brac would augment the offering of the Cayman Islands as a financial centre and make us more competitive in this very aggressive environment.

I am also of the view that the Cayman Islands Government should review the possibility of utilising the Brac disaster recovery centre.

In His Excellency the Governor's Throne Speech under Computer Services, he highlighted, "**This year a back-up main database server and back-up equipment to allow information to be saved and secured within hurricane time scales is to be implemented which would reduce the high cost and negative publicity following a loss of IT services**".

I encourage the Government to look carefully at the use of Cayman Brac as that disaster recovery centre.

On Friday and the first part of this morning I have restricted my contribution to that of the Throne Speech. In concluding, I take this opportunity to emphasise the holistic approach to the Cayman Islands as one country in which all citizens deserve equal rights and privileges.

When the Members in this Honourable House rise to argue that their constituents' roads are not as good as those in George Town or other districts, I remind the Honourable House that there are Caymanians who live in Little Cayman with an incomplete main-road corridor and in Cayman Brac with a 20-year-old main road in desperate need of repaving.

While the rest of the citizens of the Cayman Islands enjoy new road surfacing, I suggest it is now time to focus on completing roads in Little Cayman. This would include straightening and widening the very popular but very dangerous cross-island road, resurfacing the main-road corridor in Cayman Brac and surfacing the Bluff roads.

Little Cayman's residents and tourists are without a doctor on the Island and its clinic is staffed by only one nurse; this is not adequate for a world-class dive jurisdiction and certainly not adequate for the Caymanians who have made Little Cayman their home. They deserve equal privileges. Every citizen of this country should benefit from the economic growth in the Cayman Islands.

The residents of Cayman Brac and Little Cayman welcome the announcement by His Excellency the Governor that a full-time dentist will be posted in Cayman Brac in the near future. I am asking the Minister responsible for Health to also consider the provision of an orthodontist for the many children in the Sister Islands with teeth irregularities. This would make it possible for them to have any necessary adjustments on the Island. Parents would not have to miss work to fly their child to Grand Cayman, rent a car and the children would not have to be absent from school for an entire day.

I ask the Minister responsible for Health to place urgency on the requirement for a full-time dentist and a once-a-month visit by an orthodontist. These are some of the shortcomings that the residents of Cayman Brac and Little Cayman have to live with daily.

I urge the Members of this Honourable House to bear in mind that there are citizens in this country who live in a much inferior infrastructure than their own.

I would like to assure the residents of Cayman Brac and Little Cayman that the Minister responsible for Health, Mr. Linford Pierson, is quite cognisant of the needs for better health services and is empathetic to them. I am certain that he will do as he always has, and pay attention to the interests of these two Islands during his four-year term.

In his Throne Speech, His Excellency the Governor detailed plans for the expansion of the water production capacity for Cayman Brac. This was well received.

From discussions with an informed individual this past weekend, it was highlighted that the plant is operating to its full capacity and may soon have difficulties meeting demand. I encourage the Minister responsible for the Water Authority, the Honourable Edna Moyle, to make certain that the plant, in which most of the components are onsite in the Brac, is ready to meet the expected demand during the summer period.

The Sister Islands need and deserve potable water piped throughout. It is believed that a source of good quality water has contributed to a healthier populace in the Cayman Islands and a longer expected life for Caymanians. Therefore, because this service is not provided to residents of Cayman Brac and Little Cayman, by inference the government is suggesting that this life enhancing measure should not be extended to them.

The Sister Islands were not given fair attention for many years therefore, it is necessary that more than our proportional share of the National Budget is

allocated to allow for the infrastructure of these Islands to catch up with that enjoyed by residents of Grand Cayman.

I hope that this current political directorate will place a similar focus on Cayman Brac and Little Cayman as the past political directorate.

I now turn my attention to the budget address delivered by the Third Official Member, Mr. George A. McCarthy.

On Friday there was some brilliant political manoeuvring in a deliberate effort to prevent two Members from Cayman Brac and Little Cayman from making contributions to the 2001 Budget. However, as a result of team work and God's presence, it is possible for the general public to hear the other side of what I call the "impotent budget". The "impotent budget" is defined as a budget that renders the country powerless.

As I have no alliances with the past or current political directorate I identify myself as someone able to objectively decipher the country's current financial situation. I wish to stress to all Members of this House that too much time and too many resources have been exhausted since November 2000 in placing blame.

We, the Members of the Legislative Assembly for the 2001-2004-term, have the daunting task of meeting many international and domestic challenges including the financial position of this country. It is time we address the problems and take responsibility for placing the country back on track.

The growth of this country over the past decade and the resulting demand placed on our infrastructure was the major difficulty faced by the past directorate and will be the same for the present directorate. This demand and the cost related to it far exceeded the benefits generated by the development.

The population of the Cayman Islands is now 39,000. This means the need for more schools in Grand Cayman and more classrooms in Cayman Brac.

The jewel of the Caribbean—as we like to refer to ourselves and as is commonly known throughout the region:

- has citizens without piped water;
- the sewage system needs an overhauling and expansion;
- the Sister Islands main-road corridor needs resurfacing, and in the case of Little Cayman surfacing for the first time in many areas;
- George Town Hospital needs expanding to meet future demand;
- the Faith Hospital in Cayman Brac needs renovating and expanding;
- water and sewage systems need to be extended throughout the three Islands;
- the airport and seaport of the three islands are in immediate need for expansion and renovation;
- the government is paying some CI \$5 million in rent to house government departments;

- there is an immediate need for new government buildings; and
- the country must address the need for housing in the Cayman Islands which would require a pool of funds loaned at concessionary rates.

I list these infrastructural requirements—and by no means are they collectively exhausted—simply to illustrate that the demands for infrastructure far exceed what any government can seek to fulfil within any political period of time.

With such stipulations the past government fell into the trap of attempting to fulfil these demands greater than their means allowed.

I want to elaborate on my earlier point about benefits generated by the development not meeting the costs inflicted on our infrastructure.

The kind of growth we have attracted over the past 20-30 years was orientated in labour and intellectual capital rather than traditional equipment capital, as in the case of normal economic development paths that utilise manufacturing.

If it was a manufacturing based development, certainly our tax system would have captured revenue from the importation of the original capital equipment and ongoing components for the manufacturing process. However, our development path was one that was a lot different: we imported human and intellectual capital to provide the infrastructure for our industries.

Our current tax regime is not set up to generate a significant cash flow from this sort of development. Consequently, we matured without the tax base in place to meet the infrastructural demands that this development placed on this country.

The government of the past, that is, the year 1992 – 2000, and governments prior to that found themselves in a position where the need for services was more significant than the tax base could sustain.

In 1997 I published a letter in the *Caymanian Compass* suggesting that the government of the day exercise financial restraint and increase their contribution to general reserves to save for less buoyant times such as those we experience today. I maintain that position and give the past government wrong for this. However, I have the greatest of respect for the democratic system that we employ, that is, our mechanism for the allocation of resources in this country.

The capital projects invested in during the past eight-year term were plans the populace mandated when they elected the National Team Government in 1992 and re-elected them in 1996. The public was well aware of the government's intended programmes and by voting for them and re-electing them, they authorised these projects. That is how democracy works.

I am not prepared to insult the democratic process or the people of this country by suggesting that any of the projects built by the past government should not have been built.

The Second Elected Member from West Bay rose in this House and declared that the past government built without any measures in place to fund the recurrent expenditures, which, in his opinion, caused the problem. I pose the question: Is he prepared to suggest that this country should not have received the renovation on the hospital? Is he or any other Member prepared to suggest we did not need any of the projects or programmes built or established by the past government? Is this Government prepared to stop?

We are the new Legislators of this country and if we recognise that there was no revenue source to pay the recurrent expenditure for the capital projects built during the past government, then why have we not addressed this issue in the 2001 Budget? The revenue enhancement measures included in this Budget are said to fund the capital programmes of this Budget. It is for reasons like these that I have named and deemed this Budget the "impotent Budget".

Although I would have liked to have seen the building up of general reserves over the past eight years, I understand the reason that it did not occur. As I am not in a position to offer any projects or programmes that I think should have been eliminated, I will make a suggestion to this current political directorate that will reflect my views on what should have taken place at a later time in this contribution.

As to the question of the inherited deficit from the past government, in my opinion, the information from both sides on this subject is inaccurate.

The former government left a deficit of \$10.7 million. Much creative accounting has transpired from both past and current government which, in my opinion, is misleading.

The past government stated there was no deficit. I accept that when new Government took office in November 2000 they would have attempted to pay off the accounts payables to reduce the burden placed on their 2001 fiscal year. It is for this reason more than any other that I suggest a July to June fiscal year.

The past government argued that the positive balances remaining in the Capital Development Fund and the Environmental Protection Fund should be used to offset against the deficit, which is reasonable. This would bring the inherited deficit from the last government to this Government to \$5.79 million. I do not agree, however, that the General Reserve Fund should be offset against the deficit because the past government had one in place.

I will put it in layman's terms. An individual has a chequing account and savings accounts. The chequing account at the end of the year is overdrawn by \$10.7 million, but the savings accounts have \$3.75 million in one and \$1.26 million in the other. It is my determination that the present Government inherited \$5.79 million from the deficit of the past government.

The new Government, in my opinion, has exaggerated the deficit sometimes as large as \$30 million. They added the retroactive pay for 2000 and the con-



tracted sums that were unpaid. For reasons I did not understand, they also added the reduction in the overdraft facility. These were all attributable to the past government.

These arguments have no merit, in my opinion, for the payment of the retroactive pay for 2000 is offset by the policy decision of the current Government not to pay the cost-of-living adjustment for 2001 in the fiscal year 2001. The inclusion of the accounts payables from 2000 into what they consider the inherited deficit would have to be offset by references or inclusion to the accounts receivables. Yes, government inherited accounts payables—monies owing to individuals but, of course, they inherited amounts owed to the government.

It is my opinion, that this is, once more, some fancy, single-entry accounting, convenient mixing of accrual accounting and some cash-based accounting system to deliberately try to mislead the public.

The current Government is using health insurance funds of \$4.3 million as part of their revenue measures they are contributing to the coffers in the 2001. This would have to include funds collected prior to January of 2001 to be this size. Thus, they are using funds collected and accrued by the last government to apply to the 2001 fiscal year.

We must take the job we were elected to do seriously. This representative for the sixth-electoral district is not prepared to stand before this House or country and agree that this 2001 Budget is fair. It is a budget that has started off on the wrong foot and the wrong assumption of the inherited deficit position.

I will also touch on the revenue-enhancement package.

Quite clearly, the full impact of the proposed new tax package is \$27.4 million the people of the Cayman Islands will have to pay for infinity. This is an accurate position advanced by the past government and refuted by the current political directorate. It is asserted that the revenue package also has a retroactive component to it. The Government of the day has contested this, but the truth is, it does.

The Financial Secretary, on page 13 of his address, outlined that the amount included in the 2001 Budget included 12 months' collection on health insurance and room tax. It would mean that 22 percent of the entire tax package would be retroactive. This position was correct, in my opinion; it was adopted by the past government and refused by the current political directorate.

In a time of economic slow down, the "impotent budget" has not attempted to curtail that delay. No creative ways of funding government projects or raising taxes has been employed.

The traditional method of backing demanded capital works by means of medium-term borrowing, and placing extreme upward pressure on the recurrent and statutory expenditures, is once again being utilised. Taxes levied on the common man and items that have inflationary effects will render the government's

own spending powerless and increase the cost of living for each year. That provides the need for more taxes and the cycle continues.

The time has come that new innovative methods of managing our resources are examined and pursued.

I agree with my good friend, the Second Elected Member from Bodden Town, that we need to have an outside consultant to determine the most appropriate way for the country to meet the ever-increasing public expectations and infrastructural development with our limited resource base.

I feel that we need to determine the cost for all of our infrastructural development needs and pursue one large, capital expansion programme funded through the issuance of bonds or other equity instruments. The maturity dates of these instruments will be set at periods that are matched with the benefit stream from the project or programme.

A group of local men with this country's interest at heart solicited the insight of Merrill Lynch, one of the world's most prominent financial services providers, to review the needs of this country. I was privileged to read this report in its entirety, and I have a summary report with me here today.

This report assumes Cayman Island's capital development need of approximately C\$200 million to complete our schools, roads, water, sewage, hospitals and ports. The author suggests the use of what is termed Medium Term Notes (MTN) that range in majority from 9 months to 30 years. This report is somewhat dated, but the principles are very current. If the government is interested in pursuing this further, I would be happy to co-ordinate an update to this report.

It is my position that once the infrastructural development has been completed, the government undertakes to divest itself of many of its services, such as the Water Authority, the sewage services and all other services that can be viably carried out by the private sector. This is after we have created it, made it viable and crossed the threshold normally met by investors entering into new markets. We have developed it and now we can gain from the sale of these assets.

The funds generated from the sale of government assets should be used, in my view, to retire the equity instruments of choice:

- a well capitalised Cayman Airways Limited;
- a purpose-built government building that eliminates the need to pay \$5 million in rent per year;
- water to all of our citizens;
- sewage systems throughout this country;
- a first-class health service provider to all citizens;
- an airport facility that reflects the quality image that we aim to portray;
- well-paved road system designed from a master plan that will reduce traffic congestion;
- and, most importantly, a school system designed to cope with current and future demands.

These must be part of the goal for each and every one of us who have been elected to chaperone the future of this country.

It is human nature to be nervous of large undertakings such as the one proposed here today. However, this is, in my opinion, the most feasible solution. It is a programme that will require extensive research and review, but it is worth reviewing.

If a programme of this nature is not undertaken, we can expect a continual degradation of our country's infrastructure and financial position. It is time we move away from the conventional wisdom as to how this country's finances and infrastructural needs are met and use more innovative and modern financial techniques.

I suggest that we employ the services of agencies such as Merrill Lynch, or other agencies that are in the business of raising funds and funding governmental projects and programmes.

It is tempting for me to provide such a proposal without some alternatives. It is tempting for me to simply critique without giving alternatives. This is only strengthened as I read an excerpt of the *Hansard* from 11 October 1999, when our Leader of Government Business contributed to Private Member's Motion 24/99: **"When we Members of the Back Bench bring constructive criticism, or informed criticism on the government, his most famous words are [and he is referring to the past Leader of Government Business], 'as usual the Opposition is providing no alternatives so it is fruitless for them to point out any errors in our operation.' Now, there are several ways one can look at that. But I would like to put forward the view that if the Back Bench were the provider of the solutions, we would be the government!"**

The Honourable Roy Bodden echoed, **"True enough!"**

However, in my opening to this contribution and my role as Opposition, I undertook to be constructive. In light of that, I would like to suggest to Government, some revenue measures and some expenditure constraint methods. Those measures and methods could be employed to fund the infrastructural programme I outlined here in my contribution. These would include, but by no means limited to, the introduction of a national lottery. This is something in which the general public, for years, have cried for, but have not been willing to stand up for. It is recognised that it has the potential to contribute positively to the development of this country, given our limited revenue measures.

The Christian community, I am sure, would meet this with great resistance. However, I must remind this country that during the contribution in this Honourable House we had suggestions on broadening our tax base. Members have stood in this Honourable House to indirectly call for income tax. A particular Member called for income tax to be attached to income so that the man who is earning greater would pay greater.

With such fear upon us we must look at more creative alternatives; more innovative ways of broadening our tax base so that this country does not have to go to the undesirable alternative of indirect tax. This Member of the House will seek to exhaust all possible means of funding the country's demands before going to any form of direct income based taxes.

The second is the provision of parking meters in George Town. I borrowed this from the Second Elected Member from Bodden Town, the district where I live. A government multi-level paid parking lot is third; fourth provision is, toll fees from west and east districts. It is amazing how these usage fees, where the contribution is simply proportionate to your usage of the product—the more you use the roads from east and west to town, the more you pay. It would only be a small token at a time therefore, the public would not notice, and it would also be amazing how much revenue this would generate.

I also suggest a staggered licensing rate, that is, a fee that would penalise the owner of multiple vehicles. A license would be the same rate, as it is now, for your first vehicle, but would be a greater rate for your second vehicle, and a greater rate for your third vehicle—such taxes that aim directly at policies.

We have recognised that we have a problem in Cayman with congestion. We should utilise the only policy tool that we have, the country's national budget, to shape our policies and to shape the behaviour of the people to reflect the desires and the direction we need as a country. We realise there is a need to reduce the amount of cars so let us use our tax or revenue system to generate funds, but also to instil policies. It is lack of such policy tax methods in the current budget that I deem it the impotent budget.

The sixth suggestion is a temporary reduction on duty for building materials. We are in an economic slow-down and as the Third Official Member highlighted in his Budget Address, the most notable area of slow-down has been in the construction field where the layman, the common man, the blue-collar worker earns. The portion of his salary earned, and spent in the economy, is greater than your white-collar worker. We need to stimulate the construction industry. We need to have policy in our national budget that is aimed at stimulating the economy.

If this was a project in isolation I would also be nervous in proposing it, but it is not. We have had an opportunity to conduct a controlled experiment. We have eliminated the importation on duty in Cayman Brac for the past two years, and during that period the revenue collected from import duty increased significantly. The reason for this was because the past government saw that the economy was in a slow period of stagnation, and a policy initiative was taken to stimulate the economy, by the elimination of import duty on specific building materials.

If the economic stimulation worked in Cayman Brac, to a point that the total duty collected from import duty increased significantly, why have we not

learnt from our controlled example and made similar suggestions, and positions, in this country's 2001 Budget as we go through an economic slow-down? These are the reasons why I have deemed the Budget impotent because it stimulates nothing and renders the country powerless. It does not in any way address the economic problems we are faced with in this country.

The seventh revenue enhancement measure is trade and business license fees for lawyers, doctors and financial service providers who are reflective of the income potential of these businesses. It is time that we benefit from our economic development and start earning our revenue in a method which will capitalise and benefit from our current development trend. Our development trend is intellectual capital which can only be taxed through methods such as I have proposed here in number 7.

Mr. Speaker, once more for the fourth time during my contribution, I am forced, because of the lack of Members in this Honourable House, to bring to your attention that we do not have a quorum.

**The Speaker:** We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.16 AM

#### PROCEEDINGS RESUMED AT 11.36 AM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continuing on the Appropriation Bill 2001.

The Second Elected Member for Cayman Brac and Little Cayman, continuing.

**Mr. Lyndon L. Martin:** I was outlining at the time of the break, some possible revenue measures to fund the elaborate programme, I described as being a viable way of the Cayman Islands meeting its infrastructural programmes over the next medium to long-term.

I would also suggest an increase in work permit fees, for, as I said earlier, we import intellectual capital to fund our industry. Fees for permanent residency and Caymanian Status should be increased also.

The eleventh enhancement measure is an increase in medical fees to reflect the cost of health services. I would like to speak briefly on that.

Health services of the Cayman Islands represent 16 percent of the country's budget, totalling in expenditure \$44.2 million. However, we only generate \$8.5 million in revenue from health services and approximately 19.6 percent of the cost of administering health in the Cayman Islands is collected in fees. We immediately need to address this issue by restructuring our fees to reflect the true cost of administering the service. In addition, we need to improve on our collection system in the health service.

As the county is currently governed by mandatory health insurance, the layman does not feel this because it is borne by the insurance provider. We, as a country must increase the fees being charged by the hospital to ensure that we are collecting a greater portion, if not, the entire portion of administering health in the Cayman Islands.

The twelfth item listed is the Civil Service, which must be streamlined and the cost of it needs to be addressed. We are all aware of it but no one is addressing the issue.

We must also utilise information technology to reduce the need for U.S. Tourism offices. Tourism in the Cayman Islands generates a total of \$18.25 million to the Cayman Islands' government directly in the form of tourism accommodation of \$10.73 million; cruise ship departure tax of \$7.4 million; hotel licences of \$0.07 million; and tourist registration fee of \$0.05 million; totalling \$18.25 million; this is government's revenue from tourism and we are spending \$19.87 million in promoting and administering the industry. We are spending \$1.62 million more than we are directly earning from the tourism industry.

With the innovations that we have seen in information technology the need for overseas offices must be diminished. It is time that we utilise information technology to the fullest and seize some cost savings as a result of the IT.

I believe that greater sharing of the responsibility promoting the tourism industry with the recipients of the benefits from such promotion is needed. We cannot hope to simply sit as a government, and continually expend money promoting tourism while the benefits of the tourists, when they come here, goes into the hands of private individuals. It is time that the hoteliers, the condominiums, the service providers participate in the promotion effort. I was happy that the Minister for Tourism mentioned this during his contribution.

As an example, earlier in this sitting of the Legislative Assembly the Minister for Tourism outlined a new promotional effort for the slow period of tourism. In that campaign the government is giving reduction in fares through Cayman Airways seat sales; government is spending to promote. The hoteliers are only giving one free night if the guests stay five days or more. Of course, the hoteliers will stagger their accommodation to ensure that they are promoting 4-day visits. It is time that the whole responsibility of promoting tourism is addressed and the participants in the industry must share in promoting the industry.

One final note on the current programme, I also noted with interest that the hoteliers would be feeding the kids for free; that is to ensure that the adults who are paying do not buy their food products outside of the hotels they are staying in.

Mr. Speaker, in the earlier part of this contribution I suggested, and once more I am suggesting, the re-establishment of offshore oil transfer in Cayman Brac and Little Cayman. It is a positive way of generating

revenue for this country and simultaneously meeting the goal of the government, by stimulating the economy of the sister islands, of Cayman Brac and Little Cayman. It is an initiative such as this that I would have wanted to see in the budget, and then I would have been supportive of the budget.

We also need to establish a certification authority and disaster recovery centre, which will generate positive income for the Cayman Islands and augment our total offering.

In reviewing the Budget for 2001, the most alarming fact is the revenue projection for the year 2001. The Budget estimates collection of \$311.9 million. When preparing a budget the revenue forecast is the foundation everything else is built upon; it is to that limit in which you then attach your expenditure. We look at the revenue projection of \$311 million, and then the government will look at its borrowing limit that will not force the debt service ratio beyond 10 percent. That borrowing limit along with your expected revenue then gives you your ceiling of which you can spend.

The revenue forecast of a budget is extremely important and if the revenue forecast is flawed then the budget itself is flawed. We must remember that in the past year 2000, revenue came short by some \$28 million compared to its expectation. The government did not spend more than their budget. It is simply because the revenue forecasted was not realised by \$28 million, and that is what created the deficit of the past government.

In studying the lesson of one year ago the political directorate is making the same error in 2001 Budget. The revenue forecast is flawed. I would like to read some of the assumptions used in making the revenue forecast. Mr. Speaker, I read from page 3 of the Third Official Member's [Budget Address]. **“Overall, global growth for 2001 is projected at 4.2 percent. This projection assumes that a prolonged US recession or financial crisis can be avoided and hence a global recession is unlikely. Other key assumptions include continued growth in the Euro region and a gradual rise in the yen against the US dollar over the medium term.”**

Mr. Speaker, inevitably the assumption of your global growth rate, and the resulting effect of your global growth rate on your domestic economic growth, forms the foundation for your revenue projections for the year at hand. I spent an extensive period of time in my contribution outlining, detailing and concluding to the fact that the growth of the global economy is not going to be 4.2 percent. It is unreasonable for us to use 4.2 percent as our foundation to project domestic growth and consequently local revenue.

I suggested a global growth rate of 1.5 percent to 2 percent and I detailed my reasons for that assumption. However, the Financial Secretary, the Third Official Member, utilised a domestic growth rate of 3 percent compared to a robust period in the year 2000 that saw 4.6 percent.

Mr. Speaker, the Financial Secretary outlined that the government utilises a method called profile forecasting. On 11 December 2000, as I read from the Hansard of Finance Committee, he suggested that in determining the rate of growth for 2001, he would utilise 1998, 1999 and the year 2000. At that time I suggested that profile budgeting was not the most appropriate way to forecast revenue. It proved wrong when it was used to forecast revenue for the year 2000.

Even if profile budgeting was employed, 1998 general recurrent revenue was \$253.044 million. In 1999, the revenue was \$286.18 million, which was an increase of \$33.136 million, a 13.09 percent increase. However, in the year 2000 the recurrent revenue fell to \$272.6 million, a decline of \$13.58 million—4.7 percent decline. In profiling budgeting this would average an increase of 4.17 percent compared to revenue projection that the government has used for basis of their budget, which assumes 7.12 percent increase.

Mr. Speaker, If we minus the revenue enhancement package of \$19.88 million from the 2001 recurrent revenue of \$311.9, that would generate \$292.08 million which the government would be expecting from their traditional revenue sources without the enhancement measures. That is \$19.42 million above what they expected in the year 2000, a 7.12 percent increase. In making this projection, did the government forget that in the period of 2000 in revenue decline, the country was growing at what they deemed as 4.6 percent. In the period that they are assuming their projection is based on, a 7.12 percent increase, they have stated that the economy would be at a slower pace.

Mr. Speaker, irrespective that my projections of local domestic and global economic growth is significantly lower than that provided by the government, even if they utilised their own projections, the revenue projection for the country is flawed. Using profile budgeting revenue would be overestimated by \$8.05 million. However, from December 2000, I argued that profile budgeting technique is not feasible during a period of irregular economic activity, such as we are experiencing in a slow down.

We saw that revenue declined in the year 2000. Why should we? What is premise under which the Government of the day has increased their revenue projection? Mr. Speaker, we saw a decline in 2000 of 4.75 percent. It is my position that we can expect a similar reduction in revenue, and it is a realistic assumption to expect, that revenue will decline by a similar percentage because we have not seen any real reason to believe that the economy has turned around. I am certainly convinced that the year 2001 Budget does not include any components in it that will stimulate economic growth. It includes a package that is taxing the people and will ultimately drive the economy deeper and deeper.

If we use my assumption of a 4.7 percent decline this would mean that the revenue of this country is overestimated by \$33.05 million. Is this an unrealistic

assumption? “No”, because in addition to assumptions we have some empirical evidence. Members who are in this House, sat and were briefed by the Government and its technician who told us that the first two months of the year which represents a significant portion of total government’s revenue collected was down compared to the year 2000. It was below the expected revenue for 2000! Did the Members of the current political directorate believe that in delaying the budget by two weeks, we would forget being told to expect lower revenue? They came with an increased revenue projection later, which was used to base their entire budget.

I always get nervous when I see a budget that is exactly balanced, to zero, where I am expecting to spend every cent that I collect. It makes me suspicious! The world is not so ideal. It does not happen that every cent I collect will equally match what I spent.

I respectfully make the submission that the Government of the day has used an unrealistic assumption of revenue; therefore, there is no real reason to expect that this will be realised. When I see technicians who could bring a revenue expectation, which could be delivered by the Third Official Member, and Members rise in this House and say it is a reasonable budget; it is a show of good faith; It is a good faith attempt to the budget.

Let us give the Government a chance—I would like to be able to do so, but the people of Cayman Brac and Little Cayman did not elect me in here to be a ‘yes’ man to the Government. They elected me to review, critique, and put my position forward. I, like all the Members in this House is quite aware that there is no reasonable reason to assume that the revenue of this country will be \$311.9 million.

It is irresponsible of the Members of this House, in my opinion, to get up without revealing what they truly know and believe. We are a House characterised by professionals and in the know. We are the new guard, a group of the greater intelligence, but yet, we are sitting here saying we know, and have seen empirical evidence that the revenue this country has generated for the first two months of the year, representing the most significant revenue collection period, did not come to the level of the past year. However, we are going to project and say that it is a good attempt by the government; it is a good budget; it is realistic and achievable.

I would be happy if the country truly realises revenue of \$311.9 million. I am not saying that it is not possible; I am saying that, as legislators, it is not viable for us to sit here when we do not have any premises and any reasons to expect that this will be a true collection. We must remember that this projection is used to determine the level of government expenditure. We do not want ourselves in the position of the last government, of the last fiscal year, where they spent, not their entire budget, but revenue was not

realised of \$28 million and the country was left with a deficit.

It is for that reason and many others as highlighted that I cannot support this Budget as it is.

I apologise for any over zeal I have had in this matter, but it is something that touches true to my heart and gives me great concern that we are in here saying ‘yes, it is a good Budget’ when we know different. I am even tempted to suggest, that some of the Members of this House who wear professional certifications behind their names, surrender their certifications in the interest of preserving their reputation of their profession.

#### POINT OF ORDER

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, on a point of order.

**The Speaker:** Let me hear your point of order.

**Mr. Alden M. McLaughlin, Jr:** The Member is imputing a lack of professionalism on the part of Members of this House who hold professional qualifications.

**The Speaker:** I would ask that you withdraw that statement. I think that is rather broad.

**Mr. Lyndon L. Martin:** No problem, Mr. Speaker, I respectfully withdraw that statement.

I would like to turn to the public debt of the country. The new debt figure after the borrowing would be \$149.5 million. This represents 59.55 percent increase in borrowing in one year compared to the annual growth rate of 20.9 percent debt that was outlined by the Third Official Member; it is a significant increase in borrowing. However, I would be the last person to suggest that the country should not borrow because the country has not found itself in a financial position to meet the needs so, we must borrow.

I would like to remind this House that in Finance Committee on 11 December 2000, this Member suggested to the Government that they do exactly what they did, borrow to fund their deficit. I suggested on page 148 of the Hansards on 11 December 2000 in Finance Committee, “ . . . **retroactive pay to the civil service of \$6.5 million; a reduction in the overdraft facility from \$15 million to \$8 million - a reduction of \$7 million; and projects that are ongoing and projects that could be commencing in the first quarter, totalling \$13 million.**” This together totals \$25.7 million.

I went on to say, “**I am suggesting that we utilise the flexibility that is afforded to us in having extra room that would be acceptable as fiscal responsibility, to borrow, to fund a portion of this deficit . . .**” I am not in any way saying that the Government should not have borrowed; I suggested it from 11 December 2000. I am simply disappointed that Government chose to utilise overdraft financing

without advising this House and the country of the cost of such financing. Of course, the suggestion came from a Member of Cayman Brac and Little Cayman who is on the Opposition side; therefore, this was unacceptable to them. If the country had borrowed from the point I suggested, we would not have expended the excess interest charges associated with overdraft financing.

In my introduction to this contribution I stated that we had a good group of people who could meet the challenges of this country. It is imperative that we draw on all of the resources in this Honourable House, and ensure that, being an Opposition Member does not mean your verbal opinion does not have merit—you must review it and look at it! I humbly suggest if that was done this country would have saved a great amount of money.

When the country borrowed in year 2000 the debt was approximately \$93 million. The debt service ratio was 7.6 percent. With no restructuring, no changing in debt composition and borrowing an extra \$55 million, I am suggesting that would have put the government over its debt service ratio of 10 percent. However, the Government chose to restructure its debt but in the interest of openness and transparency, I am asking of the Government, to let me know what cost is associated with restructuring this debt. Are we stretching the loans government is committed to over a greater period of time and, what interest penalties are associated with that?

For this Budget to be completed and for this House to be able to review it objectively, such information should be presented at the time of the budget address. This is not a new request for me because in Finance Committee, December 2000, I said that we should have been presented with an expected cost of maintaining such an overdraft because overdraft facilities can be very expensive. That is a vital tool to access the feasibility of funding this gap through the overdraft facility. The same way I wanted the cost for the overdraft when they brought it, they should have expected that I would have wanted to know the cost of the restructuring and the country's new debt service ratio.

I noted with interest that the Financial Secretary in his deliberations referred to the current debt service ratio; he suggested that he would return to the subject and outline the new debt ratio but he never did in his deliberations. That is on page 8 of the *Budget Address*. He said, “. . . **and this point I will return to later in this speech**” but he never did.

Mr. Speaker, it is imperative when reviewing the country's budget and the borrowing of \$55 million, driving the total debt of this country to \$149.5 million, borrowing \$57 million—\$1,422 per citizen of this country—that we should be given the cost associated and the result to our total debt service ratio in this country. As legislators, that is reasonable for us to expect and this legislator is not prepared to accept the budget without such information.

I noticed with interest that one of the policy decisions under this Government, on page 11 of the *Budget Address* says, “**Removing all restrictions on virements within a Recurrent Expenditure head**”. A virement is defined in the Financial and Stores Regulation, 1986, Section 2.3 as discretionary powers delegated to the Financial Secretary, to exercise some degree of flexibility, by allowing the allocation of funds between subheads within the same head.

Mr. Speaker, this is putting discretionary powers into the Political Ministries. This is allowing the Ministries to be able to move their money around under their head without the Financial Secretary or the Finance Committee, or anyone else knowing; that is my understanding of removing all restrictions of virements. If this is the case I am very much concerned, and I am even more suspicious when I see that under each Ministry, most of the Ministries have increased in expenditure for 2001 significantly:

- The [Portfolio of Finance and Economic Development], an increase of 8.6 percent going from \$23.7 million to \$25.8 million.
- The Ministry of Community [Affairs], an increase of 28 percent, going from \$6.8 million to \$8.7 million.
- The Ministry of Tourism, an increase of 29 percent, going from \$3.4 million to \$4.85 million.
- The Ministry of Health, an increase of 19.37 percent, going from \$1.19 million to \$2.92 million.
- The Ministry of Planning, going from \$1.37 million to \$5.95 million, an increase of 332 percent.

Mr. Speaker, with these Ministries having more money available to them, can now move money under their heads without the restriction of virements. This does not go with good governance and financial prudence! With such flexibility there would be no need for contingency warrants. I certainly understand their position on that.

I have spent some time looking at this Budget and careful time reviewing my obligation as a representative of the people of this country. I have looked quite clearly at the government tax package of taxing the people of \$27.4 million for infinity. I have seen that this tax has placed heavy burden on the common man because of the \$19.88 million for the year 2001, only \$1.8 million comes from the financial services.

In looking at all of these factors I have to make it quite clear, that for me to fulfil my responsibility, as a legislator and a representative of the people, I cannot support this country's budget.

On a point of interest I see the contribution from the Monetary Authority is stated at \$4.473 million - up from \$1.226 million, an increase of 254 percent. In a time in which the Monetary Authority is said to be increasing staff, the cost of administering the financial industry is increasing, but the contribution from CIMA has increased by 254 percent. I humbly hope, that the thoughts I have provided here today, in an attempt to constructively critique the Budget will end up in a

budget in which the country is better off; that it would have stimulated thoughts, provoked thoughts that could result in some positive change in the way we plan and budget for this country.

I am not here to simply throw out criticism. I provided my critique by proposed alternatives. I also provided the country with, what I deem, as a realistic approach to meeting this country's infrastructural needs, with provision for creative and innovative ways of raising money.

I hope that government will take on the thoughts I have conveyed, in the mode in which I attempted to convey it. It is simply to constructively look at the country we are here to represent and not to get into the trap that is so easily attracted to. It is so easy to say "because revenue forecast is this we can spend X."

We must look at this as a group of legislators together with a responsibility and ensure that the country gets the maximum value for the money it is paying for its representatives in this House.

As I draw to the close of my contribution, I would like to make it quite clear, that the intention of this contribution was in no means to embarrass anyone or to reveal anything that was intended to be hidden. It was simply to ensure that the public had a good understanding of the budget that is expected to be approved in this country. I do hope that when this Budget goes to Finance Committee we can sit down as legislators and examine, and possibly make some changes.

Many Members have contributed prior to me, to this Budget Address and we are drawing close to the end of these contributions, going into Finance Committee. I hope Ministers of Government will choose to respond to some of the things I have said and will take on board some of the things I suggested.

Mr. Speaker, if I do not hear from the Ministers or from anyone, I will have to assume that they are in agreement with all that I have put forward. I would like to thank everyone for his or her attention.

Thank you.

**The Speaker:** The Floor is open to debate. Does any one Member wish to speak?

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Mr. Speaker.

I rise with gratitude and humility to the people of West Bay for entrusting me with this big responsibility and the challenges facing this country for the next four years.

There are no words to adequately describe the feeling of standing in the Chamber as a representative of the community where you have lived for many years. To say it is an honour or privilege, as others have said before, is simply an understatement.

Reflecting on the path that lead me to this place, listening to others of this 2001 class, and after reading many maiden speeches of those previously

elected, I am struck by what a wonderful system of democracy we have in this country. It is something of which all Caymanians can be justifiably proud because unlike most nations around the world, wealth, class and privilege really play no part in determining an election to this place.

Congratulations are in order for His Excellency the Governor and the Honourable Financial Secretary, for the presentations they made of the Throne Speech and Budget Address to this Honourable House. I would also like to congratulate the Leader of Government Business, the Honourable Kurt D. Tibbetts; and the Deputy Leader, the Honourable W. McKeever Bush, and their other colleagues on Executive Council for the bold and far reaching steps taken by them in an effort to turn this country around financially, and to reverse the unwise and irresponsible financial trend which was established by the past Government.

My belief is, that not ever in the history of these Islands were our leaders called upon to carry out such a difficult task; the task of presenting a balanced budget and of giving some glimmer of hope to the people of this country, not even when we were trying to form the Government. In my opinion, the present time of difficulty calls for bold leadership and with the guidance of the Almighty God and the support of the people of this country in the last general election held in November 2000, I feel that this country now has the leadership it deserves and needs.

As a generation we have enjoyed a reputation of financial stability brought about by hard work, planning and sacrifice. Over the last four years hard work, planning and sacrifice had been replaced by squandering the government's resources, increased taxation and debt accumulation. The bottom had to drop out; the cup had to overflow. When we look at the Budget Address presented by the Third Official Member we see that the last government was on a wild, irresponsible vote-getting spending spree for the last four years.

When we look at the area entitled fiscal performance for 1991-2000 in the summary, I think the true story is told. We have a lot of stories and solutions being told by the government and I will refer to them as the 'government in exile', the same one who was banished by the people, from this place, on November 8, 2000.

I think the Third Official Member explained the situation quite well and we have to remember that this is the same Third Official Member who was there during the time of their governance therefore, he should know.

As we all know and we have heard quite recently, numbers can be used to play all sorts of games. I think it is very clear when he states that during the period 1996 - 2000, the recurrent revenue increased by 9.4 percent, but during the same period 1996 - 2000, recurrent expenditure increased by 13.4 percent. We heard mentioned of professional degrees

and we have known of people having a lot of letters after their names, but it does not take any rocket scientist, CPA, economist, or anybody else to understand that if the country is spending 4 percent more per year than what you are receiving, then it is impossible four years later to have a surplus or built up reserves. Where is the surplus or reserve coming from, which the last Government spoke about?

The Third Official Member has said we are spending more than we are receiving. There is no way that we can have a surplus. When I hear comments being made and see those Ex-Ministers on television, smiling and telling people that they left a surplus, knowing the state which they left the country in, my opinion is, it is pure *'tom-foolery'*. Thankfully the people have said that they have had enough *'tom-foolery'*—

**The Speaker:** I must stop you a minute. I do not think that is really a parliamentary word. I would ask you to withdraw that - *'tom-foolery'* or whatever you said.

**Mr. Cline A. Glidden, Jr.:** Okay, Mr. Speaker.

The point I am trying to make is, that it is impossible to say you have a surplus after spending more than you have received for four years. What you have is not a surplus but a real mess. I have heard comments made that there should be a statement by the Third Official Member to clarify if what the Leader of Government Business is saying is true, or if what the past government is saying is true. Rubbish! There is no time for that. The Third Official Member needs to spend his time along with the rest of us looking for solutions to our current problem. We need to do what the people did to the past government on 8<sup>th</sup> November 2000—forget about them.

When we look at the present Budget I would have preferred to see a Budget presented which had no borrowings and no new revenue measures, but because of what has gone on in the past it was not possible. The government could have done what the previous government did for the past four years, in my opinion, budget or *fudget* the revenue to make it equal to what they needed for expenditure. At the end of the year they could have said that they did not overspend but the revenue under-performed. No, Mr. Speaker, I am happy to see that even though the picture is not a pretty one government has presented a true picture of our financial position.

It is like everything else in life, before you can fix the problem you have to know what the problem is. If you go to the doctor and he diagnoses a problem, then, hopefully he can treat and cure you, but if you never know what the problem is it will continually get worse. The people came out and identified, and gave the country the solution for the problem on 8<sup>th</sup> November 2000. Now with the presentation of the 2001 Budget it is time for us as a country to start the long slow process of recovery.

Mr. Speaker, I want to state that even though I understand the measures taken by the new Government and the reasons for taking those measures, I agree with my colleague who said, they should be warned that we do not expect this trend to continue. Due to the timing involved we accept that some of those decisions had to be taken but we look forward to a new type of Budget in the upcoming 2002 Budget.

When we speak about new and innovative ideas we have to be careful with those because I would like to warn the Government again. A little while ago the Second Elected Member made some reference saying that if nothing was heard from the Government concerning his proposed revenue package and solutions that he would assume they agreed. I want to put them on warning, as well, that I cannot agree with the solutions and the proposals he has set forward; it is not worth me going through everyone, but one that sticks out in my mind is a proposal made regarding road tax. It really saddens me as I look around this House and see that we have some bright new young minds that can come up with some innovative and proposed solutions and we are right back down to flogging the same old dead horse that we have been doing in the past. It really disappointed me when I heard of one of those solutions being a road tax. Yet, we talk about taxing the poor man and woman; that is a very common phrase used in here and I am starting to believe that it is strictly for political purposes. There is really no genuine concern for the poor people in this country.

Mr. Speaker, when I look at something as irresponsible as a road tax I had cause to work out a little scenario. If we look at road tax, a man or woman who makes \$1,000 a month will end up paying the same tax dollars as a person who makes \$5,000 or \$10,000 per month, and we refer by saying that we are looking out for the poor man. I really have difficulty in accepting that. Why is it that we want to tax the poor man in the same way? The man is making \$1,000 and we want to tax him in the same way that we tax the person who is making \$5,000 or \$10,000. We all have to use the road the same amount of time to get to and from work; the poor man will probably have to use it more because he is probably working longer and harder hours. In the supermarkets we are doing the very same thing because regardless of what the salaries are, when the prices go up the poor has to pay the same prices.

Just in case the Member did not realise what he was actually referring to, I will give a little example to show why I have a problem with that proposed method of taxation as one of those innovative solutions. Let us assume that the average person pays \$100 per month for road tax. We look at that as a percentage paid from a salary. Now for the person who is making \$1,000 a month that \$100 would equate to 10 percent of his income. But the person who is making \$5,000 per month it would only equate



to 2 percent and the person who is making to \$10,000 per month it would only equate to 1 percent. So, like I said in the beginning we will be right back to flogging that same old dead horse—the lower income earners of this country, which causes the social problems we spoke about earlier.

Mr. Speaker, I really hope that in future contributions the Members take a bit more responsibility when they start talking about potential solutions. It is not good enough just to get up here and criticise and to say that we can do this and that. We should not be doing A and B, but we can do C and D, which would end up having a worse effect. No, our responsibility as leaders and legislators of this country goes beyond that. We have a responsibility to look for real solutions.

Now, it is my estimation that it will take ten years of stringent budgeting before this country reaches the levels of prosperity which it enjoyed five or ten years ago. There will be no quick fix or no easy solutions. We can look at those easy solutions proposed and when we look in depth at those solutions they are not really solutions, we are creating more problems.

We cannot look for any dramatic turnaround. I have the confidence that the new Government along with the Members of this Honourable Legislative Assembly and the support of the Caymanian people will get the job done. This country now has men and women in control who are prepared to take the bold and unpopular decisions. Those decisions have to be taken out of concern for the survival of this country and its people rather than continue to make decisions, which are only politically popular like some of the decisions that were taken in the past.

I am particularly proud of the fact that this Honourable Legislative Assembly, which I am a part of, is truly representative. While some Members of the last government or the 'Government in exile' like to play class warfare and perpetrate long outdated myths about some of the Members of the new Legislative Assembly, the fact is that we are proudly diverse and a large working class bunch. We are made up, not solely of doctors, or lawyers, or academics, or engineers or accountants but we are teachers, seamen, small business operators, mothers and fathers. In our great political system there is no set or predetermined path to come in here, and that is a very unique and a very Caymanian thing. It is an honest reflection of our equalitarian society.

Despite what some social commentators have said in recent times about Cayman, I believe, that we remain the most racially tolerant accepting and, thankfully, classless society in the world. We each come to this place on the trust of our constituents. I would not pass up the opportunity to thank the people of West Bay for their support and encouragement especially over the past few months. I have spent most of my life working with the younger people of West Bay through my involvement with sports and community organisations. However, during the cam-

paign I was also fortunate to have quite a bit of dealings with some of our lovely senior citizens and that was a joy. I will not call names because I might get into trouble, but it was really a wonderful experience. Sometimes our meetings were on church nights and around 9.00 p.m. you would see the church bus stop and there they would come. Other nights they would get up on our platform and pray or sing and endorse our team. Their support, motherly and fatherly love, which has played such an important role in the success of our country, was invaluable to us during the last year.

I could spend all day talking about the people of West Bay and what a tremendous electorate it is to represent. It is simply a beautiful part of Cayman and I will work long and hard to ensure that I listen to the people of West Bay and take action to fully represent their views, making our local area an even better place to live. Of course, to do that I will continue to draw strength from the support received from local residents, committee Members and my much loved family and friends. This support network is any parliamentarian's lifeline—they keep us sane, focused and advised and they are just invaluable.

Changes do not come about easy. People always seem to resist change. It is normal for people to get familiar and comfortable with something in their lives and to continue on with it. Even if change is not always good, it is usually less trouble than changing it. This is true in a lot of every day examples, because the average person only has a few jobs and they tend to keep their cars and partners. Change does not come about easy. When I look around this Legislative Assembly and see a totally new Government and seven newly elected Members or, as one of my colleagues refer to, *rookies*, I have to commend and congratulate the great people of this country. I quote from Mr. Alan Cohen who said, **“It takes a lot of courage to release the familiar and seemingly insecure to embrace the new. But there is no real security in what is no longer meaningful. There is more security in the adventurous and exciting, for in movement there is life, and in change there is power”**.

The people of Cayman made a sweeping change on 8<sup>th</sup> November 2000. They were not happy or content with how they were being represented. We, at least, the majority of us here campaigned on the premise that if we were elected we would change the way things were done in relation to the way that the country was being run. Not change for change sake, but change because if you always do what you have always done, then you will always get what you have always gotten.

The state of the social and financial affairs of the country shows us why change is so important. **“Change does not necessarily assure progress, but progress implacably requires change. Education is essential to change, for education creates**

**both new wants and the ability to satisfy them.”** That is a quote from Mr. Henry Steel Commager.

During our campaign we asked the people how they felt about the past government; if they were happy with their performance. We also asked if they were happy with the way the financial affairs of the country were being handled. The people answered, “no” then, and they answered loud and clear again on election day. We told them at that time, if the answer is “no” Executive Council must go.

Now that the previous Executive Council has gone, and the majority of them have been banished from this Legislative Assembly for poor stewardship, I cannot believe that they have the nerve to take out full page ads and go on television to try and fool the people with their supposedly expertise and experience. They had their time for the past eight years and if the people of these great islands did not believe them or want to hear from them anymore then I am pretty sure they do not want to hear from them now. It is time for them to accept defeat and to get on with their lives and stop using scare tactics; they could hurt the country. Leave the running of the country to those whom the people have entrusted it.

I would like to touch on this, my maiden Throne Speech and Budget Address’ debate on the role of this House. I would also like to say a little bit of about the state of the nation and its relationship to the low regard for the political process in 2000 and about some of the core issues we must address.

One mistake made by previous governments is, they never learn that all wisdom does not reside in Executive Council and does not reside in bureaucracy. I honestly think that we grossly under-utilised the skills of the elected Members in this place and because I am a realist, I also understand about the difficulty of achieving this. I understand a bit of the politics but, as I have said, I think, there is a real capacity in Parliament to play a greater part, particularly in the Legislative Assembly. However, there is usually a general reluctance of Government to see that happen. So, I would like to say to the Members of the Executive Council, in particular, that it is in their hands during this Parliament whether Parliament is used or abused. If the Honourable Members of the Government believe that other Members of this House have a role; if the fine things which are said about them mean anything, then they are required to ensure that they do not abuse their power in this Honourable Assembly, whether it is by the abuse of question time or the truncation of debate on important issues.

As we all know, Mr. Speaker, the previous government decided to shut down the Legislative Assembly in 2000 to achieve truncation of debate on important matters of this House. Important matters like the finances of this country. That was wrong and the people have punished them and banished them for this wrongdoing. Now, the tables have turned and those same Members to whom the injustices were

done are now in a position of majority, which in this House gives the power.

There is a time of proof now for them to show that they are different and that things have changed. My short time here has shown me the new Government is committed to change. There is no limit to question time and the Ministers have gone out of their way to answer questions. Mr. Speaker, you have excused them because of the relevance of the questions asked. Very few questions were deferred, and even so, when they were, it was only for a day or so. At this very early stage I think all the Private Member's Motions and Supplementaries have been answered and I have been told that this in itself is historic.

We are off to a good start and together we can achieve our common goal and, that is, to ensure the Cayman Islands is better for present and future generations than it was when we came here.

Mr. Speaker, I would like to touch a little bit on the state of our nation.

**The Speaker:** Are you going on to a new subject at this particular time?

**Mr. Cline A. Glidden, Jr.:** Now would be a convenient time for a break, Sir.

**The Speaker:** We shall suspend proceedings until 2.15 p.m.

#### PROCEEDINGS SUSPENDED AT 12.40 PM

#### PROCEEDINGS RESUMED AT 2.25 PM

**The Speaker:** Proceedings are resumed. Debate continuing on the Throne Speech and the Budget Address.

The Fourth Elected Member for West Bay, continuing.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, I will now touch on the state of our nation.

We wonder why people hold parliament in contempt. It seems to me like the reason lies not only with the truncation of the debate because they find much of our debate odious and pointless, but more in the irrelevance of our debate to their concerns. I am of the view that this country has major problems; that our debt position is not sustainable; that the declines in our living standards are inevitable and that we face a potential crisis. Everyone, both rich and poor, benefits when a government respects the rights of all and provides for the needy. Crime and drug abuse breeds in areas of poverty and unemployment where people may feel that they have nothing to lose. Likewise, apathy and violence breeds where people perceive injustice and feel excluded from the benefits of society, to the extent that every individual feels empowered as a valuable productive member of society then

society becomes healthier and more secure for everyone.

I believe in a fair society and in a socially cohesive society. I believe it is the responsibility of every citizen either collectively or individually to contribute to achieving that goal. Regrettably, at present Cayman can claim to be neither, instead we have a society that is racked by insecurity, divisiveness and inequity. The challenge we face as politicians and as a community is to find solutions to these problems that are at the heart of that insecurity, divisiveness and inequity, the greatest of which is the spectre of uncertainty.

We have enormous opportunity. It is very exciting; it is very exhilarating and it is quite historic to feel that you can be part of shaping events that will take the country into this, the new millennium.

We have our problems and when we look at recent headlines we see that unemployment no longer confronts only those currently unemployed but also those who are currently employed here in Cayman. We look at what recently happened with one of our larger employers in Cayman, that being Cable and Wireless. We see that the significant shifts in employment trends globally over the last decade or so, which has seen the rise of contract, casual and part-time employment. The rising numbers of self-employed and unemployed have contributed significantly to the fear and anxiety that grips much of today's work force.

It is my opinion, that if we are to build a socially cohesive society in this country then we have to tackle head on the pre-occupation with economic indicators. We have to challenge the sanctity of the market and we have to put the interest of people ahead of theoretical economic purity. This will require us to focus on monetary and fiscal policies, achieving broader social objectives such as equal, quality employment, greater equity and disposable incomes. Comprehensive health, education services and a way for the narrow economic objectives such as zero inflation, lower interest rates and a balanced budget will also need to be focused on. Do not get me wrong, Mr. Speaker, it is not that these objectives are not important, they are, but our economic agenda should be driven by the needs of our people, not by the sectional interest of the finance market.

Our economic solutions do not depend on selecting one set of objectives over the other, but in achieving harmony with both. Regrettably, however, in its current environment when major issues of social concern arise it is the views of the leading finance market and analysts that tend to dominate the public debate. We need to harness all of the creativity and resources of our society in seeking the right political solutions to our current national crises. We need to develop a national political agenda, the central feature of which is a comprehensive social, financial, sustainable development strategy; the essential building blocks to a diversified economy capable of sustaining high levels

of employment and improving living standards across all sections of the community.

It is critically important that we identify where information technology can be utilised across our economy as a major tool of economic growth. More importantly, to ensure that it is effectively exploited. We know that this will require the deployment of significant resources directed at rapidly raising the level of computer literacy across all levels of our society.

I was pleased to hear His Excellency the Governor refer to Information Technology (IT) as one of the keys of our survival and an indeed success. We know there is a lot of work to be done in this area, because as you know, even in the existing standing orders of this Honourable House it restricts us from using our lap tops in this House. Hopefully, we can deal with that during the review of our standing orders that has been agreed upon.

Mr. Speaker, when I listened to the Throne Speech and the Budget Address, I was happy to hear that we will be establishing a drugs court as another means of rehabilitation for offenders with drug problems. It is obvious that the existing system is not working.

I know that we are facing a difficult time with our judicial system but I am looking forward to the debate in Finance Committee. When I look at the proposed Budget document I see that even though the Government has attempted to keep this year's expenditure close to the 2000 actuals, there are certain areas, like the Judiciary, that its proposed expenditure has increased by some 17.5 percent over the 2000 actuals. So, I will have some questions during Finance Committee to this area as well as other areas of expenditure.

I take my hat off to the government because I was very pleased to see that when I looked at page 7 of the document, I saw that the figures are actually quite close to the 2000 actuals. I was impressed to see at a time when there has been much talk of financial prudence and responsible spending, that the government was able to keep the figures down. I looked and saw that in all the Ministries the increases were really minor. I looked at the Portfolio of Legal Affairs and I saw some 31 percent increase but the other ones, for example, Ministry for Tourism and Transport was some 8.5 percent.

Now, I know that my colleague, the Second Elected Member from Cayman Brac and Little Cayman made mention as to the increases in percentages. He made reference to some enormous expenses relating to recurrent and statutory expenditure but when I looked at the document I was pleased to see that, as far as my percentages go, the highest percentage increase is for the Portfolio of Legal Affairs and that is 31 percent. I also saw, for example, the increase for the Ministry of Tourism, Environment and Transport was only some 8.5 percent. Now with all the shifting of responsibilities, new Ministries, and the departments that were transferred back and forth,

I think it is commendable that the government of the day was able to keep expenditure as near as they did to the 2000 actuals. Like I said, I think that we are on the right way forward.

Mr. Speaker, before I go into different sections of the Throne Speech that I wanted to touch on, I would like to clarify some earlier statements I made in some of the debates and news briefings we have seen. Now, the Second Elected Member for Cayman Brac and Little Cayman made reference to the decline or shortfall in expected revenue for the year 2000. I think it is very important for us to realise where that shortfall came from because like I said earlier, if we want to solve a problem we need to first diagnose what the problem is. In going through the Budget in detail I looked at the figures and saw that we were off some \$33 million from what was approved and what was actually collected. Of course, that gives me grave concern because there is a lot of talk of the economic slow-down and recession, and so on. I wanted to try to figure out for myself as to what really caused that slow-down and whether we should actually be expecting that in the 2001 revenue expected incomes.

Mr. Speaker, when I saw the decline I could have made the assumption, as the other Member may have, that the last government just pulled the figure out of the air for recurrent revenue. It seems like such a significant difference - \$33 million over the year on a \$300 million budget, that is, some 10 per cent of the budget, so it seems to be, and it is a very significant amount.

What I have done before and what, I feel, all responsible legislators should do, is to see these potential problems that are so apparent and try to get information especially since we have been charged with representing the people. We are here debating, speaking and people are listening. Instead of trying to add to the confusion I think that it is worthy for all us to try to be as informed as possible so that the information we give will help to shed some light on the situation.

Now, Mr. Speaker, when I looked at the 2000 actuals compared to the approved and I saw the \$33 million shortfall, those warning bells went off in my head so I decided to go to the source of the information, that being the Financial Secretary. Since he was also the Financial Secretary during the last government, if anyone would have those answers it would be him. I was able to find out that with the \$33 million it was not that the previous government just miscalculated or overestimated the recurrent revenue. There were some significant happenings during the 2000 Budget year that caused that \$33 million shortfall. One of those was right off the bat—the last government took and made a duty concession on our bakery products. Even though that duty concession took \$12 million off the custom duties received, which is a major part of our revenue for the island, there was no compensation made in the recurrent revenue figures. Even though we projected that we were going to get

that \$305 million, right away we took actions by eliminating duty on certain products that took \$12 million out of that revenue right off. So, that is \$12 million out of the \$33 million.

Another major contribution to the budget comes from Cable and Wireless, but because of Y2K preparedness there was a \$5 million shortfall in that contribution. If we add that to the \$12 million from duties that were lost, we are at \$17 million.

I was also very surprised to find that when the previous government looked at the recurrent revenue for the year 2000 they included an amount for health services fees restructuring, which was going to bring the health service fees more in line with what it is costing us. Other Members have made mention to the fact, that we are only collecting some one-third and are subsidising our health services on the island by some 66 per cent. There was a provision in the 2000 Budget to increase those fees, therefore, there was a projection in that Budget of some \$7 million.

Now we are at some \$23 million or \$24 million, and right off the bat if we add \$24 million to \$272 million, we have a much closer figure to the 2000 approved estimates. So, it is not really a down turn in the economy that has caused the figure to be below the 1999 actuals amount. There were actually some actions taken by the previous government and also some financial trends that occurred, like the Cable and Wireless' contribution. So, the sad story or the gloom and doom we talked about of being actually down because of the trend and about forecast budgeting, it was not just because our economy is down. We would not want to give the impression that we were \$33 million short and it was just because revenue under-performed. There were legitimate reasons that can be. There is the factual evidence to bear them out as to why our figures were down.

There is also a concern that the Second Elected Member for Cayman Brac and Little Cayman has, and I noticed it is very coincidental because that same concern was also expressed in a newspaper by the past government, but from speaking to the Member, he has publicly said he has no allegiance to. However, there seems to be a similar school of thought, at least, in the section of the recurrent revenue over the year 2000 actuals. Again, when I looked at that figure I asked the question trying to verify if this was a realistic amount. The last thing I want to do is to be in support of a budget, then at the end of 2001 we are in the same kind of financial position that we found coming in as the new Government.

So, I questioned as well, as to where and why we felt that it was realistic to expect to get a \$39.4 million increase in revenue. Now, if I give a bit of background the actual recurrent revenue for 2000 was \$272.6 million and the budgeted recurrent revenue for 2001 is \$312 million. This represents an estimated increase of \$39.4 million and the main reason underlying this projected increase are as follows: The

\$19.9 million revenue enhancement package plus four unusual items which are as follows:

- A \$1.2 million Cayman Islands Stock Exchange above normal contribution, which is an excess cash pay-in.
- There is \$0.5 million Community College above normal contribution.
- There is a \$3.25 Cayman Islands Monetary Authority above normal contribution.
- There is also a \$600,000 contribution from the Asset and Confiscation Sharing Fund.
- There is a \$13.95 million General Revenue Growth projected by the government.

So, that is where we came up with the \$39.4 million increase in the revenue. Now, I know that the \$13.95 million is higher than the \$8.18 million suggested by the Second Elected Member for Cayman Brac and Little Cayman as well as the previous government, considering the 3 percent increase in growth. Like I said it was by coincidence, I guess, used in the recent press statement of the four ex-ministers.

#### POINT OF ORDER

**Mr. Lyndon L. Martin:** Point of order.

**The Speaker:** May I hear your point of order?

**Mr. Lyndon L. Martin:** Mr. Speaker, the Member is attributing me to stating the revenue growth of the country would have been to 3 percent and drew similarity of that to the press release. I in no way ever stated that the growth of revenue was at 3 percent. It is an inaccurate representation of my presentation I said a 4.75 percent growth.

**The Speaker:** Did you check the record because I do not have the *Hansard*?

You will withdraw that please.

**Mr. Cline A. Glidden, Jr.:** Yes, Mr. Speaker, I will withdraw.

I am happy to hear that his figure of 4.75 percent—I do not want to misquote him again—is actually higher than what the ex-ministers were. The similarities between his statements and their statements were beginning to worry me a bit. I feel a lot more comfortable that there is actually some differentiation, so I appreciate that clarification.

Now the key assumption underlying their argument, and this is the statement in the press [*Cayman Net News* of Tuesday 3 April - Thursday 5 April 2001], is that there is a direct and equally proportional relationship between the gross domestic product and the growth in recurrent revenue. That is, if the GDP grows by one percent then recurrent revenue should grow by one percent as well. While I accept that there is a relationship between the GDP and recurrent revenue, the suggestion that this relationship is equally propor-

tional is truly speculative. I will show by way of a quick example why that Member's reasoning is faulty.

#### POINT OF ORDER

**Mr. Lyndon L. Martin:** Mr. Speaker, on a point of order once more.

**The Speaker:** Let me hear your point of order.

**Mr. Lyndon L. Martin:** The Member was talking about an article he read attaching the GDP growth directly to that of revenue and then he makes the allegation that the Member, and I am assuming he is referring to me, made that assumption. I was not part of the article written in the paper and that assumption is unrealistic and inaccurate.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, there was a Member of the Legislative Assembly who was involved in that article.

**The Speaker:** Are you referring to the First Elected Member for Cayman Brac and Little Cayman?

**Mr. Cline Glidden, Jr.:** No, Mr. Speaker.

**The Speaker:** Please continue.

**Mr. Cline A. Glidden, Jr.:** As I was saying, if we take the actual case of the year 2000 and put that Member's relationship to the test, the Honourable Financial Secretary in his Budget [Address] had this to say, ". . . **GDP growth in 2000 slowed to between 4.4 percent and 4.6 percent . . .**" The actual recurrent revenue collected in 1999 was \$279.6 million. If you apply the rationale advanced by the Members who made the statement in the press, then one would expect that the actual recurrent revenue collected during the year 2000 should have been, at least 4.4 percent above 1999 or around \$291.9 million.

The truth is that actual recurrent revenue collected in 2000 was instead \$272.6 million and not \$291.9 million. The main point here is that there is a lot more variables trying recurrent revenue growth than simply GDP growth, the main one, of course, being a good government just like the one that we now have.

I would like to say though, that I am relieved for the sake of our country that the Second Elected Member for Cayman Brac and Little Cayman is no longer a civil servant but instead he is out here with us where we can keep an eye on him and help him to understand how the Cayman economy really works.

#### POINT OF ORDER

(Point of clarification)

**Mr. Lyndon L. Martin:** Point of order, Mr. Speaker.

**The Speaker:** Let me hear your point of order.

**Mr. Lyndon L. Martin:** The same point of order brought on myself earlier, that statement goes to damage the creditability of a Member in his professional career.

**The Speaker:** I am not following your reasoning in that particular one.

**Mr. Lyndon L. Martin:** Mr. Speaker, the Member referred to me by my district and title and simply stated that he is glad that I am in Parliament so that they can keep an eye on me to ensure that my economic reasoning—which is my profession—is not practised in government. That is negatively commenting to my professional qualification.

**The Speaker:** I take that as a point of clarification and I would ask that in your opinion that is what you are saying. It is your view.

**Mr. Cline A. Glidden, Jr.:** Definitely, Mr. Speaker. That is only my view. Thank you, Sir.

Mr. Speaker, moving on to Judiciary I am happy, like I said, to have seen the discussion and the plan for the new Drugs Court. I am a bit concerned about the recent press coverage we received concerning a Judge actually being called out to deal with a case on a weekend.

I know that there is discretion in that case and I look forward with appreciation when there is some sort of co-operation between the judicial arms and the general public. I can only say that I look forward to that continued co-operation with all levels of society. The precedence has been set where we have the opportunity, on occasions, to call judges out to assist with bail. I know of many instances in the past where people were detained for weekends in conditions considered as, not acceptable. Now, that we have seen judges who are willing to come out to assist with those situations, I feel that the general public would be appreciative to know that possibility exists.

I move on now to the Portfolio of Internal and External Affairs. I must say that as a new Member of this House I was quite embarrassed to look and read of the recent Prison Inspector [UK'S Chief Inspector of Prisons, Sir David Ramsbotham] comments on the West Bay lock-up. I quote from the article in the paper [*Caymanian Compass*, Monday 2 April 2001], he referred to the West Bay lock-up as a place where young offenders have been "**dumped**" there and treated like "**prisoners of war**". He also went on to say that the place was "**frightful**". I guess the most damaging part of his comment was that he thought the place was "**frightful**" and he commented that, "**I've never seen anything quite as bad as that anywhere**".

Now, when we think about the fact that this is a Prison Inspector who has probably travelled all over

the world, and we talk about a lock-up for our young people; people who have not even been convicted as yet but awaiting trial, I think it is a real downright disgrace that such a situation existed and still continues to exist, especially in this day and age when we talk about the financial success of the Cayman Islands, the jewel of the Caribbean.

I am happy to know that the new Government has taken remedial actions to try to make sure that the situation is taken care of in the very short term. I look forward to providing whatever support I can provide to make sure that the situation comes to a quick end.

I also have a major concern with crime in the Cayman Islands. What really concerned me was when I had the opportunity to speak to the Police Commissioner at one of the meetings. There had just been a comment saying that crime was down across the island. I do have my concerns as to how those figures are arrived at, but even so, when the statement was made that crime was down on average across the Cayman Islands there was also a statement that it was up in West Bay.

Now, I have seen some provisions from the answers to questions asked in this Parliament. I have seen that additional police provisions have been made for the district of West Bay. It is real difficult for me to believe that crime is down across the island but it is up in West Bay. When I look at the numbers there seems to be a trend that wherever we have added more policing, crime has come down. I look forward to getting some more police in West Bay to attack the crime problem we have.

I also noticed that there seems to be an improvement when it comes to recruitment in the police force. I have not seen the figures for 2000 yet, but I think it is significant to note that in 1998 13 police were recruited and only two were Caymanians, however, 18 were recruited in 1999 and 15 of those were Caymanians. I think that is a step in the right direction and I look forward to seeing the new police report on the 2000 recruitment process, hopefully continuing on in that same trend.

I would also like to touch on the fact that not only do we have a problem with policing in West Bay with crime being on the rise. Maybe that problem can be contributed to the fact that the West Bay Police Station is in such bad need of upgrading. The Police Department is probably finding it difficult to find policemen who want to work in those conditions. So, hopefully, we will be moving within budget constraints, to possibly doing some upgrading to the West Bay Police Station when we are looking at upgrading the lock-up currently used for our young offenders.

There is an area under the Police Force which seems to have quite a lot of unknowns in it; that is the asset confiscation section. I have heard mention that we are expected to get some funds from that section to go into the general revenues but so far, it has been hard for me, as well as other Members of the House

to get a clear understanding as to the inflows and outflows of this asset confiscation section.

As you know, we do spend quite a bit on assistance for both local and international drug, money laundering and other criminal activities to help with the prosecution of those activities; it does cost us quite a bit in doing. My understanding was that we would receive some of the benefits. Even though that may be occurring, we are having a difficult time so far understanding exactly how it occurs and who is responsible, so we need some clarification on that. It is the same, I guess, with the Drugs Task Force . . . I know that there is an arrangement in place as to the funds from a lot of the asset confiscation having to be used in the continued fight with drugs. Again, I notice where money is going out but I am having difficulty seeing exactly which accounts any of the assets received are going to and, how the government can actually get access to those accounts.

When we talk about the Cayman Islands Police Force, I am very concerned about co-operation with the Force. I believe that we have some very good police officers who have a genuine interest in deterring and reducing crime in our country, but it is very difficult for them to achieve this task without getting some co-operation from the general public. During my discussion with the Chief of Police, I was very disappointed to hear of one particular instance of total lack of co-operation with the Police. I just crave your indulgence to bring what was explained to me as to some of the difficulties that the Police are going through.

In the district of West Bay, there was a child on his bicycle who was riding without a light and the Police Officer who is from the district, saw the child, gave him a warning and told him that he did not want him to get injured riding on a busy road at night without a light so he should walk his bicycle home. The little boy jumped off his bicycle and started walking home. The Police Officer, knowing the district and knowing where the little boy lived, decided that he would take a shortcut to go to the road where the little boy would have to go pass to see whether the little boy was going to actually ride his bicycle or walk his bicycle as he had been instructed to do, since he did not have a light. So, upon reaching the area where the little boy would be crossing, sure enough, along came the little boy riding his bicycle in the same way he was doing before, taking the chance of getting knocked off his bicycle. So, the Police Officer, in what I feel is a responsible act and what I was very accustomed to in my younger days of riding a bicycle without a light, decided to let the air out of the tyres to force the little boy to walk the bicycle home; to make sure that he attempted to get home safely.

Now, the Chief of Police told me that he was surprised to know, that the following day when he got to his office, the parents of that little boy was waiting for him at his office demanding that he pay for the tyres of that bicycle because the little boy had still insisted

on riding it home. They felt that since the Police had flattened the tyres they should be responsible for replacing them. That is the co-operation we lack and what makes it very difficult for our police to do the job assigned to them.

Mr. Speaker, with all the difficulties and the problems we are having now, I plead for the continued co-operation of those who are already doing their part. I am also pleading for a new level of co-operation between society and all law enforcement officials who are trying their hardest to do the job they have been assigned to do in these, our beloved Cayman Islands.

I now want to move on to the Prison Department. I would like to say that I really appreciate us, very early in our political life, having been given the opportunity of a tour of the Northward Prison facility. That was quite an eye opening experience to see the state of affairs of the country when we look at the number of young Caymanian lives going to waste behind the walls of Northward Prison.

I know commitments have been made and other Members have spoken on the need for rehabilitation, and other methods of alternate sentencing. I think we need to look at that as urgently as possibly.

I am also aware of other concerned areas occurring at the prison. One of those areas is that we now have a situation where it appears to have gotten to the stage where we are allowing our prisoners out to visit. When I hear of prisoners being allowed out to visit, it really reminds me of what the general populace has to say: Northward is actually a hotel. I got an explanation as to the reasoning behind some of them but when we actually allow prisoners to come out to visit friends and family for occasions like Christmas, it really makes me wonder whether we are actually making these people pay their debt to society. What compounds that even more is that I now know there is a very high percentage of inmates who are testing positive for drugs.

It stands to reason that if we put people in there who have a drug problem, we know that there are ways and means of people being able to throw illegal substances and other contraband into the Prison over the walls. It baffles me as to why we would not expect to have a lot of positive drug testing if we are allowing them out to visit and go back into the same sections of society that caused them to be there in the first place. It makes it too easy for them—people do not even have to come and throw it over the fence—they are getting out to get it themselves.

I also have been told that there are areas where dishonesty has occurred by officers of the Prison who are responsible for maintaining law and order within the walls of the Prison. I know authorities are investigating. Now, it has been said that there was an Officer who was guilty of removing items from the Prison to use on his own personal premises. As of today's date, as far as we are to understand, that officer has not been reprimanded or punished in any way except being told to replace the items he removed.

Now, again it is hard to understand that when they go along West Bay Road, take something that is not theirs and go to court, they are charged and found guilty and they have to go to prison. On the other hand, there is an officer who has been found guilty of removing stuff from the prison that he was not supposed to remove, but there is no punishment in place for them. It defeats all logic of law and order, and it makes the prisoners lose all respect for the system.

On a positive note I was happy to see that the visitors' centre being built was without government funding. It is positive to see that the prisoners as well as the prison authorities—officers who are there have been so proactive to go out and to raise funds and to also use prison labour to get the visitors' centre built.

When the new Government speaks of partnerships with the private sector it is good to also see that we have partnerships with some of the members of our society who are in prison, in attempt for them repay their debt to society.

When we look at the prison and the overcrowding situation, I think that the time has come for us to start looking at the possibility of deporting some of our prisoners who have been there for extended periods of time and have served a portion or a significant portion of their terms. We have a situation now where some prisoners are held at the leisure of the Governor with the abolition of the death penalty. My personal opinion is that if we have a prisoner who has served fifteen years in prison it could be argued that his debt has been paid to society, especially now at the rate of \$20,000 or \$30,000 per year for prisoners, I think, the time has come to send that prisoner back to his home. We have kept him here; he has paid his debt; it has cost the country; we have been assured that he was a prisoner. Now, it is time for us to allow him to go back.

Again, that is another one of those decisions that will have to be looked at and thought about, and the pros and cons will have to be weighed. Hopefully, when the balance is found we will be able to find ways and means of repatriating some of our prisoners because it is costing us and this country a significant amount of money to keep prisoners here.

The other point I want to touch on with the Prison is the preparation for release of our prisoners. I have seen where we have had a prisoner who has been held at the Governor's leisure, who for all intents and purposes seemed to have reformed his life. The parole area made a decision and felt under recommendation that he was ready to fit back into our society. Sadly enough that prisoner had to be recalled to continue his sentence.

We are all aware that society in the Cayman Islands changes traumatically, therefore, if we had someone who was locked away in jail for fifteen years, it is a bit too much to expect that we are just going to open the doors and allow that person back into society expecting that they will now be able to survive. The prisoner, himself, I spoke to during the

time when he was out, on numerous occasions. At first, he was looking forward to getting back into society because during his period of time in prison he had actually got some certificates/degrees, he had advanced himself academically. When he did come out he was surprised to know that it was a bit more difficult than he expected it to be. Taking his word for it, he said he was searching for something that could actually make an honest living. So, as the weeks passed and he was still unable to find employment I could see deterioration.

Even though we all have a responsibility to do our part to be a benefit and a productive part of society, we have to admit that it is not easy to just get thrown back into a very developed society after fifteen years in prison and be expected to function as one and the same as all the other members. I think a bit more preparation is needed on our own local prisoners who have served time, in order to prepare them for society before releasing them. Therefore, once it is brought to the attention of the authorities that he or she is going to be released, they need to prepare them or we will end up with the same situation which occurred with the last prisoner released, who ended up back in Northward Prison.

I would like to move on to the Cayman Islands Government Office in the United Kingdom and say how proud I am that we have a Caymanian and a West Bayer to run the office. When we look at such an important time in our international economic situation—where we are having such opinions, objectives and rules set down by the OECD and the FATF, and we talk about the need for having people who we can lobby and people in high places who we can turn to—I think we can very capably use the individual, Mrs. Jennifer Dilbert, who is the representative of our office in the United Kingdom.

I do not plan to go into depth as far as the OECD and the FATF is concerned because we have had so many speakers who have gone in and expressed different opinions. I would like to go on record, as saying that, I think the time has come where we need to do some serious lobbying to get some support to our position. I also think the time is right for that lobbying because we have seen a change in the new American President. What I have also found interesting was a response from Mrs. Hillary Clinton, wife of the former President of the United States. I am reading from a document where it says, "**United States Senator, Honourable Hillary Rodham Clinton has expressed concerned that the OECD Harmful Tax Initiatives may impose significant economic damage on many of our neighbours in the Caribbean.**"

It goes on to say, "**In a letter to the newly appointed United States Treasury Secretary in the Bush administration, the Honourable Paul H. O'Neal of which copies were circulated to, St. Kitts and Nevis' Prime Minister and the Prime Minister of Jamaica, the Caricom Secretary General and several congressmen and regional financial**



institutions, the former First Lady said that the OECD of which the United States is a member is threatening many of these nations with financial protectionism that are attractive to foreign investors. This is a fundamental violation of sovereignty. Perhaps more importantly, however, the OECD's attack on international tax competition undermines the ability of these nations to develop or maintain financial services industries", said Mrs. Clinton.

She continued, "As you surely realise the Caribbean has been subject to grave economic pressures because it is increasingly difficult for the region to prosper while relying on basic commodities such as sugar and bananas."

Mrs. Clinton added, "That if the OECD campaigned against these nations causes substantial damage to their financial services industry this would be yet another devastating blow to the region". Adding, "This would cost significant economic hardship and cost poverty rates to climb even higher."

The United States Former First Lady is of the view that wealthy nations of the world should not be trying to penalise developing nations for enacting tax policies which are attractive to investors, pointing out that OECD countries control a vast majority of the world's capital and have benefited for centuries from exploitative relationships with the less developed world.

"For the industrialised world to suddenly threaten severe penalties on these nations because they now are becoming affective competitors is both morally objectionable and economically misguided," Mrs. Clinton told the United States Treasury Secretary, adding, "I hope you will re-examine American support for the OECD anti-tax competition campaign."

So, there is support in the international fields and it is very important for us to garner a lot of the support, as much as possible, so that we can take a stand against the practices or the initiatives that seem to be causing us and other members in the region, problems in our financial industry.

Mr. Speaker, I also found an interesting document that I got off the internet which talks about money laundering in the US Senate Report. It says that "The report released by the Senate subcommittee comes in addition to a more extensive study released at the beginning of this month. Investigations revealed that between \$500 billion and \$1.5 trillion are laundered each year in the US financial system."

Mr. Speaker, seeing that the US is one of those members pushing so hard concerning our financial initiatives, it would seem prudent for us to suggest to them, that they seem to have quite a bit more problems in their backyard than we do, especially from looking at the figures. They are talking about \$500 billion—that is somewhere around the total amount

estimated. We have some \$600 billion on deposit in these islands and their report has found that they have between \$500 billion and \$1.5 trillion being laundered through the US alone every year.

So, even though they would like to make the rest of the world believe that Cayman is one of those places where everyone comes and launders their dirty money, the truth of the matter is, what goes on here is a very small percentage in light of some of the major players in the OECD themselves.

Mr. Speaker, I am going to move on.

**The Speaker:** If you are moving to a new subject maybe it is a convenient time to take the afternoon break.

We suspend for fifteen minutes.

### PROCEEDINGS SUSPENDED AT 3.24 PM

### PROCEEDINGS RESUMED AT 3.53 PM

**The Speaker:** Proceedings are resumed. Debate continuing on the Appropriation Bill 2001.

The Fourth Elected Member for West Bay, continuing.

**Mr. Cline A. Glidden, Jr.:** I would now like to touch on the area of Immigration. As a new Member of this House, of all the issues I have had to deal with over the past three months, I would say that Immigration is one of the greatest concerns. In fact it has taken up about 50 percent of the workload in my electoral office and it seems from talking to other Members from both sides of the House that they have similar workloads in this area.

I have been almost terrified at the passion and anger that has been demonstrated by some of the clients who have come into the office concerning immigration matters. There have been examples, almost of violence, in terms of hitting walls and kicking chairs in the confines of our office. That is the sort of anger that can be translated into the sort of crime we see through the passion and the feeling of total isolation from any sort of meaningful support from the system. That is the sort of anger building up out there that will be on our heads if we do not move quickly to modify and to reform the problems in this area. People feel the whole system is working against them.

The mistakes made by previous politicians are, putting money and budget deficits ahead of people. We know there are a number of marriage breakdowns in society and those numbers are increasingly high. So many of them involve children, and many of those children are being brought up exposed to an environment of frustration, bitterness and hatred.

I have always regarded the comment by one of my lecturers that *metaphysics does not boil cabbages* as a very significant statement in relation to life generally. There is talk of a much-needed reconciliation between Caymanians and expatriates, between locals

and foreign investors. I have always had a concern about the notion of reconciliation. I have always questioned it because the notion implies a division. So, you start with a division between people if you manufacture a concept that we need to reconcile because there is a division. There are many Caymanians who do not think there is a division and who are offended by this concept. Personally, I have never seen more division in this country between Caymanians and expatriates, and that is a tragedy. Getting back to the point that metaphysics does not boil cabbages—we are not helping the people at the heart of the problem with these concepts, in my respectful view.

For example, I do not think anybody really considered the words 'indigenous' and 'non-indigenous'. Now we have indigenous Caymanian and non-indigenous Caymanian. We are all Caymanian, yet we have this division since the reconciliation concept. I think it is absurd, and it promotes division. I have people saying to me, 'I'm indigenous. I was born here'. If you look up the dictionary meaning of the word: it means people who are born here. It is causing friction in the community; a friction that we do not need because we should be identifying the real needs of the Caymanian people.

That is what it is all about—helping our Caymanian people in health, housing, education and employment. If we get those basic things right then we can do all the feel good things we like; but if we do the feel good things and do not solve the basic things, we are going to have problems. That is what we are seeing now, the problems that come along with not taking care of the basic needs of our Caymanian people, whether they are indigenous or non-indigenous.

There has been much talk as to the need for a policy on long-term residents and many differences of opinion as to how we should deal with the long-term residents. There are also different periods of time as to what is acceptable before giving those people some sort of security of tenure in Cayman. There is talk of 10, 15, 20 years. We have examples of other areas in the region which did a cut-off at 20 years. Well, Mr. Speaker, you know it is going to be difficult whichever term we use. Whichever decision we make, whether it is 15 or 20 years, some people are going to be upset. However, it is ridiculous to know that we have people who have been here 34 years and are still being told that they have to get a work permit for a job.

A decision has to be made, and I am aware that the Government has been very caught up in the budget and the other affairs that go along with the transition to a new Government. However, I am pleading, as I have heard many other Members of the Backbench plead, that the immigration situation is given priority and dealt with as a matter of urgency.

It is difficult, Mr. Speaker, because if we look at fifteen years it seems unfair, morally, for the person who has been here fourteen years. We also have the person who has been here twelve years who has just been granted a 3-year work permit. Does that mean

that in three years they are qualified? There are many difficulties along with it but indecision does not help our problem. Everyday that we move forward we are adding to the existing situation; to that unknown aspect of people out there hearing rumours and talks as to what is going to take place, but no one has taken a policy decision.

Our Immigration Department is also having problems trying to deal with the different sections and problems that come up. I appreciate the fact that they are trying to do their best. There has been much talk as to the rollover policy. Now, it was very enlightening to see and to hear when we met with members of the FCO who came down, concerning constitutional review, that the UK actually has a 5-year rollover policy as well. It was very enlightening to know that with all the talking and debating that has gone on concerning the 5-year policy here, in the Cayman Islands, our Mother Country actually has a policy similar in place.

Now, whatever arrangements have to be made for the rollover policy we have to come together as leaders of the country, the people who have been entrusted by our constituents to make those hard decisions. We campaigned on having to make hard decisions, and the time is now. We need to make the decisions concerning our immigration policy which will allow our country to move forward in some sort of structured manner without the unknowns, without the willy-nilly, without the people having children here; children who are born to one Caymanian parent and not knowing their status. We have too many unknowns out there and I could go into a lot of the immigration problems we are having, but since we have had so much discussions as well, in an attempt not to be repetitious I will just say that we need to come together and agree on a policy. I look forward to making my contributions to the policy that will move us ahead, as far as the immigration situation is concerned.

When we speak about the rollover policy, it does not really make sense for us to look at the long-term residents' situation until we make some sort of a decision on the rollover policy. If we decide 15 years or 20 years, the persons who have been here 15 years now, in 5 years, they are going to be here for 20 years, and the persons who have been here 10 years, in 5 years, they are going to be here for 15 years. So, we have to put a policy in place to take care of the existing situation, as far as immigration is concerned, before we even address the situation as to the long-term residents, because every day we are getting more and more long-term residents. Whatever the period of time that is going to be defined as to what the definition is for a long-term resident, every day we are getting more people who fall into that category.

When we speak about the rollover policy, it may be a mistake not to realise, that not only will it help Cayman in our long-term plans in being able to plan and to manage our population, but it will also help the person who is coming here to provide the much needed service as well. Right now, how the situation

usually works is this way: we get someone who comes here because he is needed; he is here for a one-year or a two-year period of time and before you know it that time has been extended because their services are still required, and they are here 3 or 4 years. And then, rightly so, they say, 'Well, I do not know how much longer I am going to be here so I should bring my family.' We all know it is difficult being away from our families'. So, they decide to move their families down or, at least, their spouse. They also decide to move their children as well, to bring them and put them into school because now it is going on to 5 to 6 years, and their future is still unknown. Either they move their children out of schools wherever they were or they have children here who got started in school. Before you know it, a 7 or 10-year period has elapsed and that person is still providing a service that he has shown justification, or the company that has hired him has shown justification as to why he is needed here. They still do not know from day to day what their status will be. It is not a healthy situation and it is time that we, as a government and a country issue a clear policy as to the plans and the way forward in terms of our immigration policy.

I am happy to say that during this sitting of the Legislative Assembly, we were able to get an agreement for a Select Committee to come together, to identify the needs of identifying certain businesses which would be reserved for one hundred percent Caymanian ownership. I am happy to say that since the unanimous agreement on that motion we have gotten indications of agreement, even from outside of this Honourable House that the time has come when there are certain areas of business that should be restricted for Caymanians. I was also happy to see that the Chamber of Commerce has even started to investigate the needs and the possibilities of that with a select committee.

Since then, representations have been made that there should be certain jobs reserved for Caymanians. One of those was the job of Concierge, and the argument was put forward to me. The feeling was, that playing such an important role in our tourism product as being a Concierge in some of the major hotels, it would stand to reason that the people should be local; that the people should have some knowledge of the islands where they are sending people out to for a visit, and making recommendations. It is hard to imagine that we would bring someone down from Japan and set them down at one of our hotels expecting them to have the knowledge and information to refer and recommend ideas and places of interest to our visitors. Now, as to how realistic that is, I am not really sure how many Caymanians we have in those positions. There is merit to the recommendation that not only are there certain businesses which Caymanians should have the ability to operate, but there are certain jobs as well, that Caymanians should be forerunners in doing.

I am very happy to see the policy in place with the business plans for the Immigration Department and the Immigration Board; I commend them on moving forward with this policy. It only stands to reason the problems we are having with the lack of succession planning; the grievances we are hearing from our trained Caymanians not being able to get jobs; the talk of the proverbial glass ceiling in Caymanians not being able to advance in their jobs after they get into them; the many stories we hear of expatriates coming here to fill a job and staying here for some 15 or 20 years on the same job with training provided by the company.

I am glad to see that the Immigration Department has moved a step forward that will allow us to now have and to be able to see, and to also police and enforce a plan in terms of immigration. From my understanding this has been accepted from the business community as well because it also allows them to be able to plan. This is not something foreign to our businesses; they all have business plans that identify the needs for their resources. So, it is not something strange; the only thing strange and new is that the Immigration Department is now requiring it.

New or successful businesses sit and look at their projected needs especially for what labour is going to be. My understanding is that they are very happy to know that they can set forward a plan and it is accepted by Immigration. Again, it takes away that area of unknown for them not knowing whether they can expand into this area of the business because they are not sure whether the permit will get approved. As long as they are sticking to the approved plan, the understanding is that the permits will be approved. So, not only does it help us by knowing our way forward but it helps the businesses do business in Cayman as well. That is the kind of situation we like when we get the win/win situation for all concerned.

I would now like to move on to the Legislative Assembly, and to say how happy I am to see the agreement amongst all Members for this Honourable House to move to electronic *Hansard*. In an age of technology when we hear His Excellency the Governor's Throne Speech mentioning Information Technology, I think the timing is right that we move again to the electronic *Hansard* and laws. It is frightening when I walk around this building and see piles and piles of paper continuously growing and the space getting smaller and smaller for all the staff. In my short time here, I am amazed to see the amount of paper generated on my behalf and other Members because the bags continue to increase. Some Members started with one and now they are at three bags, just to bring their paperwork into the Legislative Assembly.

When we talk about moving towards a paperless society it is important for us to look at being the pioneers and the leaders again. Right now, as it looks, if you go in and ask for one or two pages or a particular area, the staff here in their very efficient manner will

print you, usually, the first or the preceding three or four pages and also the three or four pages at the end of the area you wanted just to make sure that there is not anything you may have missed telling them. It would be so much easier when the day arrives that we can simply log on to the Website, pull up the information, as and when we want it, and if we do decide that we need to print it, then it is printed.

I was also happy to see the Member from East End with the motion for the broadcasting of events for this Legislative Assembly. We know that there is going to be some potential problems but when we talk about transparency and openness it is imperative that we start from these same halls of power.

I guess this is just as good a time as any for me to talk about a discussion we had in here concerning the Standing Orders for two hours of debate. Now, both, the Members from the Backbench and Members from the Government side have mentioned the need for the reduction in time from four hours, which is now accepted, to two hours for efficiency. I am not sure where this four-hour time came for Members debate but it just does not seem to be reasonable any longer. In speaking, during the Parliamentary session we had, with Members from other areas of the region they found it quite amusing to know that we still had four hours available to us for debate.

I looked at the possibility of four hours and just some quick numbers: if we had 18 Members in here and we each speak for four hours on a topic; that is 72 hours for each motion. For this particular sitting of the House there were some 17 Private Member's Motions and that would equate to some 1224 hours. Now, on average we usually get about a 4-hour period of time with questions and the other areas that we go into for the day. So if we look at 4 hours per day that would work out to some 306 days and that is not even including government business.

I always remember one of the earlier debate sessions—it was on an Appropriation Bill—the Second Elected Member made a reference and that is what I will use now; that would have to be a monumental waste of time.

**The Speaker:** When you say Second Elected Member, please identify the district.

**Mr. Cline A. Glidden, Jr.:** Sorry, Mr. Speaker, the Second Elected Member for George Town.

Four hours on a motion is really too long and I am happy to say we have all agreed that four hours should be reduced to a maximum of two hours. The feeling from my understanding now, is that it is okay for all motions or debates except for the Throne Speech and Budget Debate. In the case of a combination of both it is accepted to have two hours for each, a total of four hours. So, I am still within my time but I look forward to an increase in efficiency because my feeling is that we were not elected to spend all our time in the Legislative Assembly. We

also have a responsibility to be out there representing our constituents. I look forward to the reduction in time.

Another area that I have seen evidence of, so far in this House, is that in the past it was the practice for every Member to get up and debate on every motion because we agreed for it to be done that way. In many instances it was just to get up and say, 'Yes, I agree' or 'No, I disagree'. What I have seen in my short time here is that there has been an increased level of responsibility, especially responsibility for time. Members have now accepted that if they are going to agree it is not necessary for them to get up and debate the motions but to simply vote on it when the time comes. So far, we have moved along quite good and I look forward to that continued co-operation amongst all Members of this Honourable House.

Mr. Speaker, I would like to move on to the Personnel Department. When we look at the Civil Service there is much debate about the size of the Civil Service. During Question Time it came to my attention that not only is the Civil Service increasing but that the ratio of Caymanians to non-Caymanians in the Computer Services is also increasing.

What I would be happy to see the Civil Service incorporate is a sort of a business plan idea that Immigration is now using for the private sector. We should be able to identify with a structured and planned government; we should be able to identify and forecast our labour needs and we should be able to say, for example, that in 2 - 5 years time we are going to need three Caymanian accountants. So, we need to identify those Caymanian accountants, give them scholarships and send them off to school. In the meantime, we are going to get three expatriates to come in until we actually have our Caymanians who are trained to take up those positions. At the time when our Caymanians are trained and they are brought back to Cayman qualified as accountants, it should not be that we are increasing the number in the civil service by adding those three Caymanians and keeping on the expatriates as well.

I heard mention made, as to fact, that we have some 49 or 50 students coming out of university whom government gives a scholarship to every year. That was given as one of the reasons for the increase in the size of the Civil Service. What I would like to see happen is that if we have 50 Caymanians coming out, next year after those Caymanians have been given a chance to understudy they should be able to replace some of the expatriates and contracted officers we have. Therefore, when the next 50 comes out we would be replacing them with our own trained local people instead of having to increase the Civil Service.

I heard a reference being made and one suggestion was to release the Caymanians from their bond to allow them to work within the private sector. I do not think, that after we make the significant invest-

ment in Caymanians and they have agreed to come back to work with the Cayman Islands Government that they should be released to the private sectors, while we still have contracted officers in the Civil Service.

There is also the area of the contracted officers' supplement which I have been unable to get a justification of, as to why there is a need for a contracted officers' supplement in this day and age, a time when people are flocking to the Cayman Islands to look for work. I understand that twenty years ago when we wanted to encourage people to come to a mosquito-ridden, small island to work, we had to give incentives for them to come. The private sector—Cable and Wireless, CUC, those other companies used to do the same thing but now the time is here when people are coming to look for work.

I feel that regardless of whether there is that 15 percent contracted officers' supplement or not, we will still have people looking forward to coming to Cayman to work. I do not feel that we should have two separate wages. There should be a wage per position, and whether that position is filled by a Caymanian or an expatriate, there should not be a differentiation in the wage. What really enforced my feeling to that was when I looked in the budget and saw \$5 million in there for contracted officers' supplement. That is one of those areas of double standards we mentioned earlier. The time has come and the political will is here now, to say that contracted officers' supplement will cease to exist and whether you are a foreigner or a Caymanian the position will have a set wage.

Now, I know that there is a provision and one of the reasons is because of the pension contribution, and my feeling is, that the officers are not paid pension. Again, like in the private sector, pensions are now a part of the law. If we are saying that we are going to have a level playing field and not going to have double standards, so if we have to pay a pension for that particular job then so be it, there will be a pension. Right now there is a feeling within the Civil Service that if you are an expatriate or a contracted officer that you are more needed or more wanted. That feeling of being an equal is bound to cause some difficulties so, when we look at the Civil Service we seriously need to look and investigate the possibility of the removal of the contracted officers' supplement.

Mr. Speaker, I am going to be moving on, is now a good time for the break?

**The Speaker:** If it is the wish of the House I would entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Community Development, Women Affairs, Youth & Culture.

## ADJOURNMENT

**Hon. Edna M. Moyle:** I move the adjournment of this Honourable House until 10 am on Wednesday morning.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am on Wednesday. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10 am on Wednesday.

**AT 4.26 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 11 APRIL 2001.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**11 APRIL 2001**  
**10.13 AM**  
*Eighteenth Sitting*

*[Prayers read by the Honourable Second Official Member responsible for the Portfolio of Legal Administration.]*

**The Speaker:** Please be seated. Proceedings are resumed.

Item number 2 on today's Order Paper, the Administration of Oaths or Affirmations. The Administration of the Oath of Allegiance to Mr. Donovan W. F. Ebanks, MBE.

Mr. Ebanks would you come forward to the Clerk's table, please? Would all Honourable Members please stand?

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*(Mr. Donovan W. F. Ebanks, MBE)*

**Hon. Donovan Ebanks:** I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

**The Speaker:** Mr. Ebanks, we welcome you to this Honourable House for the term of your service. Please take your seat as the Honourable Temporary First Official Member.

Honourable Members, please be seated.

Item number 3 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies for absence from the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs.

Item number 4 on today's Order Paper, Questions to the Honourable Ministers/Members of Government. Question number 50, deferred from 2 April 2001, the Fourth Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MEMBERS/MINISTERS**

**QUESTION NO. 50**

**No. 50: Mr. Cline A. Glidden, Jr.** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration how many confiscations of illegal goods, both locally and overseas, were made during the period November 1996 to December 2000 from which the Cayman Islands' Government would have received some compensation.

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** The Cayman Islands Mutual Legal Assistance Authority has advised that during the period February 1993 to the present time, approximately US\$4,500,000 to \$5,000,000 has been paid to the Government of the Cayman Islands by the Government of the United States of America, as a result of assistance provided under the Mutual Legal Assistance Treaty (MLAT). Of this amount, approximately US\$3,500,000 was received by the Cayman Islands Government during the period November 1996 to December 2000.

The Chief Superintendent in charge of the Drugs Task Force has also confirmed that approximately US\$30,000 has been received by the Cayman Islands Government from the Government of the United States of America as a result of co-operation provided by the Cayman Drug Task Force section of the Royal Cayman Islands Police.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member please say what has become of the \$4.5 million to \$5 million paid to the Cayman Islands Government in the manner set out in his answer?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** I understand from my colleague, the Third Official Member, that these funds were placed, and are still in place, on receipt into a

separate fund within the Government, that is, separate from the recurrent budget.

*[Inaudible comment made in background.]*

**Hon. David F. Ballantyne:** I understand from the Third Official Member that these funds are placed in a special deposit account within the Treasury Department. What I mean by that is they are not mixed with, as I understand it, the general revenue account.

In terms of utilisation of the funds, I can only speak for matters within my own knowledge and that is that last year Executive Council authorised the use of a portion of those funds in connection with law enforcement matters, principally assisting the funding of current prosecutions. The amount approved at that point was \$1.4 million, but not all of that has been drawn down as Members will see in Finance Committee. It has been reflected in the budget proposals because it is necessary to introduce these funds to the recurrent budget process, as I indicated in an answer in an earlier occasion. I do not have the precise details of the financial arrangements, however, I would be happy to give an undertaking that these be provided to the Member if that would assist in clarifying the issue.

I would also add that although I am answering this question, I am doing so on behalf of those who receive the funds—which is primarily the Judiciary in the sense that the Chief Justice is the Cayman Islands' central authority. The funds, as I understand it from the Third Official Member, are passed to finance by the Judiciary and Legal Department from time to time as these funds are received.

The only other information, I think, that I can provide that might be helpful is an arrangement for the sharing of assets with the United States. It consists of an exchange of letters relative to the Mutual Legal Assistance Treaty (MLAT). Each case is considered on a case by case basis as to the contribution made by the respective governments and law enforcement agencies in order to decide whether it is a case suitable for sharing of assets. I think that it would be appropriate to offer to provide a copy of that asset-sharing arrangement for the benefit of the House so that it can be clearly seen upon what basis these arrangements proceed. Thank you.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Second Official Member please confirm whether or not the previous Executive Council resolved to use the funds, the \$4.5 million to \$5 million paid to the Cayman Islands Government, as a result of assistance provided under the MLAT for the purpose of constructing a new court facility?

**The Speaker:** That is a bit outside the ambit of this question, but if the Honourable Second Official Member responsible for Legal Administration wishes to answer, he may.

**Hon. David F. Ballantyne:** I would, if I were able to; however, I will undertake the answer. It will require checking the records of Executive Council to know exactly what was, or was not, resolved. I am quite willing to do that and provide the Honourable Member with an answer.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** The substantive response indicates there were approximately US\$4.5 million to US\$5 million received by the Cayman Islands Government; I wonder if there was any particular reason for the half-million dollar difference and if so, what was it?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** What I sought to convey in the answer was that the figures I gave were approximate. Those are the figures I was notified. What was intended to be conveyed was that the figure was approximately between \$4.5 million to \$5 million.

I will endeavour to obtain a more precise answer if the Member wishes me to. However, if Members will recall, I had to ask for this answer to be deferred to allow the information to be provided. I am giving you the best information I have at the moment. There is no missing half million, I am simply saying that I have given you a range on the information provided to me by those providing the information.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Are there any outstanding amounts to be collected? If so, how much and what would be the expected collection date?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** I am not really in a position to say. There are matters that are regularly under discussion, but these matters are usually between the Cayman Islands Mutual Legal Assistance Central Authority and the US Department of Justice. I am not necessarily privy to those. These issues arise in case after case because the assistance provided under the treaty is taken into account in terms of determining what the appropriate share, if any, of assets would be.

That is really all I can say, however, I can undertake to obtain details of any cases that are under discussion at the present time.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Mr. Speaker. Can the Honourable Second Official Member explain how this process actually works? Who is the controlling officer responsible for ensuring that the funds due to the Cayman Islands Government are actually collected?

I know it depends, as you said, on what level of assistance we give. I just wonder how that is calculated and ensured that we are getting what we are supposed to be getting, and whose responsibility that falls under.

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** My understanding is that this is a matter between the two central authorities of the US and the Cayman Islands, and that it is the CI Central Authority that has the responsibility of determining with the Department of Justice what proportion in a particular case should be allocated.

On the basis of the asset sharing agreement, each case is looked at on a case by case basis, as I said. I am aware of discussions in the past and I was present on one occasion when funds were handed over at a meeting between the Department of Justice and the CI Central Authority.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Would the Honourable Second Official Member please clarify who comprises the Mutual Legal Assistance Authority of the Cayman Islands?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** Certainly. Under the Mutual Legal Assistance Treaty between the US and the UK as extended to the Cayman Islands, which is the treaty under which the asset sharing arrangement operates, and under which these funds were obtained, the central authority is the Chief Justice.

There are other central authorities in relation to other arrangements, but these funds have been derived from that source. I am not aware of any funds being derived from any other source.

**The Speaker:** Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say if the Police Department has ever received funds

from confiscation of illegal drugs or goods during that period?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** In the written answer I endeavoured to give the information that was provided in relation to the Drugs Task Force. As I am not otherwise aware of what the RCIP may have received, I have to rely on the information I have been given. I will have to refer to the First Official Member in order to give you the assurance that was a complete position. However, those advising me have provided this information and I assume it is complete. Just to be sure, I will undertake to check the position with the First Official Member and try to answer that supplementary question. I personally am not aware of any additional receipt beyond what I have been told.

You will understand, I am not an accountant, although I appreciate the need for a position. The information that has been provided is the best information that I have been able to obtain at this juncture. I will endeavour to get a more accurate picture. I think that ought to be able to be obtained by an analysis of the account to which I have referred in the hands of the Treasury. Again I will refer to the Third Official Member to obtain that information.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I am not an accountant either, but I guess there are more questions than there are answers.

Can the Honourable Second Official Member also undertake to see that the \$30,000 received by the Drugs Task Force was put into the central government as he spoke of?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** Mr. Speaker, what I said earlier was my understanding. I do not have control over these accounts; therefore, I would have to ask the person who does have the control to be able to answer that question definitively. I have no reason to believe that it was not.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Second Official Member indicate if the entire amount of \$4.5-\$5 million including the \$30,000 was received in monetary terms or was some of it in assets and/or equipment?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.



**Hon. David F. Ballantyne:** Mr. Speaker, it is my understanding that these were monetary payments. I emphasise, it is my understanding. I will confirm that. I am not aware of any payment in kind.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Member say whether any of the monies referred to in this account were used as part of any operations by the Drugs Task Force?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** Mr. Speaker, I do not have any knowledge of the activities of the Drugs Task Force, so I cannot say whether or not they were used for any of their operations. I am of the general understanding that monies in the shared assets category are intended for use for law enforcement purposes, so, it is possible.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I get the feeling that we may be asking the wrong Member these questions since a lot of these questions involve the police. Be that as it may, can the Member say what internal controls are in place to ensure that the amounts collected confer with what was actually received? More importantly, who would be ultimately responsible to ensure whether or not the amounts received are what should have been received?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** The amounts that should have been received are the amounts agreed on a case by case basis, certainly under the MLAT. It would be a matter for the judiciary, or, to be more accurate for the Chief Justice (as the central authority under that treaty) to forward those funds as I understand happens. They would be accounted for within the treasury department of the Finance portfolio.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Does the Member know of any other way those monies received by the MLAT Authority have been set up in the country? Is there any other means of receiving any shared amounts from these confiscated goods?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** I am not aware of any other means of receiving these, although the issue is always under discussion. There is currently a proposal by another country to enter into a similar arrangement, probably in connection with mutual legal assistance arrangements. This would reflect the fact that these are usually payments made by way of contribution in recognition of assistance provided by the CI authorities.

The answer is that I am not aware of any other arrangement, Mr. Speaker.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Can the Honourable Member say if this is the same account that was at one time known as the Drug Asset Confiscation Account?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** I am reliably informed that it is.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, I know it has been said that we might be asking the wrong questions, but since we have the three Official Members in attendance it is possible that –

**The Speaker:** I would remind you that this question is directed to the Second Official Member.

**Mr. Cline A. Glidden, Jr.:** Yes, Mr. Speaker, in looking at his answer, there is one amount given to him from the Mutual Legal Assistance Authority (MLAT). There is also another amount that I find a bit worrying. It says that the Chief Superintendent in charge of the Drugs Task Force confirmed that approximately \$30,000 has been received. What checks and balances go into place when monies are received? We have one figure from the Authority, and another figure from the Chief Superintendent of money supposedly owed. Another question was if there was any other way of collecting these funds. The answer was not that the Official Member was aware. It is obvious to me that we have an authority collecting funds, and the Chief Superintendent of the Drugs Task Force collecting funds as well.

I wonder if the Honourable Member can give us the information now, or an undertaking to provide the information, as to whose responsibility it actually is to collect these funds that are part of this account.

Another reason for asking this question is that as a member of the Public Accounts Committee I wonder who would be responsible as the controlling officer for audit purposes of that account.

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** When I answered the question earlier about not being aware of any other mechanism, I meant other than the answers given here. I did not mean other than the MLAT. The answer, in relation to the Drugs Task Force, has been provided to give us as complete an answer as I can give.

To answer the question as to how funds received by the Drugs Task Force are controlled, I would need to refer that matter to one of my official colleagues. I will undertake to provide an answer to that question in order to satisfy concerns about funds received. My own knowledge is limited to the MLAT, but the other matter was included for the sake of completeness. I have no reason to believe those monies are not properly controlled, but I do not have personal knowledge of those controls because the police force does not come within my sphere of responsibility.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The Honourable Member said that monies collected are paid into a segregated account. Can he tell us what the current balance of that account is?

**The Speaker:** I think that is outside the ambit of this question, but if the Honourable Second Official Member responsible for Legal Administration wishes to reply, he may.

**Hon. David F. Ballantyne:** It is outside the ambit of the question and also outside the ambit of my knowledge. I would have to ask that my colleague the Third Official Member assist me in providing a written answer to that, which I am quite happy to provide.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** The Second Official Member stated that certain monies had been used out of this account. Can he say what the intention is in terms of these monies? Under the MLAT or any other law is there any clear definition as to exactly what these funds can be used for?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** So far, as I am aware there is no definition in the law, but, in the asset sharing agreement, there is an understanding that these funds will be used for law enforcement purposes.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Member refer to the amount collected by the Central Authority? What type of operations or cases are we talking about? Are they drug operations? How are these funds derived?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** I would have to obtain that detailed information from the Central Authority, but I will endeavour to do so and provide an answer.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Can the Honourable Member say if at one time it was considered that the drug demand reduction and rehabilitation would be one of the areas these funds would be concentrated on?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** I am not aware of that, but it is possible. Again, some research will be needed to know whether or not that was the case. Perhaps it predated my involvement. I am aware that under MLAT it is an understanding that funds would be used for law enforcement purposes. I do not know if there is any other interpretation that has been applied to that in the past. No doubt, some enquiry can be made because there will be evidence of any withdrawal from that fund and the use to which it was put.

Perhaps the simple way to deal with the issues is to provide details of the cases in which funds have been forfeited and any details as to the uses to which those funds have been put.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Member say who is responsible for the administration of this fund and in particular, who decides on how the money in the fund is spent and what it is spent on?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** As mentioned earlier, and as confirmed by the Third Official Member, the deposit account is maintained in the treasury department of the Finance portfolio, so, in that sense, it is administered by the portfolio of Finance. In the sense of who approved disbursements from the fund, in my experi-

ence, these matters are referred by means of a paper to Executive Council.

**The Speaker:** Two additional supplementaries.  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** It is obvious from some of the questions asked that a number of these matters relate to amounts from overseas.—

**The Speaker:** You will turn this into a question?

**Mr. Rolston M. Anglin:** Yes, Mr. Speaker.  
Can the Honourable Member say, of the \$30,000 reported by the chief superintendent of the drugs task force, how many drug operations this would have involved?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** I do not know how many operations this relates to. I am not party to the information about these amounts being paid in. It would be my understanding that it was paid in through police channels. The information was provided in order to give a complete picture. I can ask, through the First Official Member, for details if it was one operation or two. If details of cases are being provided, I will undertake to provide those details both for the MLAT cases and for any police cases so the Member can have the answer to that question.

**The Speaker:** Final supplementary.  
The Elected Member for East End.

**Mr. V. Arden McLean:** It is obvious that the Second Official Member genuinely cannot answer a lot of these questions. Can he direct us to where we can get these answers? I know he has given a number of undertakings to try to get some replies in writing, but can he direct us as to how to get these questions resolved other than those he has undertaken to reply to?

**The Speaker:** The Honourable Second Official Member responsible for Legal Administration.

**Hon. David F. Ballantyne:** This is a difficulty because it covers matters that are outside my portfolio, although I am answerable in the House for matters pertaining to the judiciary, and quite happy to maintain the undertakings that I have given and supply the information.

I will say that, if any Member has outstanding questions following the supply of that information, I invite them to take it up with me, and if I do not have the answers, I will get the answers for them.

**The Speaker:** That concludes Question Time for this morning.

Moving on to item 5, Government Business, Bills. Continuation of Debate on the Throne Speech, delivered by His Excellency the Governor on Friday 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday 21 March 2001.

The Fourth Elected Member for West Bay continuing.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE APPROPRIATION BILL, 2001

##### DEBATE ON THE THRONE SPEECH, DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

##### TOGETHER WITH

##### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**Mr. Cline A. Glidden, Jr.:** Thank you, Mr. Speaker  
On Monday, I spoke on the state of affairs of our nation. I spoke a bit on the judiciary, the portfolio of Internal and External Affairs, the ongoing situation at the prison, problems we were having with the police and the need for more parental and community support for police officers.

I also touched on the immigration issue which presently exists, the unresolved situation as to long-term residents and the discussion on the rollover. I talked a bit about the ongoing business here at the Legislative Assembly in our move to become more in line with the electronic age.

When I was finishing up, I spoke about the Personnel Department and the need for a succession and business planning to strike a balance in the Caymanianisation of the Civil Service. I also spoke about our Budget and the fact that the Honourable Third Official Member said that we were spending some 4 percent more during 1996 to 2000 in our expenditure than we were receiving through our revenue, which put us in a position—

**The Speaker:** Please do not repeat too much of what you have said. Repetition is not in order.

**Mr. Cline A. Glidden, Jr.:** Thank you.  
Moving right along, I would like to start with the Portfolio of Legal Affairs.

I was happy to have received answers to my questions to the Second Official Member concerning the asset confiscation fund and the fact that we have collected some \$4 to \$5 million. I look forward to further clarification of the questions he has undertaken to answer.

When we look at the Portfolio of Legal Affairs we see a significant increase in the Budget. Upon questioning I have come to find out that we are increasing the area of the financial reporting unit significantly. It has increased in size to some seventeen members and we understand that is due in part to some ongoing activities which the Department has had to get deeply involved in. We accept that in light of the present situation, on a worldwide basis when it comes to financial sectors and our position as an offshore financial destination, it is very important for us to be seen to have been proactive in the regulation of our financial affairs.

I think it is a step in the right direction to make sure we are in line, and the world can see that we are prepared to do our part to be responsible partners in the international finances of the World. My only concern, when looking at the size of the financial reporting unit, was that, with the big increase in size, there does not seem to be as many Caymanians in that department as I would like to see. We see that three of those seventeen are Caymanian, and two more have Caymanian connections. It is a bit disappointing to me that a new section of the Government that will involve quite a bit of training was not able to attract more Caymanians.

As far as the constables are concerned, my understanding is that they are at the lower end. Even the police recruiting department were not able to get Caymanians—we have five from the UK. I would really like to see an attempt made to use some of our local constables and provide them with the training to go along with the development of this new area in our financial reporting unit.

I voiced concerns with some areas of the Budget; this is one of them. There is an increase of some 31 percent in expenditure over the 2000 actual. When there is need for financial prudence and there is a 31 percent increase . . . even though I know it is the financial reporting unit increases, I look forward to getting more answers during Finance Committee.

I want to mention the Internal Audit Unit (IAU). The Public Accounts Committee (PAC) had some dealings with the members of this unit. I am happy to say that we have a very capable Internal Audit Unit and that great strides are being made in the work of that unit.

I would now like to move on to the Monetary Authority. There is major expansion going on. Again, it is good to see that we are being proactive in our steps to meet the international compliance issues. I know we have been given the undertaken by the very young capable Caymanian manager of that authority, as to the far-reaching attempts to attract as many

Caymanians as possible to fill the expansion areas required in the Authority.

I have a bit of concern as to how this additional expense is going to be recouped from the financial industry. I know there is a general feeling in the populace of these islands that the financial services sector does not pay its part. Now, with increased costs due to financial obligations, there is a concern as to how the costs are going to be managed. In one of the briefings we had with the Third Official Member, we were made to understand that the banks headquartered in the Cayman Islands fall under our responsibility as a Territory. Whereas the banks that are only branches with head offices located in other jurisdictions, which are classed by the Organisation for Economic Co-operation and Development (OECD) as being compliant, are mainly responsible to their head-offices.

It indicated to us that it is more our responsibility for regulating banks headquartered here in the Cayman Islands. Thus, the regulation process will be more of a financial strain on the resources of the Authority. I assume the Authority is looking at ways and means to balance the additional costs for banks headquartered here as opposed to those with branch offices here. We look forward to the total independence of the Monetary Authority.

I know attempts are being made to get a bit more from the financial industry without making us less competitive in this highly competitive market.

Last year, a motion was passed in this House with an undertaking given by the Third Official Member to investigate the possibility of a reduction of interest rates charged by banks. When we discuss the high cost of living in Cayman, and look for the justification of these high costs, the most significant reason is the high cost of money in the Cayman Islands. The undertaking by the Third Official Member to look at the interest rates and agreements with our utility companies is very much needed at this time of economic hardship in the Cayman Islands.

There is a genuine need for clarification as to why our institutions are at 12 percent for long term 30-year mortgages when other areas of the world are charging 6.7 percent. During a time when things are obviously getting tighter it is becoming harder to balance, not only our country's budget, but our people's budgets also. It is imperative for the powers that be look to provide whatever easement they can.

There have been discussions about funds from defunct companies. I was pleased to note that there was some money available to the Cayman Islands Government, due to the fact that companies struck off the register have exceeded the period of time defined in the law and the assets can now be claimed by government. Hopefully those funds will assist us in this time of hardship.

When we talk about looking for new ways to raise revenue, we know that the most commonly used method has been to increase duties. I know the pre-

vious administration talked about the effect the increases will have on the common people in these Islands. I cannot say that I am happy with the new revenue measures. In a country where our revenue base is limited, and looking at the current situation, I think the attempts made were a genuine attempt to try to get the required revenue without causing too much pain and hardship on the small people.

We have seen the proposed increase, replacing the duty on bakery products. I noticed that bread was intentionally left out. I think the replacement of that duty was very well thought out and from the feedback I have received from the general public, it has been accepted. This is due to the fact that when the previous administration removed duty from these products the benefits derived by the consumer were almost nil. When the duties were removed, the people saw no difference in the cost of their goods when shopping at the supermarket.

Even though it was a genuine attempt by the previous administration to allay some of the hardship, if the consumer does not see any difference (but the Government saw a difference in \$12 million in revenue not received) it means it went into the pockets of the suppliers. That attempt to assist the common people was not successful. It only achieved an under-performance in revenue. If that \$12 million had been received, we would have been in a much better position at the end of 2000. So, when I support the increase in duty on bakery products, it is not easy to do, but in light of what has transpired I see no justification to not allow government to collect \$12 million if the people are not recognising any savings.

When I first saw the duty on water, I wondered why we would want to make it dutiable. It was then brought to my attention that wholesalers bring in bottled water duty free. When the Caymanian companies try to make a living from bottling water locally, they are charged 20 percent duty for their imported bottles. Instead of encouraging the Caymanian entrepreneurs, we were encouraging the wholesalers. I see this duty not only as a revenue measure but also as an attempt at levelling the playing field. Government must encourage our local entrepreneurs and not disadvantage them by making it more difficult to be in business in Cayman.

I found it very troubling when I got a call from one of my constituents saying that I should not support the proposed duty on wave runners because he was planning to buy one. I realise that some of our people only look at their personal needs, not those of the country. With the number of wave runners and other watercraft brought here and not used by our local fishermen, but used by major businesses for rental machines, I see no reason why we should not be collecting a duty on these items.

I have some questions concerning the budget, but knowing the position the country is facing I have no option but to support the new measures put in place. Even though I would prefer to not see any new

revenue measures, I also understand the reality of the situation.

I would now like to move on to the Ministry of Education, Human Resources and Culture. We all recognise the importance of having a capable and modern education system. I know the Minister has quite a challenge to turn around some of the problems. He is off to a good start. I want to commend him on his tabling of the Millett Report. Even though the report was received over one year ago by the previous government, there was some reason why it was never tabled. After seeing the report I realised why they wished it not to be made public—it is a damaging report. I fully understand why any Minister who was responsible for what was contained in that report would want to ensure that no one else saw the report. I am happy to see that the new Minister, in a very proactive way, has taken on that report as the way forward to improve the existing system.

I was happy to see that Government asked the Second Elected Member for Bodden Town to chair the Committee in the Education Ministry. The Committee was looking at reasons for the lack of Caymanian involvement in our education system. I think that is a good indication of the partnership this Government is proposing in using all resources available, regardless of what side or political differences, in an effort to obtain the best education system and, hopefully, the best the country can provide.

All the young people in this country deserve government's encouragement, and that of their parents, the schools and the local employment community, to see that they have opportunities to pursue. Parents are concerned about many issues including literacy and numeracy; government needs to respond to that. I suggest that we need testing at the various schools to allow parents to make choices about the education of their children, and to also encourage the schools to excel. Information must be publicly aired.

One cry we all made during the campaign and in this House is for vocational training. Vocational training played a very important part in my life. It is near and dear to me. When I finished school, I was fortunate enough to have been employed by the local communications company who at that time seemed to have been very keen on training the local Caymanian. Any time the name "Cable & Wireless" was mentioned, it was also said that they provide a lot of training for Caymanians. They were very much respected for that. I am happy to say that I was one who was able to benefit from the training provided.

It appears that mentality has changed, but I do stress the need for vocational training. We all agree that our present education system caters wholly and solely to academics, and that a huge percentage of our young people are left out, and fall through the cracks in the system.

Even though we have not addressed vocational education, other institutions, like the one referred to in the newspaper, International Correspondence School,

offers distance learning. I know many of our Caymanians have taken up that opportunity. But I feel that we should have more emphasis placed in our high schools and our Community College for the provision of vocational training.

We have some problems with discipline in our primary schools. I know the Minister is working diligently with those schools because I visited one of the primary schools with him.

I recall getting a call from one of our primary schools. They were having a problem with kids breaking into the school. Upon investigation, we found that some 5<sup>th</sup> graders were caught breaking into the school. When asked how they gained entry, they explained that in their science department they had worked with the theory of how metal expands when heated. They used lighters and torches to heat the window frames, allowing the frame to expand so they could remove the windowpane. There is no question that our young people are capable of moving forward, but it is important that at the age when they are being moulded, that we are able to mould that energy, that level of sophistication and intelligence in a positive direction.

There is also a need for adult education. There are many instances where the bumps in the road have knocked our young adults off their desired path. For whatever reason, they have not progressed to the level they would like to. We need to make sure that we allow those people who now realise the need they were unable to address during their education years, to have a productive adult life.

Another area I think is important to address, is the labour need in Cayman. We need to do a better job of steering people in the direction to fill some of those needs. We also need to place more emphasis on Information Technology (IT) training.

We need to work on providing incentives for doing good. Much is made of the ones who have got into trouble, but the time has come for us to offer support and encouragement for the majority of our young people who are doing well.

The Second Elected Member for Bodden Town mentioned how easy it is to get a scholarship in Cayman. We have to question whether we have made it too easy, which has caused complacency. I have full confidence that the Minister of Education will utilise his resources and the critique on the Millett Report to improve our education system.

Moving on—

**The Speaker:** If you are moving on to another subject, I think it would be a convenient time for the morning break. We shall suspend for 15 minutes, but I ask all Honourable Members to please come back in 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.35 AM

#### PROCEEDINGS RESUMED AT 12.02 PM

**The Speaker:** Please be seated.

Honourable Members, I must express my disappointment. I asked that we return to this Chamber within 15 minutes. It has exceeded 30! I ask for cooperation if we are to ever get this session concluded.

Debate continues on the Throne Speech and Budget Address.

The Fourth Elected Member for West Bay continuing.

**Mr. Cline A. Glidden, Jr.:** Thank you.

I would like to move on to the area of human resources.

We realise that we need a very skilled labour force if we are going to be competitive. If we do not invest in the vocational skills so important to our future, particularly in the fast growing service areas, how are we going to provide jobs for the young people leaving the education system? I think it is important that we work towards building a national training system into some of our industries which will play a critical role in establishing Caymanian businesses, services and products as leaders in the worldwide market.

Quality training is about equipping people with skills and then matching that with the needs of employers. In doing some research, I read about some apprenticeship systems used in other developing countries that work as a partnership between government and employers. As in most cases, it requires government to step in and assist with the financial burden associated with training. As we know, training is a major issue in Cayman. There is much discussion about the fact that people prefer to import labour than train our own. I think government should look at incorporating an apprenticeship system even if it has to assist with some of the payments.

We would like to achieve a system where employers can place emphasis on a greater level of training involving the trainees in the earlier part of their development to enable those skills to be accumulated and thus make it possible for those qualifications and credentials to be obtained. We could ask employers to pay for the productive time of young trainees, and government will make a contribution to top up the salary to make sure it meets the required wages.

It is important for us to recognise that the concept of training is not solely about the trainee. We need providers of training, but we need employers willing to participate in that structure as well.

In the hospitality industry, as in many other service industries, there is no traditional apprenticeship. Past administrations really did nothing for apprenticeship. We need to introduce a regime where industry is encouraged to work with training providers to get accredited training programmes in place, and to provide new apprenticeships in industries where new job op-

portunities are available for the people of this country. Apprenticeships will help young people achieve a rewarding career.

This is all about getting young people into jobs that they find satisfying and rewarding. Employers will see their business become more productive and competitive if they take on an apprentice, especially in the new apprenticeship framework I was referring to. As part of this scheme employers would only be paying for the productive part of the time the apprentice is employed while gaining the benefits of that productive time.

It is attractive for business to pay for productive time and have government step in to support these new trainees with a top-up of income, so that the trainee can enjoy at least the required wage for survival. To achieve this, the Government must make a long-term commitment to training the young people of Cayman so that our companies and small businesses, micro-business in particular, can continue to be great contributors to our country. We must ensure that training is demand-driven as far as possible, with employers selecting the training that meets their business needs.

We have heard of plans to change the existing Labour Office. We know there are some deficiencies there. In my dealing with the Labour Office I have found that we have some very capable Caymanians, but there are some serious restrictions that they are working with. Some of them are space constraints, but there is also the obvious need to change the legislation, that being our Labour Law. I am happy to know that one of the private members' motions coming to this House is for a review of the Labour Law. I was also pleased to hear the Minister's commitment to agree to that review.

The two cases recently in court were of very significant concern. We lost them because of inadequacies and loopholes existing in our current Labour Law. At a time when there seems to be much difficulty in our labour market it is imperative that we have an up-to-date Labour Law where both employees and employers will be enabled to come to an agreement.

I now move on to the Ministry of Community Development, Women's Affairs, Youth and Sports.

Social problems increase when we raise the cost of living to provide services to our people. The social problems continue to outpace the amount of money that can be collected from our current revenue measures; this is similar to what has happened over the last four years from a financial standpoint, where expenditure has outpaced revenue. Then we reach a crisis such as we have now.

There has been a need for some time to expand the Golden Age Home in West Bay. I know it might not be achievable in this coming financial year, but I look forward to the Minister's support that all attempts will be made in the not-too-distant future to address some of the expansion needs in that centre.

I was disappointed, during question time a few days ago, to hear of the state of the Sunrise Centre in West Bay. That centre was started some fifteen years ago as a temporary facility that was to be replaced in two years. Now fifteen years later, at a time when we brag of how wealthy Cayman is going through the economic boom we went through for the past ten years, and to still have a facility that was only worthy of being classified as a temporary facility some 15 years ago, it is a downright shame and a very clear indication of where the emphasis has been placed by previous administrations. It is obvious the emphasis is not on those people who are in such need.

It is frightening to know that we have a facility housing people with special needs, many dependent on others for the very basic functions of daily life. That centre does not meet our building or safety requirements. We basically have a catastrophe waiting to happen. I know that it was not this current Government's fault; it is a situation they have inherited. I plead with them to urgently attempt to address this issue now that it has been brought to our attention. It would be a great injustice for us to wait until a tragedy occurs before something is done.

I want to talk briefly about the notion of have's and have-nots. It is something that we have to be very careful of because we are developing a society where a large number of people (a number which is growing all the time) are becoming either unemployed or very barely employed. Then, on the other side of the coin, we have people who are doing very well from the system.

I had a very interesting letter sent to me recently about this concept, and how we are promoting the situation where there are large numbers of unemployed or barely employed and very much at the margin of survival. However, on the other side people are very well off. I do not think the situation can continue without our suffering as a country, and also suffering in the eyes of the international community.

We have to ask ourselves if the underlying values in our community and the belief in ourselves are strong enough to create the ethos to fight and risk death to defend, or are we too despondent to care? What is the cause of this despair?

I suggest that we need to look back at the creation of the welfare state. In an attempt to put up a safety net, but also in an attempt to get re-elected, we have created a security blanket which many people refuse to give up. We have bred an entitlement mentality, a culture of dependency. We know this assertion of rights without cultivating responsibility is destructive of cohesion in society and ultimately destroys the individual as well. I believe in a more liberal philosophy that asserts the worth of each individual. Liberals declare a society is only just if it respects the rights of each individual and what is sometimes forgotten is that we require each individual to do the same. In doing so, we build a society built on an intricate web of rights and responsibilities.

I know it is not possible to wave a magic wand and have Social Services expenditure disappear entirely. Unless anyone thinks I am some sort of anti-assistance politician, I also believe that there are a lot of Caymanians in genuine need, and that there is an obligation on all of us to provide for those who cannot take care of themselves. However, the safety net is not intended to be a comfortable hammock swung across two palm trees swaying gently in the breeze.

It is a national disgrace that some of our people choose to not work, instead of working in what they see as menial jobs. I know of many Caymanian mothers who worked in condominiums and hotels cleaning floors and bathrooms, but that seems to be a thing of the past; that was for the older generation. The new culture states that it is better to apply to Social Services for assistance than to take some of the jobs that we see as being below us.

This culture of conceited superiority is really one of childish, selfish dependency on others. I would like to say to these and other young people of the Cayman Islands that the measure of your worth is not where you start in life, but where you end.

My concern about the ease with which people get and retain social service assistance is more about the impact it has on their self worth than the impact it has on our federal budget. It used to be that our social service system provided temporary financial support while people got back on their feet. Now, it seems to be a lifelong entitlement and once people get it they think they are entitled to it forever.

As citizens, we expect that those in receipt of social service benefits should do something to reduce or remove their reliance on government. The term "work fair" was coined in the US to refer to the concept of reciprocal obligations associated with the receipt of welfare benefits. By and large most countries have implemented schemes designed to coax people into work and away from benefits.

More has to be done to encourage the positive aspect of self-reliance and entrepreneurship.. These are not new concepts. In 1945 Robert Menzies said, "Only from genuinely free, progressive, diligent and encouraged individuals can a really powerful nation be built."

We see, in many cases, men not taking responsibility for their children. Dead-beat fathers cause a burden on Social Services. Men have to accept responsibility. The burden of raising those children falls on our society, and in many instances, society does not do a good job.

Fathers have a responsibility. We, as legislators, also have a responsibility to ensure that fathers who do not voluntarily accept their responsibility are forced to accept it. I wish to congratulate the organisers of the Thousand-Man March that we are looking forward to this evening. I hope it is well supported. I look forward to offering my support as well.

Another subject of grave concern is the area of Women's Affairs. During Question Time it was sad-

dening to hear that such a high percentage of crimes committed in the Cayman Islands were committed against women. Society has forced women to work two and three jobs in many cases.

And we have heard that for every action there is an equal and opposite reaction. The reaction we see from the stresses placed on today's family is a great breakdown of the family structure that was once so strong. I think one way we can move forward in attempting to encourage family bonding is to look at what other countries are doing.

I have spoken to the Minister responsible, and there is some possibility of starting Day Care centres at places of employment. It is important that government leads from the front. I am sure that if we were to set an example and encourage our mothers I would hope that the private sector would follow suit and get involved as well. So, I encourage the Minister to investigate the possibilities of changing some of the existing policies and look at new and innovative methods.

I also know that there is a lack of equality in jobs and unfair remuneration payments. We hear of many instances where women are paid less than men for an equal day's work. We have to try to ensure that these situations are few and far between. The Scandinavian countries have realised the need for family bonding. They encourage flexible working systems that allow wives to work an additional hour or so a day allowing them to work four days rather than five so they can have an additional day to spend with their family.

[interjection]

**Mr. Cline A. Glidden, Jr.:** I am reminded by the Minister that she is also investigating the possibility of paternity leave.

I now turn to Youth. It is disheartening to see our present situation in terms of our youth. I have to ask whether our young people have a sense of self-worth and respect for the worth of others. Record levels of youth crime suggest that they do not. If we ask if our young people have confidence, survey after survey suggests that they do not. Do they have self-reliance? They look to others, whether it is to government, businesses or parents, to solve their problems. The country's problems or indeed the world's problems, suggests they do not.

A veil of hopelessness has descended on many of our young people as they look to drugs to create the psychedelic illusion of a better place or merely to dull the senses so the monotony is more bearable.

Mr. Speaker, I say that the most important task this country faces begins with our children, our young people—our future. Parents, the education system and community leaders must take on the responsibility of inculcating our children with a sense of self-worth and personal obligation to society. It is out of



such values that optimism and commitment to self-improvement are born.

A few weeks ago, there was a group of High School students on a tour of this Legislative Assembly. I asked them what they saw as the major issues affecting Cayman. They replied: drug use, youth murder, homelessness, and poverty. My eight-year-old nephew worries about environmental degradation. My ten-year-old niece worries about escalating crime. What happened to the innocence of youth?

Our young people deserve hope. Modern Western society is regarded as the pinnacle of human development and progress. Surely, we can do better than having our children living in poverty and a lot of our people dependent on government.

As we look to the proposed Budget, we can start admitting that the time of big government with hand-outs for all is over. We need to look to ourselves first and develop again those values that our sea-faring forefathers so epitomised when they made the ultimate sacrifice—self-reliance and courage and confidence—recognising the inherent worth of each individual, and loyalty to one's nation.

There is no greater challenge facing this country than the development and encouragement of our young people, to nurture these values in their lives. I commit myself, through the course of my parliamentary career and beyond, to relentlessly pursue this end.

I am happy to see that our Government is implementing with a degree of urgency the Youth Commission. For far too long the solution has been to ignore the problem hoping that it will go away. Not so long ago, I remember hearing the former Minister of Education stating that Cayman did not have a gang problem, that we only had "groups." Now, the evidence has proven that not only do we have gang problems, but we also have serious negative gang activities.

I look forward to the Youth Commission of Enquiry using all resources available to them. The appointed chairman is a Member of the so-called Opposition, but I am glad that whether it is "Government" or "Opposition" the Government's stance is that the best person for the job should do the job. I say once again that it shows great foresight and it gives me great encouragement to see that things have changed in this Legislative Assembly. The emphasis is no longer on whom one supports, but it has moved to how we can best achieve the needs of the people of the Cayman Islands. I think that is definitely a step in the right direction and I pledge my support to the Youth Commission.

I now move on to the Ministry of Planning, Communications and Works, starting with the Department of Agriculture (DOA). Very quickly after taking office we had the international concern about the Hoof and Mouth disease. Our capable Minister and the capable staff of the DOA have taken the required measures to protect our fragile agriculture in Cayman.

There were questions of overkill when action was taken, but I am happy to see that when the hard decisions had to be taken that our Government stood up and took those decisions. They have so far proved to be the right decisions necessary to protect us from this dreadful disease plaguing the world.

I now move to the Department of Environmental Health. I look first at the solid waste management and the landfill. I would like to read an email that was sent to me in February concerning some activity at the landfill. It says: **"I was made aware this afternoon of a disturbing incident that occurred today at the landfill. I think that someone in authority needs to be informed, if not involved. We were at the treatment works this afternoon examining the septic truckers' unloading station when we observed a tanker discharging waste oil into the landfill. This was at the top of the mound where material is currently being land filled.**

**"I phoned the acting landfill manager to report this to him, and he explained that they were aware of the situation but it was not exactly as it appeared. It seems that one of the waste management companies had a load of waste oil that was contaminated. This made it exempt from pure waste oil that the landfill collects and sends to Florida for recycling.**

**"The company that does the waste management stated that he had approximately five hundred gallons of the substance. The decision was made to dig a containment area which was lined with polyplastic sheeting and the waste oil would be pumped off and stored in the open area while testing was being done.**

**"The acting landfill manager also stated that if the substance was not contaminated with any hazardous substances they were considering mixing some of the liquid portion with shredded paper and incinerating it. This unloading is what we observed.**

**"The acting landfill manager went on to state that the waste management company brought in a total of three tankers and discharged an excessive (quantity unknown) amount and overfilled the lined containment area. He stated that they now have a fair amount of this waste petroleum product leaching directly into the landfill.**

**"He stated that because there was a weak or non-existent legislation defining what is hazardous waste, compared to what is not, the landfill often had to deal with some poorly planned events to the best of their ability. Is there some mechanism in the law whereby the person who generated this oil would be compelled to pay for proper hazardous material disposal in the event the landfill was not equipped to deal with such waste?"**

I thanked the individual for sending me this, and I plan to pass it along to the Minister responsible. When we talk about leakage of oil and petroleum

products into our landfill, and we have already been made aware of the proximity of the landfill in relation to our treasured North Sound, it is obviously of great concern. I have no doubt that the Minister will investigate.

I now move to the Planning Department. I see that the Department has started with a series of district meetings. Planning is critically important to our country, especially in the absence of a defined growth management plan. They are the only control we have in place to attempt to control over development of our country.

I know the Minister is actively researching new building space for government. I have heard of discussions of the possibility of increasing building heights. I say with the cost of land, the limited availability, and the pace of development, space could be better utilised if we were able to build higher. I think the time has come in our development when we need the proactive and visionary type of government that will recognise the need. Of course, there will be opposition but when government pays some \$5 million per year on rental space, it is obvious that there is a need for additional space; but we know some of the restrictions will be related to the cost of land. I look to the Minister coming forward with some proposals as to how we can overcome these obstacles.

I will now move on to the Public Works Department (PWD). I know there are many challenges facing the Minister and the Department. One of those is the road section of PWD. Upon the new Minister taking over this responsibility, he entered into discussions concerning the staffing requirements and existing staff levels at PWD. If memory serves me correctly, he explained that he found a situation of gross overstaffing in the road section.

Any time we look at staffing, it is very ticklish. It is always easy to hire staff, but the laying off is a touchy situation. I cannot help but mention how irresponsible it was prior to the last elections to employ some 505 members in a section requiring 65 staff. We know how the system works during Election time—anyone who goes to his politician looking for employment is sent in many instances to PWD in an attempt to earn political favours for the upcoming election.

My understanding is that the Minister has gone about the tedious task of trying to identify where the excess employment is occurring in an attempt to streamline the Government's expense to a more satisfactory level.

I was also happy to hear from the members of the road section that the labour cost for our roads has decreased significantly. We are at a stage where the cost for roads is worked out to a ratio of 80:20 material to labour. When we talk about the need for government to operate as efficiently as possible, I think we are headed in the right direction with the road section. I know there is a lot of criticism about what happened in the last twelve months. I was not surprised

to hear that the road section members were given X amount of money leading up to the November 2000 election, and told to spend and spread it around to make as many people as possible happy.

I want to remind the general public that even though it was the road section of PWD doing the work, their orders came from above.

**The Speaker:** I think this is a convenient time to take the lunch break. I want to remind the present speaker that he has 28 minutes remaining. When we resume at 2.15 pm I ask the next speaker to be prepared to begin. I shall re-enter this Chamber at 2.15 pm and I ask Honourable Members to provide me with a quorum.

We shall now suspend until 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.48 PM

#### PROCEEDINGS RESUMED AT 2.15 PM

**The Speaker:** Please be seated.

During the break we audited the Member's time. He actually has 35 minutes left.

The Fourth Elected Member for West Bay continuing his debate on the second reading of the Appropriation Bill 2001.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, thanks for the additional few minutes.

Moving on to the building section of PWD: I mentioned the need for fiscal prudence when it comes to PWD and the road section. I also have a similar concern for the building section. It is a well-known fact in Cayman that the cost of public buildings is much higher than in the private sector. There appears to be a few reasons for this.

Efficiency is a concern, but then when we look at the new school being built, the Lighthouse School a very necessary project. Outside the school I see some three or four different colour finishes. We know that adds to the cost. I was also informed that the cabinets for that school have seventeen different colours of Formica. Those kinds of extravagances are some of the reasons why we have such expensive buildings.

There are some very capable architects at PWD, but in an attempt to make their mark, there may be a lack of guidance. There seems to be quite a bit of extravagance—17 different colours of Formica! We know nothing could justify having that multicoloured.

When I heard of the classrooms at Savannah Primary costing some \$1 million for four classrooms, I could not believe that was the way our Government funds were being spent. However, getting the information I did get, realising the wasteful spending, I see the need for further investigation. There should be a curtailment of the extravagant spending. I place that job into the hands of the newly appointed Minister for PWD.

That Minister has a difficulty, because he is also the Minister responsible for Cayman Airways. There has been much discussion on Cayman Airways, the potential problems and solutions. Cayman Airways is a very emotive subject and I am very loyal to the National Airline. We all have much affection for our so-called "Sir Turtle." However, it appears that the question of value for money is getting more pertinent in all of our discussions concerning Cayman Airways.

There are many solutions offered. There is much speculation as to the value and need for Cayman Airways. There are some ideas of outsourcing the maintenance department, or the reservations department. There are many pros and cons for all of those arguments. My position is that we should have reached the stage where we are getting the correct information. Upon receipt of that information, it is the duty of all elected Members to look at the facts as presented, and to make the decision we see as best suited for Cayman Airways, but more importantly for the Cayman Islands.

Even though some feel that the solution is getting a foreign carrier, thinking that the prices will automatically drop, we have a lot of indications in the region to show that when the local airline is no longer in business, it does not mean the prices will automatically drop.

We look at Turks and Caicos, which was the route that Cayman Airways flew. When the airline pulled out I think the fare doubled within one year. Take a very heavy tourism-based country like St. Lucia which had BWIA as well as American Airlines flying there. BWIA pulled out and American got the monopoly and not only did the price increase, but there was a demand made on the Government of St. Lucia because the route was not profitable and they had to subsidise the airline.

If a subsidy has to be given to an airline, I would prefer to give it to Cayman Airways. However, I also feel that the country has to get good value for money. There are so many unknowns; there is talk of a \$4 million annual subsidy, sometimes it is a \$6 million annual subsidy. People really do not know how much it is costing the country to have Cayman Airways.

Before we can make a decision to continue with the airline or not, we have to know the true figures. I was amazed to read a few days ago that not only does the Government give a subsidy, but every year the airline creates another debt of some \$2 million divided between Civil Aviation and Customs. The trend of previous governments was to allow that debt to accumulate for a three year period and in 1999 with an accumulated debt of some \$6 million, the government of the day decided to solve that situation with some creative accounting. They issued shares to the Cayman Islands Government in return for the debt. That shows that there was an additional \$2 million subsidy each year.

The public does not have the true picture of what it is costing the country to support Cayman Airways. I

look forward to seeing the independent report being prepared on Cayman Airways. I expect that as soon as that Report can be laid that the Members of this Honourable House will go about the task of making decisions as to what way to go with the future of Cayman Airways.

I now turn to the Ministry of Tourism, Environment & Transport. I look forward to working with the Minister. I think the time has come when we need a proactive and forward thinking Minister in the area of tourism. Evidence of that foresight is in the announcement of the commencement of one of the major tourism products in the Cayman Islands, that being the Ritz Carlton project.

I remember when the project was first talked about; Cayman was going through an economic boom. There was much criticism about the development; negativity almost stopped the project. Now, some three or four years later, when development has slowed down, we hear of construction being at an all time low. We also hear the sighs of relief when we see that the Ritz Carlton project has acquired financing from the largest bank in Europe, which has willingly made a commitment to the Cayman Islands, of some hundred and something million dollars to go forward with the project.

The timing could not have been any better. I want to remind all of the decision-makers that we not only have to look at what we have today, but to the future. Three years ago when everyone was kicking, screaming and talking about the mangroves and reasons for not having development, no one foresaw the slowdown in the economy. Now, three years later we welcome that project.

I was glad to hear that the Minister was looking at some potential of increased attractions. He spoke about expansion of the Cayman Turtle Farm, swim with the dolphins, he also spoke about the need to make Pedro Castle more self-sufficient.

There has been much talk about Pedro Castle. Not only were we misinformed about what the cost would be, but after it was built, we were also promised that it would pay for itself within some five or seven years. The reality of the situation is that it is costing us some \$600,000 per year to subsidise it and keep it going. Even though we all criticised it, it is our duty to try to turn that attraction around and see that it gets to the stage where at least it is self-sufficient. I look forward to assisting the Minister to achieve that. We see some bold and innovative steps being taken by the Tourism Department in hopefully improving our summer tourism. The Minister has been very proactive in trying to improve the relationship that had deteriorated with the cruise ship industry. From all indications it appears that we are well on our way to the partnership we all look forward to with the cruise ship industry and Cayman.

We are working to get the facilities upgraded and getting more business for the local operators. The Minister has gotten the Land and Sea Co-op off the

ground in an attempt to ensure that our local business people get their share of the proverbial pie.

Another issue of that Ministry is the environment. I know there is a concern about some of the marine conservation laws that are forthcoming. The general consensus is that we have to do something to protect our marine environment. Some of the measures may seem harsh, but I think through negotiation with the public we will be able to come to an acceptable agreement.

One other environmental concern I have is the situation concerning fill. For future development land that requires filling will become more of an issue. I was heartened to hear during discussions with one of the consultants that one recommendation would be to allow the quarrying to go deeper. There is a limitation presently, and we end up with very large footprints of land being quarried when we could have gone deeper and had a smaller footprint. If we go ten feet below sea level and the land has no more use at that stage, why limit it to that, and not allow it to go down 60 feet?

We know there are some areas where there is a concern for the water lens and there is a justification for the limitation on depth. I am glad to hear we are looking at alternate methods to provide fill for property.

I was made to understand that another method of getting fill is by importation. I also understand that we have decided to give a concession on the duty. When we are looking to increase our revenue base, and increasing taxes on food products, I have great difficulty with the fact that that we are removing duty on fill material.

I think we now have to look at collecting duties in areas where they can be afforded. If the logic is that, in an attempt to keep the cost of construction down, we are giving concessions on importation of fill, we have a duty to ensure that the duty is passed down to the industry. However, if we are giving a concession on the fill and the cost of that fill is the same as the fill provided here, we are achieving nothing except a shortfall in the revenues of the country.

Moving forward to the Port Authority, I am happy to hear that we are looking at the upgrade of the port facility in a way that is environmentally friendly; that will hopefully cost us less money. I am also happy to know that the Minister is looking at the possibility of using the port during off-peak hours to reduce congestion, and working with the cruise ship industry to increase our cruise ship facility.

Moving on to the Civil Aviation Authority, I am happy to see that we are in agreement on the improvement of the Little Cayman runway. I saw that the Cayman Brac runway paving is ongoing and should be completed ahead of schedule.

I heard the Minister mention a parallel taxi-way and also an extension of our existing runway and expansion of the terminal building.

I feel we have to place a priority for safety concerns on our airport expansion. Even though some people may feel that the terminal is not a priority, when we consider that it was built to accommodate some 400 passengers, and now it accommodates some 1,600 we have a safety issue as well as a quality issue. In a destination like the Cayman Islands which is so heavily dependent on tourism, it is important that we ensure both the first and the last impressions our tourists get is of quality. I support the Minister's endeavours of improving the airport.

I was happy to be involved with the new housing initiative in an attempt to assist Caymanians with the difficult task of owning their homes. I am happy to hear that there has been a new set of goals for the Agriculture Industrial Development Board (AIDB)/Housing Development Corporation. I look forward to continued information.

I am now moving on to the Ministry of Health and Information Technology. In the Throne Speech mention was made of the mental health and geriatric facility. We definitely need to be able to assist and take care of our elderly.

With what has been going on with Cable & Wireless, I know the Minister is going to have a very difficult time. However, the time has come for negotiations to take place with the telephone carrier that has a monopoly in the Cayman Islands. It is scary to see Cable & Wireless announcing lay-offs of trained technical staff, and then to know that Cable & Wireless is using a local company to hire staff from overseas, directing them in the business of hiring and firing. As such, the local company cannot even hire the trained staff Cable & Wireless laid off because, according to them, Cable & Wireless tells them who to hire and who to fire.

I am not sure how the negotiations have progressed, but I am challenging the Government of the day, and the Minister responsible for our link with Cable & Wireless to ensure that the employees who have been displaced by Cable & Wireless are hired. As the Elected Member for East End said, if there is going to be termination of employees of Cable & Wireless, it is our duty to ensure that the termination is of some of the work permit holders and, not the local trained staff.

If Cable & Wireless has 100 percent Caymanian employees and they have to lay off Caymanians, I have no choice but to accept that. But, I cannot accept laying off Caymanians and keeping the applications going and going for work permits. I put the challenge not only to the Minister, but to the Government of the day to ensure that this practice is brought to a speedy end. When we look at what is happening throughout the region the provisions are there for these negotiations to take place.

I look forward to the review of the Constitution. I found it very informative to have an audience with the Members of the Foreign and Commonwealth Office. I was disappointed that the FCO Member, Mr. John

White was on these shores meeting with the private sector, but not with the Members of the Legislative Assembly. I hope that in some way this was an error and that these errors will not continue, and we will move forward with the correct protocols and respect. I look forward to working with the Constitutional Review Committee, assisting with presentations that will have to be made to the Caymanian populace before making any major changes to our Constitution.

In closing, ultimately a cohesive society is built on community interests, not single-minded selfishness. It is motivated by community spirit, not individual greed. That is the society I will strive to build as long as I am a Member of this Parliament.

I thank the people of West Bay. We are all here because of the trust and goodwill of the people. Our primary goal is to repay that trust with hard work, honesty and openness. I believe the true measure of a good Member is his or her ability and willingness to deal with people one on one, to realise that an individual's difficulties are often as significant as the community's. Our challenge is to always have one eye on the big picture while we extend our hand to assist our individual constituent's in need.

I look forward to working with my colleagues under the strong leadership of the Leader of Government Business to deliver our commitments which were supported and endorsed by the Caymanian people at the elections.

In the words of Robert F. Kennedy, "**Few will have the greatness to bend history itself, but each of us can work to change a small portion of events. And the total of all of those acts will be written in the history of this generation.**" It is easy to look tall when you stand on the shoulders of giants.

As I end my first debate on the Throne Speech and Budget Address I am reminded of the incredible debt of gratitude I owe to many people.

I thank you, Mr. Speaker, the officers and staff of this Honourable House, and my colleagues for their gracious welcome and assistance. To my family and friends, I am conscious of the sacrifice you will make in the years ahead. I thank you all for your understanding, your love and support, which enabled me to stand in this place today.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** May I ask the Chair, if you would suspend proceedings for half an hour when the "1,000 Man March" passes the Legislative Assembly Building (and congregates on the lawn of the Court House) as he and others would be speaking at the occasion.

**The Speaker:** I have already spoken with the Leader of Government Business, and agreed that the House would adjourn at that time.

**Hon. Roy Bodden:** Thank you.

I rise on this historic occasion to record my thoughts, my sentiments and also the policies of the government for the Ministry for which I am constitutionally responsible.

I want to make my contribution in two parts: the first part will consist of general comments pertaining to the Throne Speech and Budget Address, and the current state of affairs in the country. The second part will be devoted solely to the policies of the Government espoused by me, as Minister, for those portfolios and departments for which I am constitutionally responsible.

Mr. Speaker, this is a historic occasion for more than one reason. One significant reason is that a little more than four years ago, I had the boldness to proclaim that at the end of the National Team's tenure, the country would find out it was not the government the country wanted, nor was it the government it deserved. The actions of the people in the November 2000 election have proved me right.

This government, which still has remnants trying to resuscitate the dead, wasted its mandate, squandered the resources of the country, and quite rightly the Caymanian populace turned them out of office. It was a government bankrupt of vision. I quoted the prophet Habakkuk when he wrote that he "awaited the vision."

The government that has taken over and the Members of this Parliament have an opportunity to make history in the Cayman Islands. I have been fortunate, indeed; I have been blessed to see the changing of the guard and to see young, dynamic Caymanians come to this House with the promise, qualities, and capabilities to take this country—as it deserves to be taken—confidently into the 21<sup>st</sup> Century. The dinosaurs, for the most part, have become extinct; however, the Ice Age is not over yet because there are still a few dinosaurs; there are still a few who need to change their mindset; there are still a few who need to understand that they need to become acquainted with the programme and relinquish the old ideologies and move forward with the new Cayman Islands and the new way of thinking.

I like to study history because it informs us as to how we can use the past as a bridge to walk us into the future. One person I like to read about is one of the most able Colonial Administrators this country ever had. If these kinds of people were my heroes, he would be my hero.

I crave the Chair's permission to recount from the *Hansards* of the Legislative Assembly of Justices and Vestry of the Cayman Islands, 16 March 1955, the Budget Session, His Honour, A.M. Gerrard, presiding. I want to read some of his address because it is prescient and it gives a sense of *deja vu*.

Mr. Gerrard had this to say on page 2, "**If the dependency does not channel a realistic course of its own, then there is every likelihood that in the future it will be compelled by force of circum-**

**stances to follow a course which may be unacceptable to it, and indeed dangerous to its own interests and its own way of life. In this connection, I am constrained to say to Members, and I would be failing in my duty if I failed to say, that it is an ill omen for the future that so little attention should be paid to these problems and that so much of the time of this Assembly should be occupied in minor matters, often strongly coloured by the personal self interest of Members. I should like to see Members have a change of heart, I should like to see them pay less attention to the trivialities of daily life which engender in this community so much heat and even hatred, and to concern themselves with the vital question: Where is the dependency going?"**

Then he went on to say, **"I will perhaps shock certain Members by saying that in general, our problems today are not really to get better roads, to eradicate mosquitoes and so on. Our real problems are to adjust ourselves to a difficult and changing outside world and to avoid the danger of becoming a degenerate community worshipping money. Our fundamental problem is to create a stable community which desires to better itself in real terms by bettering its own human material; by educating its children in proper human values instead of being hypnotised as too often happens today by the belief that happiness consists of the possession of a glossier motor car and a bigger more sparkling refrigerator than that possessed by one's next door neighbour."**

What sage advice. How relevant. Even today, our concerns must be to build the kind of community where all of us have respect for each other and respect for ourselves. I hold out a great hope that this Parliament, this Government, can introduce what I call "the politics of inclusion."

Although I am not one to blow my own horn, I am proud that I set the example in that. When I wanted to set up a committee to investigate a problem, I chose Members of the Backbench. I want to send the message that even though we are elevated as Ministers we cannot do it all. All the Ministers are elected by the people. We are fifteen persons of the same rank; it is just that the system allowed five to be elevated. However, all fifteen have the ability, the worth, and the capability to be Ministers if the system so allowed.

I want to talk about the politics of inclusion, because this is not the time to draw out differences; this is not the time to exaggerate differences; this is the time to accentuate the positive and to come together. If we do not, the Cayman Islands will be worse off and there will be nothing worthwhile left for us to quarrel about.

His Excellency the Governor described the new political directorate as a "can-do government." I hope my colleagues understand what he meant by that. He did not say we were the "do-it government," he said we were the "can-do government." That means we

are expected to do some things, but the school is still out. The onus is upon us to get the work done, to drive the country in the direction we think it should go. We have a myriad of challenges to deal with; immigration, the economy, the Organisation for Economic Cooperation and Development (OECD) and Financial Action Task Force (FATF). We also have problems of lesser significance that should concern us internally. We have to get on with it.

I am happy to witness every day that the relationship in this Parliament has changed. We are no longer adversarial in our dealings. We have a new beginning, a realisation and a new respect for one another; this is a good starting point. Let us keep it that way. There are still one or two things we need to work on, but I am confident that we can accomplish what needs to be accomplished. However, if we become smug and apathetic, if we lull ourselves into a false sense of security, the tenure will be wasted, and the country will be no better off.

I believe that we have a good Parliament and a good Government. I believe we can face up to the challenges we have, which is a good introduction to what I want to say about our economic position at this time.

Perhaps it is a mark of age, but I have never been one who was scared of facing up to the truth. While it is true that we were accustomed in years past to sound economic budgets, and a system which left us in a much better position than the one we are in now, I do not believe that this is the end of the world. Our Representatives have the ability. I believe that the quandary we find ourselves in is temporary, if we choose to make it so. If, however, we waste our time pointing fingers, exercising blame, and going on TV saying it is the new Government's fault, or this person's fault, we will have wasted our time. The ship is in bad weather; it is time for us all to pull together and do what we should do.

I believe that by the next budget there will be clear and unequivocal signs that the financial situation is improving. Certainly, Caymanians have a reputation for exercising responsibility and leadership in these times. I do not believe the present will be any different.

We must learn from mistakes made in the past. No longer can we promote a welfare state with no end to the benefits. The objective must be to help those who need help; but it must be a passing phase. We cannot encourage them to get stuck on the dole; we cannot encourage them to live to expect a handout; we must teach them to fish; we are not in a position to give them a fish every day.

The most crucial message is that we cannot, and we should not play politics just to maintain popularity. Now is the time for forthrightness, now is the time for truth, and now is the time to be practical. It makes no sense to begin finger pointing castigating and blaming. Now is the time to help and give the Government a chance.

This is a good Government; it can work. Obviously, the people who elected the Government have confidence in the Government. I believe that that confidence will be more than adequately borne out at the end of the day. I have faith and confidence in my colleagues on both sides of the House, but we must be allowed to get on with the job without any detractions or shenanigans.

The essence of democracy is the ability to take different lines, to espouse different views, and even to object and oppose. But there is such a thing as being constructive, as being true and realistic. Any kind of mischievous opposition does not hold merit, and in the end, those persons who perpetuate and promote such behaviour will be revealed to be exactly what they are. Instead of improving their situation, they will only be worsening it.

We have come to the politics of inclusion at a time when many areas of the country show signs of needing bolstering. We need to work together to build the society into a stronger society. It is to this whole matter of immigration that we have to look to do this.

I want to introduce another concept. There was a time in my life when I might have been tempted to say that what is happening in the Cayman Islands is a new form of Colonialism, that we are just being colonised. To a certain extent, there is some truth in that, however, there is another side, and this is the side I would like to focus on now.

There is a sense in what is happening in the Cayman Islands now, namely the White Paper and the Partnership for Posterity can be viewed as a new dispensation. I believe, however, that if we are smart, we can use that to bolster our position to benefit ourselves, to move the Cayman Islands forward into a cohesive society. Let us think about building a strong, cohesive, multi-ethnic, multicultural and multinational society; that is what we should be aspiring to do. However, in order to do that, we need to achieve certain fundamental objectives; we need to educate our people; we need to train our people; we need to promote this whole idea of good governance, transparency, accountability, and we need to develop some institutions that are not now present.

The move to establish the Office of Ombudsman is a move that I called for when I first came to this Parliament twelve years ago. I am happy to see it now coming to fruition. It is something a developing society, such as the Cayman Islands, can make optimum use of. I would be happy to see the Freedom of Information legislation, but I would be most happy to see a Bill of Rights; it is fundamental to the development of this country. I am proud to have stood here in the past and agitated for a Bill of Rights. Any modern constitutional instrument must be prefaced by a clear and unmistakable Bill of Rights.

It goes without saying that with rights come responsibilities. So, in the promotion of the Bill of Rights, I want to add the caveat that people cannot expect to have rights without some responsibilities.

Freedom must have certain parameters. But given the choice, I would rather know that a Bill of Rights existed even if the parameters were not so clear cut. Clearly, we still have much work to do.

Regarding the constitutional review, my position is that I have always been a party man. I have always espoused certain political responsibilities. I would love to see the Cayman Islands move to a position, where Caymanians have given an indication of their political maturity, where they could exercise that maturity to the fullest extent. If that means a ministerial system with a chief minister, I see nothing wrong with that; it is logical; it is to be expected; it is a system that should work.

I am of the firm opinion that there must be a *primus inter pares*; there must be a first among equals. That is the way the system was originally set up. Self-determination is a matter entirely for the Caymanian populace. I am not espousing that, but I am saying that, at the beginning of the 21<sup>st</sup> Century, it would be wise for Cayman to consider all options. It gives us a good chance in the constitutional review to discuss and discourse all options. Responsible leadership will let the people understand that without trying to influence them one way or the other.

The geopolitics of the world has changed. It is no longer a bipolar world; it is now unipolar—there is only one superpower. Attitudes must be adjusted.

We would be wise to also consider our economic position. In 1995, on a visit to the Foreign and Commonwealth Office (FCO) the present Second Elected Member for Bodden Town and I, had an audience with a rather brash arrogant young man. I could see he was being mentored by someone, placed on the fast track. His name (I shall never forget) was Patrick Moody.

In 1995, Patrick told us there had to be a change in the Cayman Islands. He said that they (UK government) were being pressured, and he mentioned the United States. He said, "These people want their money. You are going to have to get out of the business you are currently in." At one stage we asked him, "What, Sir, do you expect us to do?"

He was so adamant we told him that we did not come to discuss that, and it was a matter which we and the government shared the same position on.

He told us, "I will tell you what you should do: Invest in your tourism infrastructure and get better equipment for Cayman Airways, because when we are finished with you, you will not be in the money business." That was in 1995.

When we returned, we mentioned the meeting to some Members of the elected Government. We were laughed at, Mr. Speaker; we were derided. They said that they heard we did not see anyone, and that people slammed doors in our faces and wanted to know . . . Indeed, the *Hansards* bear out that one Minister—who was intoxicated with his arrogance—got up and wanted to find out where we got the money to pay our

way to London, since we had gone in our private capacity.

All of this went unheeded. They poked fun at us and derided us. We had the warning from 1995 about the impending position of the Organisation for Economic Cooperation and Development (OECD) and the United Kingdom (UK)

Having said that, all is not lost; it only means that the Cayman Islands will have to depend more upon itself, in a situation where Europe has changed to the point where the European Union is taking precedence, asserting its leadership position; and where the relationship between the metropolitan country and the Overseas Territories is being redefined constantly. It will be wise for the Cayman Islands to look to itself and the Caribbean region for its economic survival and partnership in overcoming these challenges.

Here again, I wish to highlight a significant difference between this political directorate and the one immediately preceding it.

There are those of us who believe there is merit in associating with the Caribbean region to the extent we have mutually beneficial arrangements, where we have problems and challenges of a mutual interest. It is nonsensical to believe that an entity the size of the Cayman Islands can make it on its own in a world where we talk about globalisation and interdependence. There is a necessity for a change in focus. We have to look out and see where there are entities with similar challenges to ours and to try to join forces with them. The battle we are in is a battle for the long term and not for the short term.

I talk about building a society because it would be rather ambitious to talk about building a nation. I do not want to use the term "nation" because I do not want anyone to take what I say out of context, thinking I am espousing what I am not espousing. However, I say that it is high time that we approach the matter of immigration with some honesty.

We cannot continue to have persons residing in the jurisdiction for 30 years or more and not be a part of this society. It goes against the laws of natural justice; it is against the law of basic human rights and it is time for us to be honest and forthright. Indeed, it is essential that we incorporate persons who meet the criteria in this society. Our economic survival is going to be dependent upon that. We talk about culture, the economy, we even talk about politics; these are all intertwined and caught up in this web of immigration.

I know it is a sensitive area. I know that Caymanians from all walks of life bristle and get concerned when it is mentioned. I also know that their representatives have a responsibility to educate and inform them in such a way that they understand that the situation cannot exist in the state of inertia it has forever. No country can expect to be great unless it has a programme of expansion, resuscitation, and rejuvenation. What methodology is more effective and more appropriate, in addition to the natural population in-

crease, than that of taking in those persons who meet the criteria?

The great United States still leads the world in the number of immigrants it accepts. The difference between the United States and many countries—including the Cayman Islands—is that there are clear cut prerequisites and criteria that these persons have to meet.

I speak fairly and forthrightly as one who has viewed the coin from both sides. I have been an immigrant myself. I was proud to have been one, and I have no compunction in admitting that I stayed for as long as I wanted to stay, until I achieved my objectives, and when my purposes were served I repatriated myself back to the Cayman Islands. Indeed I will say that I availed myself of the opportunities that were not available to me in the Cayman Islands, and I brought that knowledge back to Cayman with the hope and objective of improving Caymanian society. Therefore, I could not be one who rules out the possibility.

Like other established Caymanians I have my concerns. I am a realist and I realise that we cannot take in everybody. There are times when my being a Caymanian is very obvious. I am not anti anyone; I am merely pro-Caymanian. However, that does not give me a license to be prejudicial to such a point that I become exclusive in my policies.

I take note, in the Governor's Throne Speech, of the government's intention to do something about the problem of immigration in the country.

We in the Cayman Islands at this time have a glorious opportunity to build a society that is cohesive. If we take the Vision 2008 document and use it as a guide, I think we can build an exemplary society, one which continues to be vibrant and attractive not only to those in the society, but to those on the outside.

The time has come also for us to take a detailed look at our economy; what we are going to do with it; and how we are minded to go. I am going to be bold and frank; I think it would do us good to stop being so smug and so hypocritical and to face up to certain things. The greatest challenge we are faced with at this time is how we can build a sustainable economy. Given the fact that we have no raw materials, the only resources we have are our people. I cannot even say the land any more, because if you believe some people, that is largely out of our control.

It is unfortunate, and indeed regrettable, that years ago we did not consider what kind of economy we wanted to build. City-states, like Singapore, have been able through enlightened leadership to craft a society with a sound economy, a population of two million people. Yet, Singapore is a world leader, taking optimum advantage of trends in electronics, information technology, banking and finance.

I said many years ago that we in the Cayman Islands should have used that model, albeit the way of life is distinctly different. Singapore is predominately Chinese. The work ethics are significantly different



from ours. However, certain basic principles still show similarity.

It is clear, with the challenge we have to our financial industry, that if we are smart we have to begin to think about diversifying. Tourism is an open and attractive avenue. But we must also realise that there are many tourist destinations. In order for us to stay competitive, we have to be creative, innovative, and also in a constant process of evaluating, improving and changing our product.

With the new Government, I believe we are on our way to doing that. I welcome the initiatives, particularly in the area of eco-tourism, which I believe holds great scope for future development in tourism but there are other areas we need to look at.

We need to train and empower our people to take greater advantage of the opportunities that exist in the country and to create new ones. To this extent, I am suggesting that the time has now come for the establishment of a development bank, particularly one that is going to have the facilities which will allow for the establishment of micro-finance initiatives, or opportunities for small business entrepreneurs.

The greatest example for this initiative is the Grameen Bank, which had its origins in Bangladesh. It is now a model for the world. It is a unique bank. There is a ceiling on the lending to which borrowers are encouraged to form a pool, support, council and bolster one another. It is the only bank in the world with a 98 percent loan repayment rate.

Our tourism efforts and initiatives in the Cayman Islands could benefit from micro-finance initiatives. There is no reason why Caymanian artisans should not be making some souvenirs. There is no reason why Caymanians should not be selling more to tourists by way of local goods; not only souvenirs, but food, cuisine.

I know my colleague, the current Minister, is interested because he and I have visited places in The Bahamas where these ventures have taken place with help from the development bank. We visited Arawak Cay, where Bahamian people cater to tourists. I know the minister is interested, indeed he has said as much publicly about setting up these kinds of ventures in the Cayman Islands. This is the kind of thing I am talking about.

Not only do we want to empower more Caymanians, but we want to let them feel they have a stake in the country's economic development, and that by so doing they can feel themselves an integral part of Caymanian society. They will therefore have a vested interest in the development of this society and will not feel marginalised.

This is particularly relevant when it comes to the Caymanian male, a figure at risk for the most part. We see it in its myriad of manifestations. If we check the court statistics and if we check the behaviour in schools we can ascertain who is most likely to be causing most of the problems. If we do not find a way

to demarginalise these people, the whole society will suffer.

When we were a seafaring society, we had no such problems because there were clear rights of passage which led to manhood. We are no longer a seafaring society. There are no established rights of passage and we have what I call the marginalisation of the Caymanian male, which is a serious challenge we as a Government and as a country have to come to grips with. Everyone in the Cayman Islands, including multinational corporations, has a responsibility to bridge this gap. I will talk about corporate responsibility later on because the Cayman Islands cannot exist . . . the government cannot provide all of the resources necessary; this has to be a partnership. We believe this partnership should be developed.

Mr. Speaker, if it is the wish of the Chair, I am told that the marchers have assembled.

**The Speaker:** I shall entertain a motion for the adjournment.

## ADJOURNMENT

**Hon. Roy Bodden:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. We are adjourning early to facilitate the arrival of the 1,000 Man March.

**AT 3.35 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 12 APRIL 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**12 APRIL 2001**  
**10.19 AM**  
*Nineteenth Sitting*

*[Prayers read by the Honourable Minister for Community Development, Women Affairs, Youth, and Sports]*

**The Speaker:** Please be seated. Proceedings are resumed. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**Apologies**

**The Speaker:** I have apologies for absence from the Hon. First Official Member who is presently Acting Governor; apologies for late attendance from the Hon. Second Official Member; apologies for absence from Second Elected Member for Cayman Brac and Little Cayman who is in Little Cayman on constituency business; and apologies for late attendance from Second Elected Member for West Bay.

Item number 3 on today's Order Paper, Presentation of Papers and Reports. The Water Authority of the Cayman Islands Annual Report 1998 to be laid on the Table by the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports.

**PRESENTATION OF  
PAPERS AND REPORTS**

**THE WATER AUTHORITY OF THE CAYMAN  
ISLANDS ANNUAL REPORT 1998**

**Hon. Edna M. Moyle:** I beg to lay on the Table of this Honourable House the Water Authority of the Cayman Islands Annual Report 1998.

**The Speaker:** So ordered.  
Do you wish to speak to it?

**Hon. Edna M. Moyle:** No, other than to make a commitment to this Honourable House that as long as I am the Minister holding responsibility for the Water Authority, this sort of delay in an annual report will not continue.

**The Speaker:** Thank you.

Moving on to item number 4 on today's Order Paper, Statements by Honourable Ministers and Members of the Government, Statement by the Hon. Minister for Tourism, Environment and Transport on visitor arrivals—A Review of the Monthly Statistics and the changes made to improve them.

**STATEMENTS BY HONOURABLE  
MINISTERS/MEMBERS  
OF GOVERNMENT**

**VISITOR ARRIVALS—A REVIEW OF THE  
MONTHLY STATISTICS AND CHANGES  
MADE TO IMPROVE THEM**

**Hon. W. McKeever Bush:** Members will recall that the Government indicated in the 2001 Budget Address that there were concerns with the calculations of visitor arrivals. Members were further informed that I had instructed the Director of Tourism to have a comprehensive review carried out to ascertain the extent of the problem and to recommend a remedial plan. That has been done, and I am happy to report this to this Honourable House.

For years, I have expressed concern that there appeared to be an inconsistency between the numbers reported and the level of economic activity taking place in our islands. That led to my request that a review of this activity be done once assuming responsibility for this Ministry.

The problem is simply that there has been a serious miscalculation for quite some time now in the categories of information that have been added together and reported as visitors on a monthly basis. This problem dates back to the first quarter of 1994.

It is important that I point out that this issue predates the current Director assuming her position with the Department of Tourism. The miscalculation occurred with the recording of data for the reporting of tourism numbers, with the inclusion of the categories of Returning Residents and Persons in Transit as a component of the arrival figures. These categories are comprised of foreign nationals, not Caymanians who have residence in the Cayman Islands, that is, work permit holders or persons in transit at our ports.

To provide clarity on this matter, I will use the period of 1998 through 2000 to demonstrate the problem when the reporting was calculated incorrectly. This would apply equally to all visitor arrival numbers reported from 1994 onward. To explain this, I will

share the actual numbers reported for 1998 through 2000, as well as indicate the number of persons included incorrectly.

In 1998, the actual visitor arrivals reported were 404,205, with 61,212 being incorrectly added. The visitor total for 1998 is, therefore, 342,993.

For 1999, the actual reported was 394,534. The miscalculated number was 71,839, for a corrected figure of 322,659.

In 2000 the actual number of visitors reported was 406,620. The miscalculated number was 90,591. The true visitor arrival figure for 2000 was 316,029.

I am pleased to correctly report the true tourism arrivals for the period 1998 through 2000 as a result of the review that has been carried out over the last 90 days. Additionally, I am happy to report the action plan to take this important measurement criterion forward accurately. I am happy that this measurement of our tourism activity is now corrected.

The change in the way we report our arrival figures will, from the year 2001, be calculated upon pure tourism arrivals, not including any returning resident or any in-transit data, to arrive at a figure that reflects those visiting the destination for truly tourism purposes.

I am equally pleased with the various programmes the Department of Tourism has going with the private sector. These are positioned to increase our visitor arrivals throughout 2001, and by mid-June the Department and the private sector will be back in discussions on the planning through the first quarter of 2002.

I am cognisant that there is much effort needed to bring tourism back on track. Members will recall that in my contribution to the Throne Speech I outlined the global review process to take the Department of Tourism forward and regain focus and productivity. Importantly, I assumed this responsibility with no policy document in place, and that too is critical to our future operations.

In support of all of this is the new hotel product that is moving along and the further development to our air and sea ports. To this point, the planned activities on our seaports and airports are being prioritised to reflect the country's needs and its ability to finance them on a timely basis. Members know, and I have said this time and time again, this will be done in connection with a growth-management plan. No one need insinuate or think otherwise through any medium.

I will continue to monitor all developments of all aspects of the tourism sector as this Government works together to ensure that all tourism efforts are in the best interest of its people and future generations.

I wish to also inform Members that Miss Cayman, the charming and loquacious Miss Jackie Bush, will be leaving the Island for Puerto Rico to participate in the Miss Universe Pageant. She has been, and continues to be, an excellent ambassador for tourism. We wish her success and God's speed. I encourage all

Members to see her off at the airport on next Sunday morning.

**The Speaker:** Moving on to item 5 on today's Order Paper, Government Business. I will ask for the suspension of Standing Order 14(3).

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

### SUSPENSION OF STANDING ORDER 14(3)

**Hon. Edna M. Moyle:** I move the suspension of Standing Order 14(3) in order to allow government business to be taken over private business.

**The Speaker:** I shall put the question. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 14(3) SUSPENDED TO ALLOW GOVERNMENT BUSINESS TO BE TAKEN OVER PRIVATE BUSINESS.**

## GOVERNMENT BUSINESS

### BILLS

### SECOND READING

#### THE APPROPRIATION BILL, 2001

#### DEBATE ON THE THRONE SPEECH, DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

#### TOGETHER WITH

#### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. Yesterday, I was commenting on the fact that changes in society mean the clear-cut transition from, especially, boyhood into manhood in Caymanian society. What some people call the "rights of passage" have broken down and become blurred. As a consequence of the change in the economic structure of the society, the lack of this transition impacts negatively upon the passage from boyhood to manhood. Added to that is

the fact that certain other elements hitherto unknown in this society, which have made their presence, are felt in such a way as to add to the negative impact.

Having grown up before the advent of television, I never had to encounter some of the confusion, contradiction, and lack of understanding of the culture of what it means to be Caymanian that young people growing up at this time, particularly males, have to encounter. It is a documented fact that television has allowed undue influence and certain negative behaviour. We are no different, especially when you consider that we are a consumer society caught up in the web of what some call the "revolution of rising expectations".

We are now faced with new and unfamiliar phenomenon, for instance, the clothes we wear and the language and behaviour of the streets. When I was growing up, such a thing was just beginning to make a mark on society. The progress was slow because there was no television, only radio, newspapers and magazines. Now, however, there is a much more expeditious track to this phenomenon, and Caymanian society is wrangling with the challenge. Sometimes it seems we are losing.

This phenomenon, as I understand it, had its genesis in the inner cities of the United States and there are many sociologists and anthropologists who documented this. I am concerned because the phenomenon I see reproducing itself in the Cayman Islands emanates out of what I would describe as inner-city behaviour which predominately affects the black people.

In his landmark ethnographic study, *Street Wise*, the sociologist, Elijah Anderson, gave an intricate documentation of this kind of behaviour and the effect it has on society. It is not only a phenomenon rearing its head in the Cayman Islands, it is well documented in other societies throughout the Caribbean and, certainly, in North America as well. It seems to survive because in certain locations there is a breakdown in the family structure. There is an absence of a positive male role model or mentor.

Elijah Anderson accounts for this phenomenon by saying that no longer is the society structured in such a way that we have the support of older men and women who for generations have acted as mentors to the young. To aggravate matters, the community has lost its capacity to support churches and other institutions that once provided sources of shared purpose for the young and old alike.

Some label this as the "culture of materialism". We too are affected by this culture. Young Caymanians are like young people elsewhere who are searching for challenges. This is part of the natural drive of growing up, developing skills, testing themselves and building confidence. However, if society does not provide healthy outlets and is so consumed with other things, the search among the young is largely directionless, leaving them to fend for themselves.

One observation I have made is that the nature of our society, the very structure of Caymanian society, is so set that many young people are cheated. They are cheated by the bad economic growth; by the poor economic circumstances into which they were born; by coming from places where the playing field is not level—where they can have a chance and where they are indoctrinated with the idea that the one equalising tool is education and they must strive above all else to get that tool. The system is so skewed against them that all but a token can make it. I will talk about this later when I delve into the educational policies of the government and the Ministry.

As a result, through no fault of their own, they fail dismally which adds to the crisis, violence, crime and self-destruction, particularly among the disadvantaged. These are inter-actional phenomenon. These are things that go to accentuate the hopelessness and despair and the lack of any means of success.

One thing we have not quite learned in the Cayman Islands is that these situations cannot solely be remedied through economic solutions. The fallacy we often labour under is to throw more money at these problems. The problems beg empathy and a human understanding. This leads me to comment that the Thousand Man March, as I understand, was symbolic. The aim was to be a clarion call for men especially to stand up, or as the religious people say, "to stand in the gap".

I noted yesterday that, conspicuous by its absence was a corpus of people whom I read about so often in the papers who cry out for citizenship. They want to belong, yet their absence was noticeable. It speaks with a loud and obscene call.

I want to ask them if they think they can get Caymanian citizenship without earning it. However, it is not their problem—it is a native thing, or maybe even a "black" thing. They are not concerned because the accent is different and the people who die are not of their complexion or culture and do not come from the offices and the ivory towers in which they work.

You cannot be a Caymanian unless you know what deprivation means; unless you know what destitution means; unless you can identify with these mothers who have five children sometimes and no source of steady male support. You cannot understand what it means for a young man 13 or 14 years old to never have seen his father, except when he comes to slap him up and tell him, "*Boy, you ain't no good.*"

Yesterday I changed my mind. I will not be so liberal in granting them citizenship.

No, Mr. Speaker! If you are just talking the talk and not walking the walk, we do not want you. If you are not part of the solution, then you must be part of the problem and we do not need anymore problems. I wonder what the excuses are going to be. I shall be reading the columns. I want them to hear, digest and understand what I have just said.

At the heart of our society is a crisis. I am not anti-anyone. I am just pro-Caymanian. We had a history of solving our problems before. If push comes to shove, we can solve them again. I still say that we can build an ideal society, but we do not want people who are only coming to milk the cow after she is tied up and who do not want to get all sweaty running her down.

Clearly, we have work to do to salvage our youth. We need to shoulder our responsibilities. There is no good romanticising or fantasising about the old times—nobody wants those times to return however glamorous we may think they were. We have to move on and that necessitates all of our efforts.

Caymanian society must be vibrant for all. We must seek to lessen the numbers of the disenfranchised and impoverished. Enough said on that point.

I believe that our future has to lie in crafting a system where we have the best available for our people.

I now turn to the situation which the Government inherited in terms of the economy. I will not go into intricate detail because that is best left to those much more knowledgeable and more capable of expressing than myself.

With the coming into power of a new political directorate there is always bantering and argument about the state of the economy and the country, and this term is no different. It was no surprise to many of us that our economic position was not good. We who were in here realised what the last government did, but what alarms me is to know that there are still elements of that government on the outside, and some on the inside, willing to further jeopardise their integrity and credibility by distorting the facts.

There is no way to express it. The financial position of this country is not good and the reason why is because there was recklessness and spending that had no sense. A case in point is the exgratia payment to seamen.

We all realise, appreciate, and acknowledge the role seamen played in the development of the Caymanian economy. Despite all those elements who claim they made Cayman, I say that Caymanian seamen played an integral part in the opening of the modern economy. It is only right that those who are in need should be helped.

To give carte blanche without setting any parameters boggles the imagination. Someone should have realised that the country could not afford that kind of bill at this time. It is my understanding that what started out as approximately \$1.8 million wound up at \$5.1 million and would still be growing if some efforts were not made to put a cap on it. It is this kind of senseless expenditure that has brought us to the position we are in now.

For anyone to try to lay blame on this political directorate, that cannot hold water. That logic and the reality of the situation do not bear this out. This Government, this political directorate, only took over the

reigns of government on 16 November and since that time could not have embarked on any significant expenditure to lead the country to a poverty stricken state.

Some of those persons (whose names I will not call) when Members tried to show them the folly of their ways and what was happening, were quick to get up and boast of how many degrees they had in high finance, how many years' experience, and who knows what else. They took no heed. As a result, they got what they deserved.

The people, in their sound and wise judgment, gave them their just reward. So, they have their forum and are gone, as the Elizabethans say, "to study a long silence". Make them stay on the outside, study that silence, use the editorial comments and leave the running of the country to those persons who will do a much better job.

It concerns me that there is at least one out of that group whose presence in here seems to be bent on the continuous distortion of the facts and who continuously sets obstacles in the way of government. However, all those efforts are to no avail because the people know what transpired, they know what is going to happen. Democracy dictates that these people should have their voice and opinions registered. Democracy also says that the majority is in the position to call the shots. So be it!

The remnants of those persons who ruined the economy can use the medium they have, but they will not stop the progress, nor can they dampen the course the country has embarked upon by trying to create mischief, writing in the newspapers or appearing on TV. They have had their day and, clearly, new people with new attitudes are in vogue now. It is no longer business as usual.

The challenges facing us are not insurmountable. We can rise up—and we will!—to set the Good Ship Cayman on an even, economical keel.

I am happy that the prevailing attitude in the Legislative Assembly is (as remarked by others speaking before me) constructive. While there is opposition, and should be, that opposition is constructive. Being a part of the government, I would not encourage anyone to abnegate their responsibility and not put a watch on the government. Hold the government in account. That is the job of an integral part of the Parliament.

I am confident that with God's help this political directorate, with support, can set Cayman on a sound, economic path again. Those detractors, especially those of the immediate past, can reminisce of the times they had and be armchair commentators to what is happening now.

I will take some time now to talk about the Ministry for which I have constitutional responsibility for the policies and what I see as the way forward.

For the first time in history, the country has in the Ministry of Education a Minister who is an educator. I say that as much to remind myself of what is expected of me as to say to Honourable Members that I am pre-

pared to be open, transparent and accountable in my dealings, particularly on matters concerning education and training.

Education must be for the Cayman Islands what Napoleon said the Conscript Army was going to be for France. Education must be the vitality of the nation. It must be the tool by which our young people move forward. It must not just be education emanating from the schools, the Ministry and Government would like to focus on lifelong learning.

Indeed, as I elaborate, you will find that we are going to focus on training and re-training too, ensuring that Caymanian people can take advantage of that training and acquire skills to help them fulfil their ambition, not only their personal ambitions. It will also allow them to be productive citizens, well rounded in all aspects of life and existence.

The Ministry of Education, Human Resources and Culture provides, for the very first time, an opportunity to focus on core issues of education, training, and the development of appropriate and relevant human resources. This is important because without this focus the country cannot move forward. Without this focus, we will be floundering.

I want to begin with culture. In a sense, this presents the easiest of the challenges.

Culture in Caymanian society is vibrant, expanding and growing. There is a search, a feel, almost a rebirth of what it means to be Caymanian, to develop something that is Caymanian and to pronounce Caymanian incorporating all of the other elements within society.

I recently had several opportunities to view cultural displays. The National Children's Festival of the Arts was an excellent showcase of work, beginning with paintings and drawings and sculptures done by our young people. It was an outstanding presentation with a clear and total lack of inhibition on the part of the youngsters. I was impressed by the variety, by the calibre and by the standards. I would like to commend all who were involved, particularly the children who hold so much promise for future development.

To all those teachers, tutors and parents who gave of their time, the Government appreciates the efforts.

Later on I was privileged to witness some of the poetry, music and other exhibitions at the Harquail Theatre, all done to a very high standard.

Recently, I visited a Cayfest exhibition of art and sculpture, all superbly done. I came away with the distinct impression that art, music and drama are taught wonderfully at the primary and secondary level. We have exceptional products on display year after year. However, I was surprised to find out that after high school there is no formal teaching of art, music or drama.

I told my elected colleagues on Executive Council that it would be a good thing for Government to promote and encourage the teaching of these subjects at the Community College. I am encouraged by them to

press for this. So, I look forward to a further promotion and enhancement of these cultural effects by having them taught as subjects at the Community College of the Cayman Islands.

I believe that this is a logical transition that can only improve the development of Caymanian culture. Importantly too, it will allow for persons who participate in these areas to further expand their skills and professionalism so that we may truly develop and carry our culture forward.

The Minister of Culture has held some preliminary discussions with his counterpart, the Minister of Tourism, about some ventures we can jointly undertake. We have been thinking that in the near future, hopefully next year, the two Ministries can resuscitate an old Caymanian cultural phenomenon, the Junkanoo.

We are thinking of holding what we termed a "Junkanoo Festival" where we will invite a contingent from the Bahamas and Jamaica, as well as acquire our own Caymanian Junkanoo. We will begin in Bodden Town, the first Capital. I hope that we can get the plans to fruition so that by the time Cayfest rolls around next year we can have a full-fledged Junkanoo Festival in the Cayman Islands.

I know in Bodden Town we have several men who were prominent in past Bodden Town Junkanoo Festivals. Coincidentally, some, if not all, are close friends and supporters of the Second Elected Member for Bodden Town and me. Indeed, I see one such gentleman in the gallery as I speak.

Outside of that, my colleague, the Minister of Tourism, said that if we run short of bodies we can look for the four Executive Council Members who are no longer here and ask if they would like to join.

On a serious note, I received some representation from some Caymanian musicians who were complaining of the lack of airtime given to locally produced music, particularly Radio Cayman. The business of music in the cultural development of the Cayman Islands is a weak link.

Since assuming responsibility for this Ministry, my Permanent Secretary and I held one meeting. There were other meetings held where I was not present, but I have held one with representatives from the Music Association.

We had a cordial meeting and we outlined the way forward. This was accepted by the representatives for the Music Association but, unfortunately, in the whole cultural milieu we see music as frailest.

I am satisfied that we are on the way to developing a methodology whereby music can take its rightful place in Caymanian culture. Nevertheless, Government may not be able to accomplish this alone. It needs the support of other elements in society, particularly the tourist establishments, the hotels, the radio stations and television stations as well.

The local musicians complained that they heard music from other cultures and areas getting far too much airtime while their music was being neglected.

It is a concern I share with them and, as Minister, I have made representation to the relevant authorities in the hope that there will be awareness to this legitimate complaint and something will be done to reverse the current trend.

I would like to see a more concerted effort made to promote Caymanian artisans and, again, I have spoken to my colleague, the Minister for Tourism.

There are local artists whose work is comparable to the best I have seen in the Caribbean. There is a young man in East End by the name of Rudy Solomon. I do not know how many Honourable Members have been privy to see his work. It is ingenious what this young man does with that rope. He was a student of mine at one stage. He came with a small display and I was profoundly moved.

This young man is an artisan of no mean order. I have seen the best in the Caribbean and I would pit Rudy against the best of them. He would come away holding his head high. His problem is that, as an artisan, he has to make it, market it, display it, sell it and peddle it. You name it. However, he is limited in his capacity.

First of all, he has no decent place to exhibit his work. Secondly, he is hindered by a lack of accessible and affordable capital to purchase the required materials and tools.

This is why I come back to my point that we must have a micro-finance initiative in this country and this Government is committed to doing that.

There are others who are so skilled. There is no reason they should not be producing works to sell to the many tourists who visit our islands, particularly on cruise ship days. They should have somewhere convenient to visitors to view and purchase these works.

The Government has also taken the position that with the performance of any foreign bands at Pirate's Week there must be a local band at the same performance. This is good.

The Ministry of Tourism and the Ministry of Culture will coordinate these efforts as we will try to coordinate efforts to bring recognition to artists like Rudy so that they can get their work displayed.

There is a plethora of young Caymanian artists, painters and sculptors and I hope that we can promote these artists so that they can truly achieve the recognition they deserve.

On the matter of the new *History of the Cayman Islands*, it is my understanding that this history is now in the editing stage and should be available by the end of the year. I look forward to reading this long awaited work. For a work which had the gestation period of an elephant, I hope that when we receive it we are not disappointed.

There are other elements we are developing: the National Gallery; the National Museum; and the National Archives. I have visited all of these entities.

I would like to publicly commend the staff of the National Archives, the National Museum, and the National Gallery. I was impressed by the work and dedi-

cation to these entities. I also want to commend the people who volunteer to serve on the boards. For the first time in history, a Minister visited all of these entities and spoke with the boards. I am content we are off on the right development path.

The National Gallery is still in its embryonic stage, and I hope that one day they can find a permanent home. I am concerned, though, that the National Archives has exhausted all the purpose-built space and storage facilities.

There is a danger in storing important documents in places other than those purpose built because if it is not climate controlled, the paper deteriorates rapidly. Couple that with the fact that there are other kinds of hazards.

It is incumbent upon the Government that, as soon as it is feasible and affordable, we look to procure additional space for the storage of important documents that should be properly stored under the auspices of the National Archives.

I was at a board meeting of the National Museum and I explained to the members that it is the Government's objective, before the end of the current tenure, to identify land on which a proper museum can be sited. What is now the National Museum is, strictly speaking, not a purpose-built facility and does not have the kind of characteristics necessary for the preservation, care and safekeeping of the artefacts which we have.

It makes proper sense to take the time now to identify a spot. It would be sound, philosophical judgement to locate property where we can house the National Museum and the art gallery in close proximity to the Harquail Theatre so that one could conveniently visit all three sites simultaneously. It is something the Government is fully aware of.

We are committed, as can be seen, to the promotion of culture in all its myriad forms in this society. Events such as Art at Government House (for which the Government has to thank the Governor and Mrs. Smith for hosting) allow our youngsters and those inclined to exhibit their works, meet interested parties and explain their work, motivations and so forth.

We believe that culture is an integral part of the growth and development of the Caymanian community, and certainly this Government is willing to play its part as has been demonstrated.

I now wish to turn to the matter of human resources, labour, employment practices and so forth. Before I move onto that, if the Chair is minded I could do with a rest at this time, Sir.

**The Speaker:** We shall suspend proceedings for 15 minutes. I ask, Honourable Members, let us make it only 15 minutes.

**PROCEEDINGS SUSPENDED AT 11.23 AM**

**PROCEEDINGS RESUMED AT 11.42 AM**

**The Speaker:** Proceedings are resumed. Debate continuing on the Appropriation Bill, 2001. Second Reading, the Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I wish to move on to human resources.

The Ministry places great emphasis on the development of human resources. I am pleased with the progress we have made. We have been off to a most favourable start, and I must give credit to my Permanent Secretary who has approached the matter of human resources with professionalism and understanding which are welcome and refreshing. As Minister, I give her my full confidence.

It is plain from the outset that this area, particularly labour and employment practices, was a fragile area in previous political administrations. There is much work to be done. However, I am satisfied that this political directorate and the Ministry, largely through the support of the Permanent Secretary, have crafted a sensible, pragmatic, and practical approach. Already we have made considerable progress and we stand on the threshold of making even more.

The guiding philosophy has to be arrived at from outset. This is one of the many positive things which have been accomplished. We have a sound, if not perfect, guiding philosophy. As we confront the problems, we are not able to solve every one to the satisfaction of all parties, but the success rate is striking indeed. We continue to receive positive results.

The philosophy under which we are operating is that the Ministry concentrates on employment relations and training. We want to move away from the kind of labour practices as far as dealing with complaints is concerned and establish a tripartite system of cooperation between employers, employees and the government. In doing so, I am reminded of a quotation by the famous Caribbean author, George Lamming, who penned these lines, "It is labour in all its stages of organisation which has been the most powerful democratising force in the history of the Caribbean."

When we made the announcement, some people were either confused and did not understand what we were trying to achieve, or they were ill prepared to give us an opportunity to work this out in a way we thought most practical and beneficial.

We are convinced the proof of our activity so far bears out the direction we are taking. We are confident that with the organisation of the Labour Department into three divisions—namely, the Regulatory Division, Audit and Appeal and Human Resource Development—including functions that separate the appeals function from the regulatory functions by way of a revision of the Labour Law is more effective.

When the Permanent Secretary and I visited the Labour Department, without any exaggeration, I was taken aback. I was shocked to learn that a government operation existed in physical facilities and sur-

roundings such as they are. I tell you, for purely psychological purposes, that physical facility does not bode well for any satisfactory settlement. The ambience turns you off!

There is absolutely a repulsive atmosphere in the physical facilities. It is the most unflattering of surroundings. My heart goes out to the personnel who have to work there. It is no wonder we have so much controversy, such adversarial relationships and so many drawn-out quarrels. The physical setting does not bespeak an entity that should provide empathy, understanding and consolation, or arbitration or mediation.

It is important that we remove, restructure and re-site these functions so that we can have a better atmosphere—one which connotes cordiality. You do not have to be a student of *Feng Shui* to know that the environment and layout of an office has something to do with the results you get.

I see my colleague across the way nodding his head.

It is such an art that people set up their offices to reflect exactly what they desire. Some offices intimidate you immediately because they are structured that way. Some offices make you feel welcome, like you could make that your home. It is all by design.

These offices are all cramped and certainly not impressive. Someone coming from the outside cannot form a good impression. Largely, through no fault of the occupants, these facilities are the ones to which they were assigned and so they have little or no power to do anything except realign the desks or place a plant or two in a strategic corner. It is from this point that we have to excel.

We inherited a system where there is a proliferation of tribunals. These tribunals take weeks after hearing a complaint to come up with a conclusion. It is a most untenable and unsatisfactory system.

We have to continue, unfortunately until we have a review of the Labour Law, bringing in a more workable and alternative process. We have a situation where these tribunals meet to discuss similar complaints and the conclusions vary significantly. Then there is this whole process of appeal, one seemingly long, drawn-out procedure where the parties are dissatisfied. The complainant and plaintiff are both displeased and then it leads to an appeal.

I had a call at the Ministry yesterday from a lady with an outstanding matter of about six months now. She has not received a judgment and has been waiting since long before I came into office. I think this is a case where financial compensation may be involved. It is these kinds of situations that must be eliminated. It should not be allowed to be drawn out for such a long time.

Our approach is to build a system of arbitration and mediation. The advantages are: less formality; the arbitration award is final; there is no appeal unless there is a special case to be stated; the time and place of the hearing can be fixed to suit the conven-



ience of the parties; it is quicker than the legal process; it is cheaper and it is private.

The tribunal system is fraught with problems. One is that we often have to replace tribunal members. If one member resigns, that tribunal becomes non-functional until we can replace the resigned member. The philosophy we seek to establish is one which seeks to prevent and resolve employment disputes, to conciliate in actual or potential complaints and to provide information and advice.

Lastly, but importantly, we seek to promote good practice. Government will be seeking to establish what we call a Dynamic Human Resources Centre at 309 and 310 Paddington Place.

We will be endorsing new initiatives like e-business partnership for schools, investors in people and small business development. In addition to this we will house the Careers Advisory Service; we will house the student summer employment programme, creating a one-stop shop that incorporates and includes opportunities for training and re-training at all levels, beginning from the secondary level right up to adulthood. We will also have a unit dealing with information technology and its development. We are proud of this. It already has Executive Council's approval. We have already procured the physical facilities. We have the furniture, and we expect a formal launching at the beginning of November.

We are not stopping at that. We are liaising with the Chamber of Commerce as the representative of employers, as well as with organised employee representatives, to ensure stable and progressive labour relations.

I am sorry that the Third Elected Member for George Town is not here because I wanted to tell him first-hand that we will also be prepared to liaise with his organisation as a representative of organised employees.

The Ministry is also minded to strengthen and enforce the Labour Law in respect of pension violations through the courts.

I want to pause at this point to say that it is my understanding that some employers are not complying with the legal requirements as far as pension contributions for their employees. As Minister, I have informed the Pensions Office to use the most stringent of terms to impress upon these employers the necessity and requirements of the law in making their contributions.

While I do not advocate taking these people to court in the first instance, if they fail to abide by the law then it is my instruction to the Pensions Office to take them to court. We cannot have employers withholding employees' pension contributions and getting away with impunity. I would hope that if any further admonition is needed that those who are delinquent will understand they are in an untenable and unacceptable position.

The Ministry and the Government believe that the new move toward labour legislation has to take into account certain factors that are outside the borders

of the Cayman Islands, such as European Union expectations and international expectations—particularly those contained in International Human Rights Treaties and European Union agreements. The drafting of this Labour Law must be as comprehensive and modern as to be conscious of these factors which are bound to impinge on employment practices in the Cayman Islands.

It will also have to consider the modern trends in the world of work internationally—compassionate leave, maternity leave, paternity leave. We are talking about quite a sophisticated instrument. We do not want to craft legislation that we will have to immediately amend because we were not mindful of certain trends.

To this extent, we are concerned about safety in the workplace. My Permanent Secretary and I have held cursory discussions about the development of some code of responsibility for safety in the workplace in the Cayman Islands. We believe this is complementary to any modern labour legislation. With trends the way they are, it makes sense.

We have asked His Excellency the Governor to consider changing the name from Human Resources to Employment Practices so that the Ministry (if he accedes to our request) will be the Ministry of Education, Employment Practices and Culture.

Certainly, the nomenclature of Human Resources is sometimes misleading, and people from outside jurisdictions ask if I am in charge of the Civil Service because of this notion of Human Resources. While there is certain relevance, we believe that the description Employment Services is more applicable and apt, particularly in line with what we are trying to accomplish.

I am aware of the many areas of flux existing in certain labour matters, particularly as they involve certain entities in the hospitality industry. It is obvious that we need to come up with a more relevant and appropriate Labour Law, one that is devoid of the loopholes in the current law and one that is clear and unequivocal in what it advocates.

Hand in hand with that, I was pleased that the Government was minded to accept the call for a minimum wage law. I think in the modern Cayman Islands there is room and it is time for us to have a minimum wage by category, structured and in place.

Complementary to this, I think the review of the Trade Union Law is timely. It seems we have at least one organisation which is an established trade union. This is to be accepted in a democracy. I think we should have a law structured so that the role of the trade union is clearly demarcated to enable other entities to form a union, if they choose, with the guidance, relevance and appropriateness of a modern law. It can only strengthen society and enhance the position of employees while informing and instructing employers of their roles, rights and responsibilities.

The guiding philosophy behind this, as espoused by the Government through the Ministry, is that this is

a partnership. All of these ventures are a partnership. That is why we are stressing the tripartite aspect of relations between employer, employee, and government. The government's role is as a neutral party: a facilitator; a mediator; an arbitrator; an educator and enlightener. We do not wish to be policemen. We do not consider it is the government's duty to go cracking heads or breaking wrists. We believe we can best provide the service of educating, informing, mediating and facilitating. That is why we are looking forward to the new facilities at 309 and 310 Paddington Place. We hope to embark on a genuine partnership with the Chamber of Commerce.

The Ministry of Education, Human Resources and Culture sees itself poised to be the Government's liaison with the Chamber of Commerce in developing the public sector/private sector partnership that will allow the country to move forward in every aspect of its growth.

This Ministry sees itself as a people-oriented Ministry and, therefore, is eminently structured to lead negotiations and the development of relations between the public sector and the private sector, particularly with regard to issues of employment, education and others similarly related. We are prepared to do that, bearing in mind that it will be our responsibility to inform and to ensure that the other Ministries and other Departments are equally minded so that we can advance in unison.

We realise that much will have to be done to educate, improve and prepare our people. We are eager to launch efforts in information technology and encourage the development of various skills among Caymanians.

I wish to emphasise that the Human Resources Centre will not only be for school-leavers, but for Caymanians alike. We will focus on training and re-training and the acquisition of skills from all levels of the spectrum. I want all Members to look forward to this and I ask for their continued support for this facility that we take pride in.

Earlier this year, the Permanent Secretary and I traveled to the UK and Jersey on a fact-finding mission. We viewed several initiatives that we hoped to see implemented and instituted in the Cayman Islands—one was the Investors in People Programme. I was particularly impressed with the way Jersey has the programme structured.

We did a presentation at the Hotel de France, which was one of the businesses operating under the backing of the Investors in People. They recently won an award and I had the privilege of handing it to Mr. Robert Parker, the Managing Director of the Hotel de France.

We believe that such a programme can work in the Cayman Islands, and the Ministry has already taken steps to have this programme developed and introduced here.

It is my understanding that certain entities here may already have staff familiar with the Investors in

People programme. Coutts, Natwest, Bank of Butterfield, and I believe Deutsche Bank already have representatives familiar with this plan. We anticipate introducing this in Cayman and playing our part in promoting the training and development of employees.

We had an initiative that was called P3ET that had as one of its objectives the provision of training. To an extent, we still have that initiative going, although it was decided since I came into the Ministry that we may wish to rename it and provide a change of focus.

All the persons who served on that committee were extremely competent volunteers, and I encourage them to continue to bring forward their efforts and ideas. I anticipate a vibrant and energetic revival of the committee and I hope that after Easter we can get back to our business of moving it forward.

All efforts that the Ministry is about to expend and develop in training will have to be complemented by efforts from the private sector. That is why we emphasise the public sector/private sector partnership with the Chamber of Commerce and other entities as well.

Balancing this will be the development and teaching of these subjects in the schools. I want to stress that when we talk about training we are not just limiting this training to formal schools. We are talking about apprenticeships and programmes outside the schools, including distance learning. We envisage that this exercise will develop to such an extent that people will choose to operate on their own initiative.

One of the things the Permanent Secretary and I would like to see at this Human Resources Centre is a system where people can access a computer and, with supervision, enquire into areas of training and skill they may be interested in. We will have the relevant and requisite resource people to offer counseling, guidance and assistance. Career counseling is going to be a vital part of this resource centre.

We would like to ensure that we have available to those who use this centre all of the information they may ever wish to acquire. Indeed, we are going to encourage them to drop in because we want it to have that kind of atmosphere. We want it to be the kind of place where you do not have to have a specific reason for coming. If you want to spend just five minutes with a cup of tea or coffee, you can do so, or to read in a corner if there is a particular occupation which you may be interested in.

We hope to have the literature available. We encourage people to use it as a drop-in centre in addition to coming in for specific purposes.

We also want to move the appeals section of the labour tribunals away from where it is currently at the Labour Department, to promote some distance and authority and to remove any kind of incestuous claims.

So, we are quite enthused and anticipatory about this. We believe this kind of centre will prepare Caymanian employees like never before. It will addition-

ally serve as a reference point and be complementary to the work of the Chamber of Commerce.

Our objective is to coordinate the training facilities currently in existence in the Cayman Islands so that our efforts are not duplicated. We will know exactly who is offering what, which will enable us to inform and route people in the right way.

This will be the first time that such an entity with this kind of dynamism, plan and objective will be operational in Caymanian society. It should provide an ideal and ample opportunity for those Caymanians who are interested in training and re-training to prepare for the future.

Mr. Speaker, it is my understanding that the House is minded to adjourn at 12.30. In view of the fact that I have a quivering voice, I ask the Chair to grant my request to take the adjournment at this time.

**The Speaker:** Certainly, if a Minister will move the adjournment. The Honourable Minister for Education, Human Resources and Culture.

## ADJOURNMENT

**Hon. Roy Boddén:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am, Wednesday, 18 April 2001.

**The Speaker:** Before putting the question, I would like to wish all Honourable Members, their families, the staff and their families, and the people of the Cayman Islands a very happy and safe Easter. The question is that this Honourable House do now adjourn until 10 am tomorrow.

Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 12.22 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 18 APRIL 2001.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**18 APRIL 2001**  
**10.10 AM**  
*Twentieth Sitting*

*[Prayers read by the Elected Member for East End]*

**The Speaker:** Please be seated. Proceedings are resumed. Item 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies for absence from the Honourable First Official Member who is presently Acting Governor of the Cayman Islands; the Honourable Second Official Member who will be arriving later; and from the Third Elected Member for Bodden Town who is off the Island.

Moving on to item number 3 on today's Order Paper, Presentation of Papers and Reports. Report of the Cayman Islands 1999 Population and Housing Census. The Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REPORT OF THE CAYMAN ISLANDS 1999  
POPULATION AND HOUSING CENSUS**

**Hon. George A. McCarthy:** I beg to lay on the Table of this Honourable House the Report of the Cayman Islands 1999 Population and Housing Census.

**The Speaker:** So ordered. Do you wish to speak to it? The Honourable Third Official Member.

**Hon. George A. McCarthy:** Thank you, Mr. Speaker. The Cayman Islands 1999 Population and Housing Census was conducted during October/November 1999, with 10 October 1999 being designated as Census Day. As in the previous two censuses, questionnaires were delivered to households and forms were completed by the occupants.

The 1999 Census questionnaire was more detailed than either the 1979 or 1989 forms and was designed to use Optical Mark Reading (OMR) technology for data entry. This technology, while it considerably reduces data entry errors, required field staff to be more vigilant at the time of collection. The census counted all persons present in the Cayman Islands on

Census Day, that is, the *de facto* population, as well as residents abroad providing that they had not been overseas for a continuous period of over one year.

Residents were provided with a written guide to assist them in completing the questionnaire. The guide also provided answers to some commonly asked questions. The questionnaire also provided instructions on how to interpret the questions.

The questionnaire for the 1999 Census repeated many of the questions from 1989, but sought to collect additional information relevant to the needs of the society.

As a result, questions were asked on computer availability and Internet access in the home, hours spent on unpaid household activities, disability, remittances abroad, health insurance and pensions. The question on income was expanded to include income from sources other than employment.

The questionnaire was divided into three sections and contained 71 questions. These sections are as follows: Identification, 1 question; Housing, 24 questions; Personal, 46 questions.

The Identification section was used to list all persons who resided in the household by sex and age. A question for identifying households that engage in agricultural activity was also asked in this section. The information will be used in an agricultural census.

The Housing section consisted of nine new questions: two questions on access to technology within the home; two on the use of the home for business purposes; one each on repairs to household, energy for lighting, fuel for cooking; and two aimed at measuring the cost of shelter.

The Personal section was significantly increased and 14 new questions were asked. These included: four questions on disabilities; one each on union status, health insurance, unpaid household activities, religion, daycare supervision for children under five years of age, months worked in the Cayman Islands during 1998, remittances abroad and pensions; and two on languages spoken.

Additionally, the question on Cayman status was broadened to incorporate citizenship. The income question expanded to provide information on income other than employment income.

For the purpose of the census, "residents" were defined as persons who on Census Day had lived on the Islands for six months or more, or who would be living on the Islands for six months or more by virtue of their job or other circumstances.

Summary of the 1999 Census results: A total of 40,786 persons spent the night of 10 October 1999 on the Islands. Of this total, there were 37,651 residents

in private homes, 390 in institutions, 688 visitors staying in private homes and 2,057 visitors staying in accommodation establishments. Thirteen hundred and sixty nine residents spent Census Night outside the Cayman Islands. The resident population of the Cayman Islands on Census Night stood at 39,410, of which 390 were institutionalised.

The non-institutionalised resident population numbered 39,020 and was distributed as follows: George Town, 20,626; West Bay, 8,243; Bodden Town, 5,764; North Side, 1,079; East End, 1,371; Cayman Brac and Little Cayman, 1,937.

All tables in the report have been compiled on the basis of the non-institutionalised population.

The population of the Cayman Islands grew by 55.4 percent over the 1989 Census figure of 25,355, or at an average annual rate of 4.5 percent. At this rate of growth, the population of the Cayman Islands will double by the year 2015.

On a district basis, Bodden Town registered the highest growth and North Side the lowest.

Average annual growth by district over the period is as follows: George Town, 4.8 percent; West Bay, 3.9 percent; Bodden Town, 5.4 percent; North Side, 2.3 percent; East End, 2.6 percent, Cayman Brac and Little Cayman, 2.8 percent.

The number of households in the Cayman Islands increased to 14,907 in the 1999 Census from a total of 8,115 in 1989. These figures are not strictly comparable, as the definition of "household" was modified for the 1999 Census.

Average household size in the Cayman Islands declined from 3.1 in the 1989 Census to 2.6 in the 1999 Census.

The average age of resident in the Cayman Islands' 1999 Census was 32.8 years. In 1989 the figure was 31 years. Two thousand seven hundred and forty persons (7 percent of the population) were under the age of five. Of these, 2,113 (77 percent) were Caymanian. Seven thousand five hundred and ninety eight persons (19 percent of the population) were under the age of 15. Of these, 5,988 (79 percent) were Caymanian.

Two thousand one hundred ninety five persons (6 percent of the population) were 65 years or older. Of these 1,821 (83 percent) were Caymanian. Cayman Brac registered the highest proportion of elderly persons with 15 percent of the population being 65 years and over. North Side, East End, Little Cayman and West Bay followed with 11, 10, 8 and 6 percent respectively.

The proportion of males to females has remained virtually unchanged from the 1989 Census. Fifty one percent of the population was female and 49 percent male, as was the case in 1989. In 1999 there were 19,987 females and 19,033 males.

Fifty-three percent of the population was Caymanian, either through parentage or grants of status for other reasons. This has declined by 67 percent in 1989 and 81 percent in 1970.

The number of Caymanians in the country grew at a modest rate of 1.9 percent per annum between 1989 and 1999. The Caymanian population grew from 16,868 in 1989 to 20,491 in 1999.

Over the same period, the non-Caymanian population more than doubled, growing by 8.2 percent per annum. The number of non-Caymanians living in the Cayman Islands on Census Day was 18,529, up 8,387 from 1989.

Twenty five thousand, five hundred and six persons were employed during the week of 3-9 October 1999. The proportion of employed males and females in the labour force was almost equally split. There were 12,523 females (49 percent) as compared with 12,983 males (51 percent).

Ten thousand, six hundred and twenty nine of the employed labour force (42 percent) were Caymanian. Eight hundred and fifty persons (3.2 percent) of the labour force were available for work and seeking a job during the week of 3-9 October 1999. A further 493 persons (1.8 percent) of the labour force were available for work but did not seek a job during the week of 3-9 October 1999.

Seventy-four percent of the households (11,040) in the Cayman Islands had access to telephones. Thirty-eight percent of the households (5,695) had a computer in the home, of which 4,259 (75 percent) were hooked up to the Internet.

Rental properties accounted for 49 percent (7,265) of the total number of households on the Islands. A further 6 percent were provided rent-free. Twenty two percent (3,280) were owned outright, and 23 percent (3,383) owned with a mortgage. In 1989 rental properties accounted for 41 percent (3,299) of the total. Six percent were rent free, 31 percent of the households (2,547) were owned outright and 22 percent (1,761) were owned with a mortgage.

Nine thousand nine hundred and forty six persons lived in homes that were owned outright. Of these, 7,643 (77 percent) were Caymanian. Eleven thousand six hundred and fifteen persons lived in homes that were owned with a mortgage. Of these, 8,415 (72 percent) were Caymanian. Fifteen thousand one hundred and eight persons lived in rented accommodation. Of these, 3,248 (21 percent) were Caymanian.

Residents of the Cayman Islands spent about \$5.9 million monthly on rent, or about \$70.6 million for the year. Residents with home mortgages spent an estimated \$4.8 million monthly on mortgage payments, or about \$58.2 million in 1999.

I trust that you, Mr. Speaker and Honourable Members, will find this encapsulation of the Census Report to be useful. Thank you.

**The Speaker:** Moving on to item 4 on today's Order Paper, Government Business-Bills. Second Reading, the Appropriation Bill, 2001. Continuation of Debate on the Throne Speech delivered by His Excellency the Governor on Friday 9 March 2001, together with the

Budget Address delivered by the Honourable Third Official Member on Wednesday 21, March 2001.

The Honourable Minister responsible for Education, Human Resources and Culture, continuing his debate. For the benefit of the Honourable Member, your time remaining is 1 hour and 47 minutes.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

#### THE APPROPRIATION BILL, 2001

#### DEBATE ON THE THRONE SPEECH, DELIVERED BY HIS EXCELLENCY THE GOVERNOR ON FRIDAY 9 MARCH 2001

#### TOGETHER WITH

#### THE BUDGET ADDRESS DELIVERED BY THE HONOURABLE THIRD OFFICIAL MEMBER ON WEDNESDAY 21 MARCH 2001

*(Continuation of debate thereon)*

**Hon. Roy Bodden:** Thank you, Mr. Speaker. In the time I have left, I will articulate the Government's educational policies as it falls under my responsibility.

I preface my comments by saying that when the Government was sworn in on 16 November, shortly thereafter it was decided by a consensus of the Elected Ministers that they would focus these four years on education and training. It is my responsibility to move the Government's programme forward.

We decided that we would like to take a new approach and Government has supported me in developing and articulating a public sector/private sector partnership in some of these ventures with the Chamber of Commerce. I will say more about this later in my contribution.

Also, upon analysis we recognised that there are some areas of overlap between the Ministry of Education and the Ministry of Youth. The two Ministries will be doing some collaborative work, particularly in the establishment of a Cadet Corp in the schools and among the youth outside of schools, as well as in the development of a National Youth Service.

There are several things I could say about what was inherited by way of education. However, I will not spend my time on the negative other than to say that I was surprised to learn that with the furore laid down by my predecessor the Cayman Islands had no national policy statement on education.

Immediately I enquired about this and I was astonished by such a glaring absence. I have to wonder, in the absence, how we could know that we had an

effective system as was so often impressed upon us by my predecessor.

In addition to that I have found out that the national curriculum is not national because it excludes many of the private schools. I have numerous concerns about the national curriculum. After detailed enquiry I learned that it was not well thought out.

I will not say more than this: as a professional educator, I have to say that the educational policies of the political directorate of the past eight years were not carefully planned and would seem to have emanated largely out of micro-management or crisis management rather than a broad and comprehensive view with practical, pragmatic and achievable objectives.

Upon taking over Office and following the conclusion of the 14<sup>th</sup> Commonwealth Education Ministers' Conference, I decided, as Minister, to put forward to Government a concentration of five areas of education in the next four years. These are: school improvement; technical and vocational education; information and communications technology; citizenship education; and teacher training. It is anticipated that these five areas will form the core of the new Government's educational policy developed through a process of consultation.

In the first instance, I recommend that we set up a task force to draft a policy paper that will be the national policy statement on education. This task force will be comprised of: the Chief Education Officer and two senior staff members to be selected by her; the Chief Inspector; the President of the Community College of the Cayman Islands; the President of the International College of the Cayman Islands; two principals, one from a primary school and one from a secondary school; two teachers from schools not represented by their principals; and a representative from the Private Schools Administration Association and a member of the Education Council.

I also recommend that the task force be chaired by the Chief Education Officer and the secretary should be a representative from the Ministry of Education. In this case, I propose that it be the Senior Assistant Secretary.

The terms of reference should include reviewing the draft Education Law, since the policy and the law must work in tandem.

It is crucial that we have a new Education Law because the current one is antiquated. One of the things the law allows, which I am most uncomfortable with, is that currently it calls for the Minister of Education to be Chairman of the Council. I am uncomfortable with that and, indeed, I have remarked about that on a number of occasions when I was on the Back Bench.

The Chairman of the Education Council should be someone other than the Minister, and the Minister should be set up in a position to review and, if necessary, overturn decisions—sort of a court of appeal rather than the final arbiter of the decisions.

Because this is the busiest time of the school year, I am suggesting a timeline for the end of September for the first draft policy document. However, we should not wait long thereafter. It is of crucial importance that we get this draft policy document within the first year of the Government's coming to power so that we will have the next triennium to concentrate on implementing these policies.

If we get this by 30 September, this would give us time to consult, particularly with the public and Members of this House, and then table the draft policy statement to the Legislative Assembly during the Budget Debate so that we can begin to make preparations for the implementation of some of the policies by the 2002 Budget.

The challenge for the period between April and September will be to continue developing the five areas of concentration with the limited budget we have.

I must express appreciation to my colleagues on Executive Council for the support they gave to the needs of education in this country during a time of financial restraint and retrenchment.

On the matter of school improvement, the Government, through the Minister, has lived up to its stated position of tabling the Millett Report in its entirety. The Government now calls for a restructuring and retooling of the Education Department to deliver maximum support to the schools in carrying out the national education plan and their site based plans.

I asked, on behalf of the Government, for the Chief Education Officer to have her proposal by 10 May for the implementation of the Millett Report in the three phases Anthea Millett called for.

The first phase which was agreed on by the Chief Education Officer and I should be a restructuring of the Department.

I wish to see the Department restructured and a revisit to the terms of reference of the Members of the Department. I am not satisfied that we cannot have improvements in the Education Department. I would like this to be an internal matter. If it has to be done through the Ministry, they may not like how it is done. Therefore, I encourage them and support their handling of the matter internally.

I look forward to sharing with my colleagues on Executive Council by 10 May their plan for this first phase. I advise that the work be done during the summer months with the help of the Personnel Department.

Also in this phase will be the transfer of the Careers and Summer Internship Programme to the Employment Services Centre. The person responsible for the summer internship will be transferred to the new Strategic Human Resources Centre. I look forward to this. It will be a remarkable improvement.

By the end of September the administration of the scholarship funds should be transferred to the AIDB. This is an improvement effected by this Government. This will take an Executive Council decision,

but I do not anticipate any problems. When I present the paper I am sure it will be supported.

There will not be any physical move of the funds until after the busy summer period is over. With the proper public relations scholarship, students should not be confused and the system should be more streamlined and more applicable than it is now.

Along with this will come a restructuring of the Education Council. This will be done by the Ministry and will depend upon the new Education Law being passed. Appointments under the new Law should also be made. We hope to get this in operation by the beginning of the New Year.

Another major improvement involves the Schools Inspectorate and the implementation of action plans arising out of such inspections. School inspections are now on a four-year cycle. Approximately nine schools have been inspected to date. Post inspection visits are scheduled appropriately to keep the pressure on the schools to address any shortcomings uncovered during inspection. It is the role of the Education Department to make sure that the action plans are properly developed and implemented.

The Schools Inspectorate is an excellent organisation and has pioneered a programme of leadership development that is to be encouraged and continued. Government would like to expand the inspection to the preschools and tertiary institutions; however, this will need to be part of future development of the Inspectorate as funds and staffing levels do not follow for this financial year.

The physical improvement of schools, especially the building of new schools, is a priority for this Government. However, the start of construction on the Spotts School, the Boatswain Bay School and the new Eastern District's high school has been slid back because of budgetary constraints. I hope that next year, when the clouds are less ominous, we can move forward with the improvement of these particular schools.

We are beginning to discuss and articulate a sensible plan for the development of technical and vocational education. The George Hicks High School is revising its timetable to allow students more exposure to technical subjects from Year 7.

I would like to see an orderly transition where students are introduced to technical and vocational subjects at the high school level and move on into the Community College. In the past it was expected to be developed at the Community College level without giving students proper introduction at the high school level. The success rate was not as it should have been.

Government needs to look critically at the present structure of secondary education. We are doing this and will assess whether or not it would be advantageous to change this to an 11 to 17-year system.

It is the Government's intention to convert the George Hicks High School into a full fledged institution. We realise this matter will need to be approached

with some diligence and studiousness. It cannot be implemented for the beginning of this academic year, but we hope to be in a position to convert the school by September of 2002.

The last time this intention was announced, it met with objections from persons who, for their own reasons, wanted to build cults of personality. The education of Caymanian children is bigger than any one individual or all of us collectively. Improvements in education cannot be retarded by people who have personal designs to preserve their memories. If this move to convert the George Hicks High School into a full fledged high school is given the green light, this is the ideal time to reassess the curriculum of both Government high schools.

It is likely that outside help will have to be brought in, particularly if we engage in an in-depth examination of a technical and vocational studies curriculum which dovetails with what is offered at the Community College, avoiding the duplication that exists at present. Government will also assess the current policy which sites all government sponsored post secondary education at the Community College by considering whether it is advantageous to reintroduce the advanced levels at the high school level.

It is imperative that technical and vocational education is developed in the occupational areas most crucial to the development of the national economy.

Government realises that not everyone can be an attorney or a CPA or major in Business Administration however important these are. The developing economy of the Cayman Islands needs carpenters, plumbers, electricians, masons, mechanics, agricultural technicians and people of this nature.

In terms of information and communication technology, the Government's objective is for every child leaving one of our high schools to be able to use this technology and integrate it into the workplace or further studies. We hope to see an information/communication technology profile developed with the help of the E-Business Advisory Board, which will inform the schools of the IT skills a typical 17 year old would be expected to have.

A few years ago, it could have been said that it was appropriate to have computer hardware in place in our schools. Now, however, in a field that is rapidly advancing, much of the schools' computer hardware is obsolete.

This year, computer laboratories need to be replaced at both Cayman Brac and John Gray High Schools. With the help of the P3ET Committee we hope to establish a hardware/software and training standard for each level, and carry out a survey to tell us what our information technology needs are in each school to help us bring these up to standard.

It is our objective to make each teacher literate in information technology. This must be a requirement for hiring future staff. It would also be good to institute the idea of continuing education in teaching.

I was surprised to learn that many of our teachers have been instructing for years without refresher courses—no upgrade in methodology, teaching techniques, presentation of the latest material, and no exposure to computer assisted instruction. That is not good enough! I have said, in no uncertain terms, that I expect the Education Department to ensure that our teachers regularly avail themselves of refresher courses.

I consider citizen education crucial, particularly if the Cayman Islands continue to mould themselves into a multi-racial, multi-ethnic, democratic society.

The entire community is aware of the recent problems with gang behaviour, including violence that sometimes leads to loss of life. While the joint Ministerial Committee for youth violence, set up under the chairmanship of MLA Dr. Frank McField, will address this and make recommendations, the schools must take a proactive stance.

I expect that standards of acceptable behaviour will be taught and promoted in the schools. However, the schools cannot do it alone. The home and the community at large will be expected to play a role in the development and promotion of acceptable standards of behaviour.

In terms of citizenship, the Commonwealth sets great store in citizenship education for a multi-cultural and global community. We look forward to support from the Commonwealth Secretariat and the Commonwealth Institute for the promotion of citizenship education.

The newly created position of Life Skills Coordinator will be filled in September and will put in place, for the first time, teaching staff trained to implement the new citizenship curriculum.

In terms of teacher training, the Government, through the Ministry, established a committee of eminent persons to examine the teaching service in the Cayman Islands with a view to making recommendations as to how it can be improved. The committee is under the chairmanship of Mr. Gilbert McLean, MLA, whose meticulous, bureaucratic sanity and excellent organisational sense should bode the committee well for an excellent and authoritative report. If all goes according to schedule, the committee will deliver its interim report in a few weeks' time.

The Ministry anticipates the forthcoming insights and recommendations. It is hoped that we can use these findings as a launching board for a campaign to attract more Caymanian teachers, particularly more male Caymanian teachers into the profession.

**Mr. Gilbert A. McLean:** Here, here!

**Hon. Roy Bodden:** We feel there is an absence of positive role models in our society. If we can start populating our classrooms with them, that may prove promising for the future growth of young Caymanian men along positive lines.



The Millett Report identified training of teachers as a top priority. I have been saying for years that our country cannot do well until we get more of our own people in the teaching profession. There are many programmes we could model in trying to attract Caymanian teachers.

I used to remind my predecessor about one in the United States called "Teach for America" where they not only attract new people into teacher training but they convert accountants, attorneys and all these people who want to make an impact on young people. Some of them switch streams mid-career to go into teaching. These are the kinds of changes that would positively impact Caymanian society. We have to find a way to increase the proportion of Caymanian teachers.

At this time of financial constraints, every opportunity for alternative training must be examined. I will speak to my colleagues and political directory about establishing a teacher training programme here.

I would like to see a concurrent degree programme where two degrees are offered over a four-year period: a bachelor's degree in a discipline (history, sociology, economics, literature); and a bachelor of education which is accompanied by a teaching certificate. I believe we can develop such a programme between our two community colleges with collaboration from outside experienced institutions.

I went to an institution where such a concurrent programme was implemented. Indeed, at Queen's University there was an existing contract with the Bermudan Government to train their teachers. Upon the enrollment of 12 students, Queen's University made professors available. They flew down for a period of the training during summers and other times. In the final year the students went up to the campus in Ontario.

Before my tenure concludes, I will explore this possibility. I believe that just as we have a Law School, we should have a teacher training college. Indeed, if asked, I would say that we should have had the teacher training college before we had the Law School because teachers train lawyers!

Now that the Law School is established and successful, I hope we find the political will and economic means to develop a teacher training college so that we can make progress on this road to educational self-sufficiency. Teachers must be exposed to good practice through attendance at professional conferences like the International Reading Organisation and teacher exchanges.

Since I have joined Ministry, we have been working on a teacher-exchange programme for 2002 through the auspices of the British Council where British teachers will come to Cayman on an exchange and later Caymanian teachers will go to Britain.

I spoke to my Permanent Secretary and the Chief Education Officer about establishing a system of sabbatical, especially for our principals, who labour under intense pressure and stress. I wish to see prin-

cipals, as well as other staff members, allowed to go to places like Florida, the UK and Canada on three-month, six-month, a year's sabbatical.

The Cayman Islands Government would assume financial responsibility for the salary of the Caymanian staff. They would be hosted by the government of the country with which we have the exchange. While we would be responsible for the salary, all the housing arrangements would be taken care of by the host government. The obverse would be true. I believe this kind of arrangement would be an incentive for people, particularly young people, to join the teaching profession and remain in it.

There are other areas the Ministry needs to look at. One of these—which is most topical at this time—is the graduation criteria and increased emphasis on literacy and numeracy. One of the things we talk about at the Ministry level is the birth of criteria, where every student leaving high schools leaves with a recognised and acceptable matriculation certificate.

In discussions with the Chamber of Commerce, I have asked them to set up a committee that would establish the criterion for the skills and knowledge necessary for students. We want to create a matriculation certificate acceptable to all establishments in the Cayman Islands, including government. For want of a better name, we could call it the "Cayman Islands Baccalaureate".

It would allow a student graduating from our high schools to get a job as a bank teller, a clerk in a law office, or a clerical or executive officer in the government service. It would not allow the student to enter university because it would only be qualifications recognised in the Cayman Islands. It would be structured in modules so students would have at least two chances to build the necessary complement of subjects that would allow them to qualify for the diploma.

However, if a student reached the age where he had to leave high school, it would be structured so he could study externally and still take the exam. He could do it one subject or two subjects at a time in order to get the certificate. For example, if he left high school because of age, it is possible that he could still take the two lacking subjects to qualify for the certificate. It would not be limited to chances while still in high school. It could be taken through extension courses afterwards.

We are determined, through the public sector/private sector partnership with the Ministry and the Chamber, to set this in place so that we can have some recognised and acceptable graduating criteria for our students.

We want to think of learning as life-long. The policy improvements in education will work in tandem with the strategic Human Resources Centre in terms of retooling skills and exposing our people—not just the school aged—so they may benefit. Learning will not just be limited to formal schooling up to age 18, but beyond.

The bedrock of the Ministry's philosophy is to optimise our people's contribution to the national development.

I am committed to doing this in a structured manner that will include consultation with all the stakeholders in a way rooted in diagnosis, analysis and policy development leading to the maximisation of all students' and stakeholders' potential.

Education and training must be for the Cayman Islands what Napoleon thought the Citizens' Army embodied for France—it must be the vitality of the nation, the purification of its morality and the real foundation of all habits.

Government, through the Ministry of Education, recognises that there are changes in the Cayman Islands' society. If Caymanians are to benefit, education and training must be the catalysts that allow them to take optimum advantage of these changes.

This political directorate has given its commitment, and this Minister is prepared to undertake . . . I do not want to say "reform" and I certainly do not want to say "revolution" because revolutions and Roy Bodden do not go well in this society.

We have given the undertaking to move education forward in ways and areas hitherto unseen.

I am coached by my Leader to say that it can only be described as a timely evolution. Indeed, I will be comfortable with that!

It is in recognition of these facts that the Ministry and, by inference, the Government place such great importance on the progress of educational policy and an educational system designed to promote awareness, importance and appreciation in the stakeholders.

For the first time in the history of Caymanian politics, the Cayman Islands has a government with the personnel at the political level capable of doing great things in education and training.

While it is true that we are not in the best of financial positions, I know that by the next budget (God willing) things will become clearer and we will move forward with greater improvements in education and training.

I will spend my last few minutes talking about my constituency of Bodden Town.

To say that I owe a deep debt of gratitude to the people of Bodden Town is the greatest understatement I can make. I owe these people more than my future, more than my service or my intellect.

I must apologise because we are currently making some adjustments to how we can best open an office that will serve as an MLA Office that all three Members can have access to. We do not believe we should have three different office locations. In addition, there have been some requests which we have put forward for things needed.

I am confident that we can continue to build a community in Bodden Town that everyone can be proud of. We are committed to this. Although we may have had some difference in direction in the past, the

current Representatives are working together to bring the best for the community and the country. I eagerly look forward to the next years.

Working together as a government, with God's help, we can do great things. This is a Parliament full of promise and history. For the first time in the history of this Parliament, we are peopled by a complement of young Caymanians qualified with vision and dynamism and ability to move this country forward.

The Backbench is loaded with capable Members. I am honoured to serve among such dedicated and distinguished people. It is a blessing to have been elected at a time when events and history in the Cayman Islands have changed for the positive. The dinosaurs are now extinct! Parliament is full of promise.

It is a blessing to have been born in interesting times. I look forward to a complete transition when persons of my age and genre will see the younger, more dynamic, more intelligent and (dare I say?) more nationalistic Caymanians on the verge of becoming the leaders this country needs.

It is my understanding that recently both talk shows have been concerned with certain educational events. I end on this because I think it is important that I promote this understanding.

It is my information that one of the topics of concern was government support for private schools. I thought about this and investigated at length into the relationship.

This Government is based on building partnerships and trust. The relationship that existed between the government schools, the private schools and government has to continue.

Education in the Cayman Islands has to be a partnership between what is offered at the private school level and what is offered at the public school level. I am content the government continue to support the private schools for obvious reasons, not the least of which is the fact that the private schools play an important role. Were they to go out of existence, it would increase the government's responsibility.

At the same time, the private schools have to recognise that because they receive public funds they have to be accountable. So, they have to make themselves open to the Schools Inspectorate.

The Government would like to know how these funds are expended because the Back Bench will demand that. We do not want to tell them how they have to run their schools on a day-to-day basis, but we expect to be apprised of major decisions and major policies.

I support the partnership. It is my desire to continue. I have had cordial relations and have visited all but two of the private schools. I would have visited them had my schedule not suddenly crowded. I intend to complete the circuit by visiting the Baptist and St. Ignatius schools as soon as time allows. I wish to assure the private schools that they will have the government's continued support as it is our desire to strengthen this partnership. We believe that Cayma-

nian society can only benefit from a partnership between the public and private sectors.

In conclusion, as the Minister Responsible for Education, I feel confident that the challenges and problems we face can be surmounted successfully. I look forward to leading the Government's policies in the field of education and training. I look forward to delivering positive results for my country and Caymanian society. It is what the country and the society need and deserve. With God's help I can meet the future confidently and pledge to do my best to provide the greatest opportunities available through resources we have for Caymanian stakeholders in education. Thank you.

**The Speaker:** At this time we shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.19 AM

#### PROCEEDINGS RESUMED AT 11.45 AM

**The Speaker:** Proceedings are resumed. Debate continuing on the Appropriation Bill, 2001. Does any Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I rise to offer my contribution to the debate on the Throne Speech delivered by His Excellency the Governor on Friday, 9 March 2001, and also on the Budget Address delivered by the Honourable Third Official Member on Wednesday, 21 March 2001.

On this, my first debate, I wish to take the opportunity to extend my heartfelt thanks to the people of George Town for their confidence in electing me to this Honourable House. I regard that trust as sacred and I shall do all I can to ensure that it is not misplaced.

Election to this Honourable House is a weighty responsibility. In the current climate, it is a particularly serious one. At no other point in this country's history has its Elected Representatives been faced with so many critical issues all at once.

This country is at a watershed, perhaps the most critical yet. The myriad of issues confronting us are grave.

We must grapple immediately with the international initiatives of the Organization for Economic Cooperation and Development (OECD) and the Financial Action Task Force (FATF); a budget crises unlike any this country has ever known; a pressing need for education reform; and equally pressing, if not more urgent, the need for immigration reform.

There is the impending Constitutional review we must all deal with, and then there are major societal problems including youth violence. Many matters have

gone unattended for a long time and must be dealt with by Members of this new Parliament.

There has never been a time when this country has needed more diligent and capable representation than it does now. Notwithstanding the many differences, divisiveness and acrimony which mark the formation of the current Government, it is our collective responsibility to put those matters aside and work towards bringing this country back on track - a heavy responsibility we all shoulder. We must work to engender a spirit of cooperation and mutual respect among all Members of this Honourable House.

I am moved to record how deeply disappointed I was that, in his contribution to this debate, the Second Elected Member for Cayman Brac and Little Cayman saw fit to launch an unwarranted and unprovoked attack upon the professionalism of a number of Members of this Honourable House. I consider myself included in that attack.

I view such conduct as churlish and completely unbecoming the hallowed Chambers of this Honourable House.

I was heartened, Mr. Speaker, that you caused that Honourable Member to withdraw his remarks. I hope that will not set the tone for the next four years—there is far too much for us to do to engage in petty rivalry.

I do not suggest for one moment that we should all agree. Differences of opinion bring perspective to issues and provide the checks and balances necessary to the proper running of any democracy. Constructive opposition is healthy and is to be encouraged. But let that criticism be constructive.

The months that have passed since we were elected have been busy for us all. I can safely say that all Members of this Honourable House are now engaged full-time in the representation of this country; the days of part-time representation are a thing of the past.

In the short time I have been here I am impressed by the ability of all Members of this House, particularly with their willingness to work hard at whatever task presents itself, whether in committees or in this Honourable Chamber. That is just as well because there is so very much to be done. If this country is to be restored to a stable and prosperous state, it will take the best that each of us has to offer.

Listening to the Throne Speech and Budget Address, I was struck with one enduring impression—the chickens have come home to roost with a vengeance!

I have often asked myself over these past six months or so what the former government would have done had they returned to this Honourable House and been faced with the enormous problems that currently exist. I asked myself whether or not they would have pretended that everything was fine, continuing to live the lie.

However, having seen the recent press statement issued by four members of the defeated Executive Council—Mr. Truman Bodden, Mr. Thomas Jef-

erson, Mr. John McLean, and the Honourable First Elected Member for Cayman Brac and Little Cayman—my question has been loudly and obscenely answered! The country now knows that had they been re-elected, indeed, the past government would have continued to live the lie and carried on business as usual.

Life teaches all of us some important lessons. I cannot help but reflect on the controversy surrounding the formation of this new Government, particularly the way in which the First Elected Member for George Town—now Minister of Planning, Communications and Works, and Leader of Government Business—and I were castigated and vilified by the Third Elected Member for George Town, the Second Elected Member for Cayman Brac and Little Cayman, the First Elected Member for Cayman Brac and Little Cayman, and the Second Elected Member for Bodden Town.

The First Elected Member for Cayman Brac and Little Cayman was a Minister in the past government. She was, no doubt, most upset that she had not gained a seat in the new Executive Council. However, the First Elected Member for George Town, me, and indeed the Third Elected Member for George Town, campaigned vigorously against Mr. Truman Bodden and his government. The people of George Town sent a very clear message—they had had enough!

The irony is that we now know, given the continued close association by the First Elected Member for Cayman Brac and Little Cayman with Mr. Truman Bodden, that had she gained a seat in the new Executive Council, Mr. Truman Bodden would continue to run this country from outside these Honourable Chambers. That would have been a betrayal of the trust the people of George Town placed in all of us who were elected from that district.

The Lord moves in mysterious ways, Mr. Speaker, His wonders to perform. So, I say, particularly to the Third Elected Member for George Town, every disappointment is not a misfortune.

The past government continued to spread misleading information about the finances of this country. Even with this spin-doctoring, the people of this country recognise we are now paying the price for the culture of denial which has underpinned virtually every aspect of this country's governance for a quarter of a century, particularly so over the course of the last eight years.

The most recent example of this is the disclosure of the tourist arrival figures being grossly overstated for the past seven years by the new Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

The new Government's approach must dismantle all trappings of this culture and replace it with one of realism and pragmatism. I believe that the current Budget Address and Throne Speech provide substantial evidence of this significant, philosophical change.

This new culture of realism and pragmatism of which I speak and the change it involves is bound to

be painful. For a time there will continue to be those who complain about changing the way government conducts business. Hard decisions are necessary if Cayman is to prosper. We must be willing to make those hard decisions.

When I began I said that the chickens had come home to roost with a vengeance. The chickens to which I refer all have a common genesis, that is, the uncontrolled and haphazard way in which this country has been permitted to develop over the course of the past three decades. For years and years, Cayman's only development policy has been that more is better—so the more, the better!

We happily rode the development train for more than a quarter of a century with no regard for the cost of the ride. As we only now begin to understand, the cost of that ride has been very high. The debt collector has come calling and we are now paying dearly for what we naively thought was a free ride. We are paying that cost in a number of currencies—financial, social, infrastructural, and environmental.

When we have regard to the draft estimates of expenditure and revenue for this country for the year ending 31 December 2001, we get a real good understanding of just how high the financial costs have been. That view is reinforced when we read the words of the Honourable Third Official Member, the Financial Secretary, contained in his Budget Address.

That Budget document which was laid on the Table of this Honourable House seeks, among other things, approval for Government to borrow some \$26.2 million to fund the recurrent revenue of this country for the year 2001. That means that we are in a deficit spending position. That is cause for grave concern!

That is not a situation that has developed overnight and is certainly not the result of the current Government's policy. No! The writing has been on the wall for years and years.

However, typical of the culture of denial which characterised their administration, the past government pretended that all was well and carried on like ostriches with their heads buried very deep in the sand!

The current Government's deficit spending position is a result of a fundamentally flawed philosophy of authority carried on in this country right up until the recent election.

The global economy continued in an expansion mode for the past decade and only began showing signs of slowing down towards the latter part of last year. During this period, the Cayman Islands also enjoyed and prospered from this boom. It now appears that the past government believed this boom would go on indefinitely. They certainly spent money as though that were the case.

Well, the chickens have come home to roost and now we must pay the piper!

There appears to have been no economic or fiscal plan for this country over the course of the past eight years and little or no regard paid to the long-term

fiscal impact of new government projects or programmes. The inevitable result is that government's recurrent expenditure has grown from \$138 million in 1994 to \$283 million at the end of last year—an alarming increase of 105 percent!

Of even greater concern, government's recurrent revenue only grew by some 84 percent over the same period, from \$152.1 million in 1994 to \$279.3 million at the end of last year. In addition, over the course of the past eight years, the last administration drew down some \$135 million in loans and central government debt increased from \$27.1 million in 1992 to \$93.7 million at the end of last year.

So, no matter what the former Leader of Government Business—in my view, the master of subterfuge—or his loyal members and followers may say, those are the cold, hard facts.

It should have been apparent to even the most blind and optimistic Members of the defeated Executive Council that this pattern of deficit spending was going to result in the cash crises in which the new Government found itself when attaining office in November of last year.

I wish to speak about the situation the new Government found itself in when assuming office in November of last year.

The un-audited accounts of government for the year 2000 show that at the end of last year the country had an accumulated deficit of \$10.7 million after the transfer of \$5 million from general reserves to general revenue, and a treasury overdraft of some \$14 million. In addition, government owed civil servants some \$6 million in back pay, and suppliers and others a further \$5.6 million. These three items totalled \$22.3 million.

When I heard the former Leader of Government Business recently say on TV—at least three times—that his government had not left a deficit, I was amazed. The only thing it brought to mind were the words of that popular song by Shaggy, "It wasn't me!"

*They say I left a deficit—but it wasn't me!*

*They say I was responsible—but it wasn't me!*

*They say I was Leader of Government Business—but it wasn't me!"*

That is the culture of denial which has underlined every aspect of the supremacy of this country for the past eight years to which I referred at the start of my debate.

As the new Leader of Government Business recently said, faced with the state of affairs the new Government had a major policy decision to make in order to clear off the \$22.3 million in financial commitments the last administration left.

The new Government could have continued the \$15 million overdraft this Honourable House approved in December, and left a number of the bills outstanding for a period of time. They could have sought to raise a further \$26.5 million by tax measures, that is, in addition to the \$19.9 million contained in the current budget. They could have drawn down the re-

mainder of the general reserves of \$10.1 million and cut back public services by a further \$16.4 million. They could have done what they did, borrow over the medium term to pay down the overdraft and pay the outstanding commitments the past government left behind.

Borrowing money for the purposes of financing recurrent revenue is not a very happy state of affairs. Having explored the options and discussed this matter at considerable length with many people in the private sector, as well as within the civil service, I am satisfied that this time around it was the only way for government to finance the recurrent expenditure of this country.

I must also clear up one other misrepresentation that has been circulating, relating to the increase in Government's expenditure for the year 2001.

The total expenditure for the year 2000, as set out in unaudited accounts of government, was some \$341.3 million. The total figure budgeted for 2001 was \$360.3 million—an increase of 5.6 percent in total expenditure between the years 2000 and 2001.

In a recent press statement issued by the two Honourable Members from Cayman Brac and Little Cayman, and the Second and Third Elected Members for Bodden Town, they stated it was the new Government's intention, to spend approximately 20 percent more than the year before [being 2000]. The difference between \$341.3 million and \$360.3 million is 5.6 percent—not 20 percent! The arithmetic employed by those Honourable Members is plainly and obviously wrong.

Yet, the misrepresentation did not stop there. In fact, the press release went on to say that the proposed \$19.9 million revenue package brought new taxes, some of which they [being the new government] state will be retroactive to January 1, 2001. This part of the statement bears no relation to the truth. There are no retroactive taxes proposed in the 2001 Budget.

The two Honourable Members for Cayman Brac and Little Cayman and the Second and Third Elected Members for Bodden Town have every right to be critical of government policy. That is their democratic right. They may even believe that is their function. However, all Honourable Members have a duty to not misrepresent the facts to the people of this country.

It is perhaps forgivable that the First Elected Member for Cayman Brac and Little Cayman and the Third Elected Member for Bodden Town would issue such a statement. They both were Ministers in the former government and are either completely unaware of the financial affairs of this country or are still living in a state of denial.

The Second Elected Member for Bodden Town and the Second Elected Member for Cayman Brac and Little Cayman surprised me. The Second Elected Member for Bodden Town is a trained teacher, and the Second Elected Member for Cayman Brac and Little Cayman is an economist. I am certain that both

of them have a sufficiently good grasp of math to understand that the difference between \$341.3 million and \$360.3 million is 5.6 percent and not 20 percent as they alleged.

I was also astounded at the contribution by the Second Elected Member for Cayman Brac and Little Cayman and his criticisms of what he described as the "impotent budget". I do not believe that his tortured exposition on economics warrants a substantive response, but I will say this for his contribution: so loud the thunder, but so little it rains!

It is important that we carefully analyse what transpired over the course of the last four years to ensure that the same mistakes are not made again and that we understand what brought about the current budget crises. I will now turn to what I consider to be four major policy blunders committed by the last government that contributed significantly to the country's current financial state. Some were mentioned by the Fourth Elected Member for West Bay in his contribution, but I shall repeat them on the basis of the principle I have often heard enunciated by the Honourable Minister of Health: repetition bears emphasis!

The first of these is the seamen's grant. This grant implemented by the past government in August of last year- and which has been the subject of much discussion in this Honourable House and elsewhere - is estimated to cost Government between \$4 million to \$5 million per annum. The funds expended last year to pay this grant were not provided for in the 2000 Budget. Further, no source of revenue was identified to fund this grant by the last administration.

Government cannot simply decide, in the middle of a financial year, to spend money which is not budgeted for without knowing where that money is coming from. This country has got to escape the mindset that there is a money tree growing behind the Glass House that government can shake any time it needs funds.

The second policy blunder is what I term "Import Duty Rollback".

In last year's Throne Speech, the last government proudly announced a programme to roll back duty on a number of items. One of these was the Bakery Goods category on which the new Government has just reinstated duty. In a recent press release issued by the four Members of the defeated Executive Council, to which I referred earlier, they have cited the rollback of these duties as an example of their good and benevolent governance. What they have not told the people of this country is that that impulsive rollback of duties resulted in a \$10 million to \$12 million revenue loss last year.

They did not tell the people of this country—and still have not told the people of this country—that the 2000 Budget revenue estimates had not been adjusted downwards to reflect this expected loss of revenue. So, when we bear this kind of deliberately misleading accounting in mind, we get a fair idea of

why there was a shortfall in revenue last year and why this country is in a position of deficit spending.

The third policy blunder is the health service fee increase promise. The past government gave a commitment to revise the health services fees in 2000. This revision was anticipated to yield some \$3.5 million in additional revenue from health services. The other aspect of what I would term their "health fees package", which amounted to some \$6 million, included additional collections from health insurance for civil servants and a streamlining of revenue collection and other administrative procedures.

Actual collections for the year 2000 fell short by some \$5 million, the majority of which are directly attributable to the past government's failure to implement the fee increases as promised.

Perhaps the most famous of the policy blunders is the capital projects funding shift.

During the latter half of the year 2000, the past government shifted almost \$10 million in appropriation and borrowing from capital projects such as the Lighthouse School to fund their election road-paving plan. This transfer of funds was done through a series of contingency warrants without the matter being referred to the Finance Committee or to this Honourable House.

The present Government still has to deal with this blunder to this very day. While we still debate the 2001 Budget, building contracts are in force, work is ongoing, but the money borrowed to complete these much needed projects has been used to build roads.

I spoke at some length about the shortcomings of the fiscal policy of the last administration and how they have resulted in the grave financial position the country is now in. I acknowledge that it is not enough to simply find fault. Fault finders must be fault menders as well. So, I will suggest some fundamental changes I believe are necessary if this country's financial position is to be retrieved.

The Honourable Third Official Member outlined 16-policy decisions in his Budget Address which underpin the 2001 Budget. By and large, these policies are aimed at restricting the growth in government services and personnel, which is key and, I believe, the correct approach in the short term. However, in the long term fundamental changes are necessary, and government's overall role and character must be radically redefined.

To put it bluntly, government is too big and too expensive! The reason why government is so big and expensive is because of the voracious appetite this country has developed for services. Government is simply expected to do too much.

We have also developed, tragically in my view, a mindset that government is responsible for everything. We have to realise that every new capital project that government builds or completes carries with it not just the capital cost of construction, but the recurrent cost of operating that particular building.

Every new civic centre that government builds requires more staff to operate it and more money to maintain it. Government must pay for its upkeep and its utility bills.

This is the case with every capital project. Every new programme that government puts in place has both a capital and recurrent cost of operating it.

Every programme needs a building, equipment and staff to run it. That is a realisation the past administration never appeared to have. It is a critical realisation that we must come to or we will have even more serious problems than those we currently face.

There is always the cry that the Civil Service is too large. That is everyone's answer to government's recurrent revenue problem. The Civil Service is large. It represents a disproportionate percentage of government's recurrent expenditure. Fifty seven percent of the current budget goes to pay the salaries of government employees. That is a lot.

During Question Time at this meeting of the Legislative Assembly, the Honourable First Official Member was asked to state the number of civil servants. He put the number at 2,715, but confirmed that the number did not include the category of government employees known as "group employees."

I was somewhat disappointed that the Honourable First Official Member was either unwilling or unable to state the number of group employees because it is important we get the true number of people to whom government writes a paycheque in order to fully understand how significant government's workforce is.

I did a bit of independent research and determined that the number of group employees is around 1,200. So, that brings the number of government's workforce to approximately 3,900. The Civil Service is not large simply because of the powers that want it to be, it is principally because of the country's continued demand for more and more services.

While I accept and believe that there is room for improved efficiency, I do not believe that we can significantly reduce the size of the Civil Service without a corresponding reduction in the number of services the country demands that government provide.

Over the long term, if this country is to prosper we are going to have to reduce our reliance on government provided services and we will have to stop expecting government to subsidise basic services such as garbage collection and health care.

In turn, government has to adopt a philosophy that involves a systematic and structured reduction in the size of the Civil Service. This cannot and should not be expected to occur over night, but it must happen.

I am not talking about a hurried and arbitrary cutting of Civil Service jobs; what I am talking about is a critical evaluation of the Civil Service, the services it provides and the adoption of a long-term programme of retrenchment. If we do not do this, and if the Civil Service continues to grow the way it has over the past

six years, the cost of operating central government will strangle this country to death.

As part of becoming more efficient generally, government must improve on its ability to collect monies owed to it. I will deal with two examples where I believe there is much scope for improvement.

The first, the most obvious, is the collection of health services fees.

The situation of outstanding overseas medical advances, loans and local receivable balances is worrying. At the end of June 2000, the total amount owed to government in respect of these combined accounts was approximately \$41 million. Of that, some \$4 million had become owing in the first six months of the year 2000.

In my view, there has been insufficient action over many years to address this ever increasing amount of money owed to the Health Services Department.

I know that in the past there has been public resistance to paying health services fees. When one gets an invoice and must decide whether to pay that or pay Cable & Wireless or CUC, guess which one gets tossed out?

It appears that over the years government has had no credible threat of legal action to recover these sums. So, the outstanding accounts are ignored with impunity.

I understand that over the course of the last couple of years or so, a Debt Collection section has been established at the Treasury. From reports, this section has had some modest success in recovering outstanding sums due the government. In my view, this is not enough. The sums of money involved are so substantial that they warrant the assignment of personnel within government's Legal Department to pursue the recovery. These outstanding sums need to be evaluated to determine what amounts are collectable and what are not. We need to write off those that are not collectable and pursue with vigour those that have some possibility of recovery.

I come now to garbage fees—perhaps the best example of inefficiencies in government's system of collection.

It is a general, accepted fact that a significant percentage of the houses in Cayman do not pay garbage collection fees. I recognize that is principally because there has been no database from which invoices could properly be generated to those who receive this service. I understand this situation is currently being addressed, and I urge upon the Minister responsible to place an increased sense of urgency on this so that the revenue rightfully owed from this source can be collected.

That is only part of the story in relation to garbage fees. The reality is that the household garbage collection costs government (from what I gather) some \$300 per household per year. However, government is charging households \$100 per year. It is this kind of

subsidy that this country cannot afford. It is even worse than ever.

We must turn our minds to these matters if we are going to reduce government's expenditure and increase its revenue base.

While I am on the subject, in my view this is a particular service I feel government should consider divesting. This is a service which can, and in my view should, be privatised. If we achieved this, it would have the triple virtue of reducing the number of government employees, cutting equipment cost, and removing the need for government to subsidise this essential service. We must think along the lines of privatisation if we are to contain the growth of the civil service and reduce the amount of services government is required to provide.

I am about to move on to another subject, if this would be a convenient time, Sir.

**The Speaker:** If it is the wish of the House, we shall suspend proceedings until 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.40 PM

#### PROCEEDINGS RESUMED AT 2.26 PM

**The Speaker:** Proceedings are resumed. Debate continues on the Second Reading of the Appropriation Bill, 2001. The Second Elected Member for George Town continuing.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

During the morning session I expounded at some length about the need for government to curtail its expenditures and to have a more efficient means of collecting revenue due to it. This afternoon I will talk about that most difficult and controversial of issues: taxation or revenue enhancement measures as sometimes euphemistically described.

Cayman has never had income taxes or any form of significant direct taxation. The system of indirect taxation that has matured over the past 30 years or so has served this country well. The lack of any tax on profits, income or property has largely fuelled the significant development and encouraged tremendous foreign investment this country has experienced in my short lifetime.

Until fairly recently, these forms of indirect taxation—duty on foodstuffs, vehicles, licensing fees, stamp duty on land transfers and leases—have served to raise sufficient revenue to run central government.

It has become more and more evident that these traditional sources of revenue are no longer sufficient. What is also painfully obvious to us all is that we cannot continue to increase taxes on the necessities of life. While I fully appreciate the current Government's predicament, due to the last administration's financial quagmire, I must say that I agree with the Third

Elected Member for George Town and the Elected Member for East End who say it is wrong in principle to tax basic and essential foodstuffs.

I am prepared to support, as an interim measure, the revenue-enhancement package contained in the draft budget because I believe there was not much else the new Government could have done. I do so, however, with a considerable degree of reluctance. I say to the new Government that I will need a great deal of convincing to support a similar tax measure in the future.

I think it is obvious to all Members of this House, and to the wider community, that if we are going to avoid the prospect of direct taxation we have to find alternative sources of revenue. This is a challenging exercise, and I applaud the efforts of the new Government for creating a Fiscal Advisory Committee, chaired by Mr. Robert Bodden, to identify potential sources of revenue. I anticipate receiving the committee's report in due course.

I believe that Government can make better use of its assets as revenue earners. For example, the property behind the public library that has served as a public car park for at least the last 25 years has earned government not one penny over that period. That is extremely valuable property located in the heart of the commercial district of George Town. I believe Government needs to give consideration to developing that property, either as a multi-storey car park or as an office complex that could be leased out.

The Tower Building is another example of government property that I believe is not properly utilised. The Tower Building is prime commercial property with a view of the sea. Although it is in rather poor condition at the moment, I believe that it would command an attractive rent once properly refurbished as an office accommodation. What makes this proposal even more viable is that, as it currently stands, the Tower Building is inadequate to accommodate the many government departments it houses. Government needs to build another facility. If and when this is done, the opportunity should be seized to turn the Tower Building into an income-earning asset.

Government has to start thinking more like an entrepreneur if we are to avoid the prospect of direct taxation. Cayman has its share of entrepreneurs who have made substantial fortunes out of establishing and leasing office accommodation in central George Town. I believe that Government would fare equally well.

I now turn to the financial industry. Having worked in the financial community for some 17 years, I say that the financial industry in this country does not bear its fair share of the tax burden. The stakeholders in the financial industry generate significant profits. Carrying on business in Cayman provides profit opportunities that would be difficult to realise elsewhere. It is my view that this industry needs to contribute significantly more to the coffers of government to ensure



that this favourable environment in which they currently operate continues.

Now there is even more justification for asking the financial industry to contribute more. The financial industry costs the government significant sums of money as government negotiates with OECD, FATF and other international agencies to set up and administer regulatory framework now necessary to comply with far-reaching international initiatives. For example, the Monetary Authority has had to increase its staff from 48 only 15 months ago to 73 as we speak. By the year 2003, the staff complement is expected to increase to 129.

The recurrent cost of operating the Monetary Authority has risen from \$5.2 million last year to \$8.5 million this year. By the end of next year that cost is expected to rise to \$10.6 million and by the end of 2004 it is expected to be \$13.5 million.

Plainly, we cannot expect to pay for these increased costs by taxing food or any of the other items that affect the ordinary man on the street. These costs need to be borne fairly and squarely by the industry on whose behalf they are being incurred.

These are some of the difficult decisions that need to be made. Government needs to sit down with the financial community just as it did when crafting the 2001 Budget. There is no point in shunning away from what many in the past have considered the "sacred cow". The surest way to destroy this country is to increase the tax burden on the little man on the street who has a very limited share in the tremendous profits generated by the financial industry and big businesses.

The Honourable Third Official Member responsible for Finance and Economic Development said that this year's budget was being presented in a medium-term context that more realistically reflects Government's current and future financial position.

This logical approach is refreshing after years of "*Trumanomics*" when deficits were presented as profits and no one outside of Executive Council knew what the financial position of the country truly was. It is only by accepting and confronting our problems that we will be able to resolve them.

I believe now that government, and the country as a whole, have a clearer understanding of the seriousness of our financial position. We are, at last, on the road to recovery.

I feel that with planning, fiscal restraint and the identification of innovative sources of revenue, this country's financial position can be restored. It will be up to all of us—Government, the Back Bench, Civil Service and the Private Sector—to ensure it happens.

I will now move on to deal with the Throne Speech. The Throne Speech is extensive and deals with so many issues that it would be impossible for me to debate all of them with any degree of effectiveness. So, I propose to take a number of them in some detail. The fact that I have not dealt with others does not mean that I regard them as unimportant.

I start this segment of my contribution on the same theme as the Budget Address: first, with the lack of any growth-management policy for this country over, approximately, the past three decades; then the consequent uncontrolled and haphazard development that has followed.

I feel that virtually all of Cayman's problems—and there are many of them—can be traced back to the unbridled pace of this country's development over the course of three decades. While it is our natural tendency to blame all of Cayman's social problems on immigration, the truth of the matter is that the root cause of our problems is the pace of development.

Immigration is a consequence of development, not the other way around. It is the unprecedented pace of development that has driven the population explosion from approximately 11,000 in 1970 to approximately 40,000 now—an increase of almost 400 percent.

This morning the census from last year was laid on the Table of this Honourable House by the Honourable Third Official Member. I feel it is worthwhile to refer to parts of the summary of that census.

The Census determined that the resident population of the Cayman Islands, on Census Night, stood at 39,410, and the population of the Cayman Islands grew by 55.4 percent over the 1989 Census figure of 25,355. Fifty three percent of the population were Caymanian, either through parentage or grants of status for other reasons. This number declined from 67 percent in 1989.

The number of Caymanians in the country grew at a modest rate of 1.9 percent per annum between 1989 and 1999. The Caymanian population grew from 16,868 in 1989 to 20,491 in 1999. Over the same period, the non-Caymanian population more than doubled, growing at 8.2 percent per annum. The number of non-Caymanians living in the Cayman Islands on Census Day was 18,529, up from 8,387 in 1989.

Further, there were 26,850 persons in the labour force during the week of 3-9 October 1999, and (this is significant) 42 percent of the employed labour force was Caymanian. That means that 58 percent of the labour force was non-Caymanian.

Due to the pace of development and the need for skilled labour, the long-held fear for Caymanians that the day would come when they became a minority in their own country is fast coming true.

That development brought with it more opportunities for Caymanians and a lifestyle that, in many respects, is the envy of the world. That development has come at a very high cost, and social tensions continue to grow as Caymanians become a smaller percentage of the population. Caymanians are growing increasingly anxious about this.

We see this concern becoming more evident everyday—on the talk shows, in the press and in conversation with people on the street. We see the angry and sometimes irrational reaction of Caymanians

when the likes of Gordon Barlow make pejorative and demeaning remarks about Cayman and Caymanians.

We also see the frustration and disaffection of many long-term residents, and particularly their children who have grown up here and who feel, quite legitimately, that they should be granted either permanent residence or Caymanian status. These people have had their lives placed in limbo for years because of the unwillingness of successive administrations to properly and comprehensively address the immigration issue.

Tensions are approaching dangerous levels. Comprehensive immigration reform is critical and urgent if we are to have any real chance of ensuring that social harmony in this country continues. There is hardly a day that goes by where I do not have to deal with at least one immigration issue at the MLA Office. I know from talking with my colleagues both on the backbench and those in the government Back Bench that they are similarly pressed with immigration issues.

This is likely the most serious social issue we have to address, leaving aside for a moment the issue of youth violence which, in many respects, I feel is partially a consequence of the immigration issue.

The issue is urgent, complex, and multifaceted. It is tempting to try to deal with the more troublesome aspect of the problem without really addressing the need for widespread reform. Unless this country develops a comprehensive immigration philosophy that underlines the various decisions necessary, we will not resolve the problem. In the long run, quick fix, *ad hoc* changes to the law will create more problems than they solve. We have to be careful we do not legislate in haste and regret our leisure.

When I say this, I bear in mind the Motion brought by the Third Elected Member for George Town, and the Second Elected Member for Cayman Brac and Little Cayman which seeks, among other things, to grant status to young children born in these Islands. I share both of the Members' concern about the immigration issue and the need for urgent and comprehensive reform. However, I do not believe, as I have already said, the way to deal with these issues is with ill prepared measures.

The past government sought to address the concern of Caymanians becoming a minority in this country by continuing the moratorium on Caymanian status, believing that if we limited the number of persons with status all of our immigration problems would go away. In so doing, they only compounded what was already a difficult problem. Refusing to grant Caymanian status to persons to whom it should be granted does not address the legitimate concern of Caymanians becoming a minority in their own country. It simply prevents more persons from calling themselves "Caymanian". It does nothing about the actual numbers of people, which is a major problem.

That approach also contributes to the concerns of the long-term residents, many of whom have lived

here, worked here, built their homes here, raised their children here for 20, 30, and in some cases, 40 years, yet still live from one permit to another. If we are to succeed with the issue of immigration and building a cohesive society, we must develop an immigration policy and legislation that address the legitimate concerns of both Caymanians and long-term residents. Resolving the immigration issue means, as a country, coming to grips with certain, hard truths.

As Caymanians, we must accept that the pace of development and the tremendous growth of the population that has followed is something that we have permitted, and even encouraged.

We simply cannot turn back the hands of time to "the good old days" when we knew everybody and life was simpler and slower. We have to accept the reality of the new Cayman which we have created. Part of that reality is the fact that we are now a country of immigrants.

Those who have been here for long periods of time are already part of this community. By and large, they have contributed significantly to the continued growth and prosperity of this Island.

We simply cannot bundle them altogether and ship them off. In most cases, if we did that Cayman would be the poorer for it. This is even more so for the children of those immigrants who are now in their 20s, 30s and 40s, many of whom were born here, all of whom have grown up here, and many of whom do not have Caymanian status or any form of security of tenure.

These young people, the children of the new immigrants (if I may call them that) speak like you and me, have lived here all of their lives and are, in every respect, culturally Caymanian. To say it is an injustice to deny this category of people Caymanian status is an understatement.

There are plenty of examples of the injustice that this has caused, but I wish to relate two instances that I have dealt with in my short-term as a Member of this Honourable House.

I will not use real names, but "Mary Jane Brown" came to these Islands with her mother at the tender age of three months. "Mary Jane" went to primary school here and high school here. She married a Caymanian and produced a Caymanian child. She looks and sounds as Caymanian as I do. "Mary Jane" subsequently separated from her husband. Some three months ago, she came to the MLA Office distraught and explained her case to me. I was absolutely dumbfounded.

"Mary Jane" is now 22 years old and has been charged with overstaying and working without a work permit. She was prosecuted and convicted before the Summary Court for working without a work permit.

There is another case of an individual I will call "John Brown". "John Brown" came to Cayman as a very young boy 40 years ago. He grew up here, he went to school here. He married a Caymanian. He has worked here for upwards of 25 years. With the excep-

tion of time spent away from these Islands at university, "John" has lived here virtually all of his life. He has grown children. Just recently he re-married to a non-Caymanian. He now has a number of young children by this second marriage. When "John" returned to these Islands, it was discovered that he did not have Caymanian status. After 40 years, he is now on a temporary work permit.

These are the cases that must offend everyone's sense of morality. They scream out for redress.

I join with the other Members of the Backbench who have articulated this position to urge government despite all it has to do to place immigration reform at the top of its list of priorities.

The other people who require attention are those of Caymanian decent—those who have returned to the country of their forefathers and wish to become a permanent part of this community. These individuals share a sense of kinship with Caymanians. We have common history, heritage, culture and values. We need to embrace these people as well.

It is critical that any reform of our immigration policy and legislation takes into consideration these three key categories of people: long-term residents, and when I say that I mean those who have been here for more than 15 years; children of long-term residents; and persons of Caymanian decent. Unless we address these critical areas, we are not going to resolve the major social and immigration problems we have.

I will be bold enough to make certain propositions: I believe that persons who have been ordinarily resident here for 20 years or more and have made a significant and real contribution to this society ought to be granted Caymanian status. Those who have been here for 15 years or more, but less than 20, and have similarly made significant contributions to this society ought to be granted permanent residence with the right to work. Children of long-term residents who have lived here since childhood and have grown up here ought to be granted Caymanian status at the age of 16. These young people know no other place as home and are culturally Caymanian.

As a country that is so heavily reliant on the importation of foreign labour, we need to treat these young people who are a part of us as valuable, national assets. I believe that persons of Caymanian decent also need to be similarly treated. Subject to a satisfactory period of ordinary residence, say five years or so, we ought to grant them Caymanian status.

In my analysis, what Caymanians really fear is being overwhelmed culturally and socially by the sheer number of foreigners. This fear is often expressed as *'Cayman not for Caymanians no more, is more of them than it is us.'*

More and more we hear this terribly divisive "them and us" feeling expressed. However, Caymanians do not have the same fears about people who speak the way we do, who think the way we do and who are culturally very similar. Granting Caymanian

status to people who have grown up here or who are descendants of Caymanians will, in my view, actually increase the number of true Caymanians.

At a time when the Caymanian culture is heavily diluted by the influx of foreigners, conferring status to persons I have just identified will actually assist in promoting and preserving some of the important aspects of our culture and the Caymanian way of life. It will also have the effect of increasing the base of Caymanians, thus making the number of non-Caymanians seem less threatening.

I believe the grant of permanent residence and Caymanian status in the circumstances I have just outlined will go a long way to addressing many of the concerns and feelings of unfairness held by many long-term residents, and persons of Caymanian decent. I believe that in the long run it will also have a positive effect on Caymanians who will feel a lot less threatened as their numbers increase. That deals with the situation that currently obtains. What of the way forward? What do we do about the immigration issue in the long run? It means coming to grips with some real, hard truths.

We, as Caymanians, must come to the realisation that more development necessarily means more immigration. Once we accept that the options become much clearer. The problem has been that this country has never had a comprehensive development plan. We have lived by the principle that the more development there is, the better off we all are. So, we continue to encourage more immigration with no regard for social consequences and then complain about the number of foreigners here and how Caymanians are becoming outnumbered.

I urge upon the new Government that the first thing we must do is implement a growth-management policy for this country, as recommended by Vision 2008. Still we must do more than that. We have to decide whether we are prepared to accept the fact that Caymanians will continue to become a smaller percentage of the resident population *ad infinitum*, or we must provide a scheme whereby only the most contributing and deserving of newcomers are permitted to remain here for extended periods of time. We cannot have it both ways. We must make that critical decision.

We must be careful to strike the right balance by ensuring that Caymanians genuinely benefit from the growth and development of this country's industries and that we do not damage those very industries as a result of an unduly, restrictive immigration policy, particularly as this relates to work permits. It is when we try to strike this balance that we always seem to wind up in controversy.

I refer to what transpired early last year when the Select Committee on Immigration Law in their third interim report recommended the implementation of a five to seven-year rollover policy in relation to the grant of new work permits. The recommendation concurred with Strategy 16 of Vision 2008. Notwithstand-

ing that, there was tremendous opposition from the business community when it was proposed. The opposition to the rollover policy was a result of their concern that such a policy would negatively affect Cayman's ability to continue to attract quality labour, particularly in the professional and skilled categories. As a result, the quality of Cayman's workforce would be lowered.

While there was dissatisfaction with the proposed five-year rollover policy, there was, and continues to be, general agreement that something must be done to address the growing fear of Caymanians that they are becoming a minority in their own country.

Most people I have spoken to agree that unless this situation is addressed, the serious, social tensions and divisions which are already apparent will become worse.

We are not the only country struggling with this issue. Bermuda has had a similar experience. I believe that it is edifying to look at what Bermuda has done.

In *The Royal Gazette*, which is a newspaper in Bermuda, dated 7 March 2001, it was stated that six-year limits on work permits will come into effect in Bermuda from April, but well-behaved companies will be able to exempt key staff from restrictions. Labour and Home Affairs Minister, Paula Cox, said the limits were needed to ensure that firms had a genuine interest in recruiting and training Bermudans, but she added that the system will be kept flexible to ensure Bermuda kept its business edge.

She said that we are competing to attract workers with skills that are in short supply, not just in Bermuda but across the world. It would be wrong if term limits led us to lose such people. Term limits will not apply to positions of persons who have proved to be the key to the success of a company, nor will they apply to those categories where there is demonstrable severe shortage, either because of the scarce resources worldwide have local impact or there are shortages locally owing to exceptionally high demand.

Companies must make a case to have a worker or boss exempted. Miss Cox said they would be listened to if those companies have been good corporate citizens. Criteria for this include a good record in training and employing locals, producing clear and correct job advertisements, and submitting properly completed work permit applications.

Miss Cox explained what had led to the six-year restriction. She said that the Government has worked hard to strike the right balance between the understandable desire of business to operate with a minimum of regulatory control and the legitimate and proper aspirations of Bermudians to participate fully in the economy of their island home. The Government recognises that international business is becoming critically important to the economic well-being of our people particularly in terms of job creation. However, the Government has an obligation to regulate business in a way that derives benefits for all of Ber-

muda's people. We have heard too often how Bermudians feel left out of the island's prosperity; how they feel denied opportunities to train and hone their skills; how they feel that promotion opportunities are not open to them. The new policy will address these concerns.

Miss Cox said her department would be giving firms help in advance over what categories of employees might be regarded as possible exceptions to the six-year limit.

Further on in the report, Chamber of Commerce President, [Maria] Chris Valdes-Dapena is reported to have praised the Minister for the exemplary way she consulted business on the changes. She said of Paula Cox, "The competitive interests she was required to balance were challenging—you cannot achieve perfection, but she has strived mightily. She has demonstrated openness to the business community and also an awareness of the critical nature of continuity within business. We need to see how it works in practice to get further clarification on specific points."

Employers' Council Executive Director, Malcolm Dixon, said that we will have to see if it is going to cause any hardship for business and whether companies will be able to attract people here for that length of time. Obviously the Minister is trying to control as much as she can about people staying indefinitely by putting something in place where permits only last so long, but she has made provisions for key people.

That is very much an experiment that is ongoing. Whether we adopt the Bermudian model or some other mechanism, I firmly believe we must find a way to keep the non-Caymanian percentage of Cayman's resident population from continuing to outpace the Caymanian population if we are to avoid serious social problems. If we do not find a filter to reduce the number of newcomers who are permitted to remain here indefinitely, in ten years' time we will have another major immigration problem. By that time the problem will be far more serious because the numbers will be far greater.

I now wish to deal with some of the other important aspects of our immigration legislation—

**The Speaker:** Would this be a convenient time to take the afternoon break?

**Mr. Alden M. McLaughlin, Jr.:** Yes, Mr. Speaker.

**The Speaker:** We shall suspend proceedings for 15 minutes.

**PROCEEDINGS SUSPENDED AT 3.20 PM**

**PROCEEDINGS RESUMED AT 3.48 PM**

**The Speaker:** Proceedings are resumed. Debate continues on the Second Reading of the Appropriation Bill, 2001. The Second Elected Member for George Town continuing.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I now wish to deal with some of the other important aspects of our immigration legislation that, in my view, require restructuring.

We have a situation in this country whereby some persons who have Caymanian status can vote and some cannot. We also have a situation where certain persons who do not have Caymanian status are able to vote. While I fully understand the legal reason for this anomaly, it is wrong in principle and needs to be changed. If a person possesses sufficient connection to these Islands to be granted status, there is simply no rational basis for denying that individual the right to vote.

Another situation that causes me concern, and which I have dealt with on a number of occasions, is a foreign spouse of a Caymanian granted status on the basis of marriage. Under the current legislation, if a foreign spouse divorces within ten years of being granted status they lose their status.

In many cases, the foreign spouse is forced to leave these Islands. Often, if the spouse is female, she takes the children away with her and they grow up seeing very little of their Caymanian father. Often, if the spouse is male, he leaves the Island and the children with their Caymanian mother and they grow up seeing very little of him. In either case, the result is painful. It is always the children who suffer the most.

I fully understand the need to prevent marriages of convenience and understand that that was the underlying basis for the provision in the law. However, I believe that once a spouse obtains status they should not lose it merely because the marriage dissolves. I believe that we need to provide for sufficiently longer periods in the law before an individual is granted status on the basis of marriage to a Caymanian. Once status is conferred, it should not be lost merely because of divorce. This creates far too much upheaval and hardship, particularly for the children of those marriages.

I feel we need to repeal the provisions of the Immigration Law to allow Executive Council to secretly make grants of Caymanian status. Provisions like that have been too often abused in the past for political purposes. There must be one system by which Caymanian status can be conferred, and it must apply to everyone regardless of social standing, political connections or nationality. Politicians should not be able to grant Caymanian status as favours to those who have supported them. That is what the current situation invites.

Finally, I believe appeals from decisions of the Immigration Board should not be dealt with by Executive Council. We need to set up an entirely independent tribunal similar in nature to the Labour Tribunal and Planning Appeals Tribunal. The current system is far too inefficient and political to be fair.

I have gone on at some length about the immigration issue, so much so that the Third Elected Member for George Town has jokingly accused me of debating his Motion yet to come.

Nevertheless, this is an extremely important matter. I believe that if we are to preserve social harmony in this country, we need to think carefully about these matters and move quickly to remodel our immigration legislation. We need to consider the concerns which I have identified and any others. We also need to address the United Kingdom's concerns about human rights as set out in the White Paper.

I join voice with my colleagues on the Back Bench who appealed to government to give immigration reform priority. I suggest the way forward is for government to produce a discussion document on immigration for general circulation and that a time-frame for the passage of new immigration legislation be agreed upon. I recommend that it should not be later than March 2002.

I now move on to talk about the issue of youth, then the issue of education. I have already debated at length the issue of youth violence to this Honourable House. I do not intend to repeat that address. In my earlier debate, I tried to give some insight into the causes of the problem and I spoke about the failings of the education system, lack of parental guidance and what is causing the degree of disaffection and disillusion among young people in these Islands.

I am even more concerned about the problem of youth violence today than I was some three weeks ago when I debated the establishment of a National Youth Commission and Committee of Enquiry into the causes of youth violence.

Last week Members of the Back Bench received a briefing from Dr. Ivan Henry, a consultant to the Ministry of Community Affairs, Youth and Women, and involved in the creation of the National Youth Policy. Dr. Henry is now engaged in assisting the Ministry with the implementation of the National Youth Policy and the establishment of the Committee of Enquiry into the causes of youth violence.

We were disturbed to learn that the situation with youth violence is considered by him to be one of crisis.

We all know there have been three murders of young men in these Islands over the course of the past 18 months. This appears to be one revenge killing following another. What I found even more worrisome is that these stabbings and killings are not likely to be over. More will follow, as one act of vengeance is pursued by another. This terrifies me. We must move swiftly to deal with this. Again, I offer my full support and assistance to the Committee of Enquiry and its Chairman, the Third Elected Member for George Town.

This is a deeply rooted social problem and we are now in the throes of experiencing the symptoms of a much bigger problem. It will need all that each of us

have to offer and a tremendous amount of prayer and inward looking.

I listened with interest this morning to the contribution made by the Honourable Minister responsible for Education, Human Resources and Culture. I was heartened by what he had to say about his education philosophy. For nearly a decade, our education system has been in desperate need of a vision and the leadership I am confident the new Minister of Education will provide. I tender my complete support.

I discussed in length the issue of youth violence to this House. I spoke about the problems in our education system, particularly as they relate to the relevancy of the education offered to our students. I spoke about how the system does more to frustrate the majority of students than to educate them, and I urged the development of full-time vocational courses as an integral part of the high school curriculum. I was encouraged to hear what the Minister had to say.

I am also pleased that the Review of the Cayman Islands Education System conducted by Mrs. Anthea Millett has finally been laid on the Table of this Honourable House—almost one year after being delivered to the former Minister of Education, Mr. Truman Bodden.

After reviewing that report, I now understand why Mr. Bodden was not anxious to make it public. That report reads like an indictment of the education policy of the former Minister and highlights the lack of vision and the leadership vacuum that has existed within the education system up until these recent elections.

The report is comprehensive, but I will briefly highlight some of the points made. They are very telling.

In the summary and principle recommendations made by Mrs. Millett (page ii), I quote: “**Individuals within and outside the Department expressed the view that overall the education service had improved substantially over recent years. They also said, however, that significant weaknesses remained and that these were impairing the Department's own performance and hindering its ability to support school improvement. These weaknesses include:**

- **the absence of clear lines of accountability which cross the service as a whole from Ministry via the Department to schools;**
- **the lack of a secure tradition of planning and strategic management within the Department which leads to too much crisis management and a failure to link the work of schools to the national objectives for education set out in the EDP;**
- **poor professional standards, poor relationships and an absence of trust within the Department. This has created a culture in which staff fail to work co-operatively and seek to**

**avoid acceptance of individual and collective responsibility;**

- **an inappropriately designed, overcrowded physical environment within which to work;**
- **inadequate data collection, management and interpretation services; this impairs the Department's ability to assess standards, set targets and offer soundly based advice to the Minister and Council;**
- **insufficient staffing to provide the financial audit support needed to assist its own staff, schools and PTAs to secure financial control and better value for money in the use of public and other funds;**
- **the lack of a coherent strategy for school improvement designed to support teaching and learning, especially in literacy, numeracy and information and communication technology (ICT), enhance school leadership and secure higher standards of student performance;**
- **poorly developed co-operation with other government departments and external agencies in the delivery of effective services to Students and their parents;**
- **weak consultation of and communication with schools, parents and the wider community over major plans and policies for education.”**

Further, on page 5 of the section entitled “Leadership and Direction in the Education Service”: “**The aims and objectives of the Department are not clearly defined. There is no clear vision of the Department's mission or shared aspirations. Opportunities need to be provided to promote consistent ownership of the Department's aims by all members of the organisation. There is a lack of forward planning. Demands placed on the Department by the Ministry, the schools and the community frequently result in ‘crisis management.’”**

What a sad and terrible legacy the former Minister of Education left for this country after 16 years as Minister of Education!

There was also an insightful editorial that appeared in the *Caymanian Compass*, Tuesday, 3 April 2001, entitled “Education Administration”. I believe this sums up the Millett Report in a way that I could not; therefore, I will read some portions of it.

“The Millett Report, which reviews organisation, administration, efficiency and effectiveness of the Education Department, has been tabled in the House by the new Minister of Education, Roy Bodden. The report was compiled and delivered to the Ministry early last year by English Educational specialist Anthea Millett. What has emerged from the report is that the department is poorly organised and lacks di-

rection—the combination of which has undermined its work and demoralised its staff. The lack of clear policy direction and prioritisation has led to a fragmented piecemeal approach to the department's business with poor interdepartmental communication compounding the problem. The report points out that there is very little accountability from the Department to the Ministry and likewise little accountability on the part of the schools to the department. 'This,' says Miss Millett, 'has resulted in an education system where academic standards among other things are not properly monitored, and where some schools are operating in accordance with their own priorities rather than with any national policies.'

"In response to these problems Miss Millett has suggested a new organisational structure for the department whereby its policies and priorities are set by the Ministry and Education Council in cooperation with the Chief Education Officer and Inspector of schools. The policies are then translated into an evolving action plan by a close knit team of Senior Education Officers in conjunction with the Chief Education Officer. The plan will give specific targets and dates for their achievement, the officer responsible for delivery, the overall cost and how success would be judged. Miss Millett also calls for schools to address policy directives and deliver reports on the quality of education and pupils' standards of achievement. These reports would be used by the department to monitor progress and hold principals accountable for that progress. Miss Millett's suggestions appear collectively to be a comprehensive, sensible and most workable response to serious organisational weaknesses within the education system as a whole. Now action has to be taken to put the report's multitude of recommendations into effect. We trust this will be done as a matter of top priority reflecting the verbal commitments this government has made to tackling youth and educational problems."

I have every confidence that with his background, experience, ambition and drive to improve the educational system of these Islands, the new Minister will move swiftly to implement some of those recommendations. I wish him well.

This country cannot afford to lose 80 or 90 per cent of its students who do not perform well at the academic level. We have to find a more inclusive means of education, one that reaches and touches every student who is part of the system.

The Honourable Minister knows my view about this. I anticipate the implementation of his direction on education.

I propose to deal now with the issue of Constitutional Review.

Perhaps the best place for me to start with this issue is with the White Paper. It is the White Paper that has triggered the upcoming review of our Constitution.

In the White Paper, the United Kingdom Government made the following statement, and I quote: **"2.6 Consultation with the territories showed a clear**

**expression of their wish to retain the connection with Britain. We concluded that neither integration into the UK, nor Crown Dependency status, offer more appropriate alternatives to the present arrangements. But these arrangements need to be revisited, reviewed and where necessary revised.**

**"2.7 The link between the UK and the Overseas Territories is enshrined in the constitution of each territory. The Overseas Territories believe that their constitutions need to be kept up to date and where necessary modernised. Each Overseas Territory is unique and needs a constitutional framework to suit its own circumstances. Suggestions from Overseas Territory governments for specific proposals for constitutional change will be considered carefully.**

**"2.8 The governance of the territories must have a firm base. Democracy, human rights and the rule of law are all as relevant in the Overseas Territories as elsewhere. The principles which should underlie modern constitutions are clear. There must be a balance of obligations and expectations, and both should be clearly and explicitly set out. Future action will focus on:**

- **measures promoting more open, transparent and accountable government;**
- **improvements to the composition of legislatures and their operation;**
- **improving the effectiveness, efficiency, accountability and impartiality of the public service;**
- **the role of Overseas Territory Ministers and Executive Councils and their exercise of collective responsibility for government policy and decisions;**
- **respect for the rule of law and the constitution;**
- **the promotion of representative and participative government;**
- **freedom of speech and information;**
- **the provision of high standards of justice;**
- **adoption of modern standards of respect for human rights."**

Arising from this, the Governor stated that he will shortly appoint a constitutional commission made up of three individuals: two of whom, including the Chairman, will be Caymanian; and one of whom will be a lawyer.

While it does not seem like the United Kingdom is pushing us down the path to independence, it is plain to me that the United Kingdom is going to insist on certain, minimum changes to our Constitution. One obvious change is bound to be the inclusion of a Bill of Rights.

The United Kingdom's insistence that all of its Overseas Territories be bound by its international obligations with respect to human rights is the clearest

evidence yet that our Constitution will be required to have a Bill of Rights enshrined.

A Bill of Rights for this country is long overdue. It is an integral element of any modern constitution in a democracy. I have found it difficult to understand why the past government would not agree to include a Bill of Rights in our current Constitution when the opportunity arose in 1993.

I do not believe the issue of a Bill of Rights is going to create any real controversy when the issue is discussed over the ensuing months. I believe that most people regard that as essential. However, if recent history is anything to go by, the issue of some of the other aspects of constitutional change will likely generate some concern and debate.

As a Member of the Counsel of the Bar Association back in 1991 when the last constitutional review took place, I remember the tremendous amount of debate that surrounded the question of whether or not we should move to a full Ministerial Government and whether we should have a Chief Minister. As we all know, the Constitution as amended did not include provision for a Chief Minister. The Constitutional Commissioners commented at some length about this issue in their report.

In 1991 when they wrote their report, they had this to say about the issue of Chief Minister, and I quote: "Of all the issues raised during our review, there is none more controversial than that of the proposal to create the post of Chief Minister. We ourselves have no doubt whatsoever of the benefits which would accrue from having a Chief Minister. He would be a leader. How often during our review did we hear the legitimate complaint that the Cayman Islands Government is 'leaderless?' We find it difficult to believe that the Cayman Islands would wish to settle for constitutional arrangements that are less advanced and we believe less effective than those enjoyed by other Caribbean Dependent Territories for the last 20 or 30 years. We also find it difficult to believe that Caymanians with seafaring in their blood would be prepared to be put to sea in a ship with four first mates but without a captain."

That is what the Constitutional Commissioners said in 1991. As I mentioned earlier, that recommendation was not accepted nor implemented.

It is difficult for people on the outside to understand Cayman's reluctance to accept the creation of the post of Chief Minister. I believe it can be explained in this way: Cayman has been one of the few success stories in the British Caribbean. So far, we have managed to do this without significant Constitutional advancement. Caymanians have a deeply rooted fear of concentrating too much power in the hands of one individual, and they believe that creating the position of Chief Minister is likely to have this result.

I have heard that view articulated countless times. I believe much of that fear is, to a large degree, the result of the way government has functioned in the past.

In fact, let me put it bluntly. Until the recent elections, so much of government's business and affairs was shrouded in secrecy that the people of this country were reluctant to give any representative of theirs what they considered to be even more power to keep them in the dark.

With the new openness and transparency practised by the new Government, the leadership demonstrated thus far by the new Leader of Government Business, and the prospect of a Freedom of Information Law to be brought by this Honourable House shortly, many concerns are being allayed. I believe the Members of this Back Bench will keep the Government committed to this.

With another review of the Constitution eminent, the issue of a Chief Minister is bound to be raised again, particularly given the United Kingdom's concern about good governance in all of its Overseas Territories.

The process of forming a government after the last elections left a bad taste in the mouths of everyone—those involved in the process and those watching from the sidelines. The charade which followed on the steps of the courthouse was demeaning of the process and the representatives this country had just elected.

One thing that process did highlight was the shortcomings of our present Constitutional arrangements. In a system where there are no organised political groupings and no way of knowing who the leader of the country will be, disappointment much like what occurred after the recent elections is almost inevitable.

It is my view that a Constitutional review is timely. It is timely for full and frank discussions about whether or not this country should move to a full ministerial government or not.

During my election campaign I made it plain that I would not support any fundamental changes to our constitution unless those changes were agreed to by the people of this country voting by referendum. That is still my position. I also believe that it is the duty of all Members of this House during the review process to play a major role in informing and educating the electorate about their options.

There are bound to be nay-sayers and criers of doom. I will pull no punches. I am sure the charge will be led by the former Leader of Government Business. We have a duty to this country to discuss the issue of ministerial government fully and candidly and to decide whether the current Constitutional arrangements suit this stage of Cayman's development. I, for one, will not shy away from that task.

I discussed this matter at considerable length with some Members of the Back Bench, including the Elected Member for East End and the Members for West Bay. We intend to commence a series of meetings to talk about this important matter shortly after the Commission is appointed. We are exploring the possibility of bringing a resource person, who is



knowledgeable about Constitutional issues, to Cayman to attend those meetings with us to answer questions the electorate and the population in general have about this most critical matter.

When the report of the Constitutional Commissioners is delivered, the people of this country must be properly equipped and able to make an informed decision on what they want the Constitutional status of this country to be.

We shall endeavour to ensure that they are adequately informed, educated and capable of making an informed decision.

#### **HOUR OF INTERRUPTION—4.30 PM**

**The Speaker:** We have reached the hour of interruption. I now entertain a motion for the adjournment.

The Honourable Minister responsible for Community Development, Women Affairs, Youth and Sports.

#### **ADJOURNMENT**

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM THURSDAY, 19 APRIL 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**19 APRIL 2001**  
**11.05 AM**  
*Twenty-first sitting*

*[Prayers read by the Honourable First Official Member]*

**The Speaker:** Please be seated. Proceedings are resumed.

Item number 2 on today's Order Paper. Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable Second Official Member who will be arriving later. The Third Elected Member for Bodden Town who is off the Island.

Item 3, Government Business, Suspension of Standing Order 14(2) and (3) in order to take Government Business on Thursday.

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**SUSPENSION OF  
STANDING ORDER 14(2) AND (3)**

**Hon. Edna M. Moyle:** I move the Suspension of Standing Order 14(2) and (3) in order for Government Business to take precedence over Private Members' Business.

**The Speaker:** Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 14(2) & (3) SUSPENDED IN ORDER FOR GOVERNMENT BUSINESS TO TAKE PRECEDENCE OVER PRIVATE MEMBERS' BUSINESS.**

**The Speaker:** I would now ask for the suspension of Standing Order 46. The Honourable Third Official Member responsible for Finance and Economic Development.

**SUSPENSION OF STANDING ORDER 46**

**Hon. George A. McCarthy:** I move the suspension of Standing Order 46 to allow the Bills listed in the schedule, as set out on the Order Paper to be given a first reading.

**The Speaker:** Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 46 SUSPENDED TO ALLOW THE BILLS LISTED IN THE SCHEDULE, AS SET OUT ON THE ORDER PAPER TO BE GIVEN A FIRST READING.**

**GOVERNMENT BUSINESS**

**BILLS**

**FIRST READINGS**

**THE LOAN BILL, 2001**

**The Clerk:** The Loan Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

**THE BANKS AND TRUST COMPANIES  
(AMENDMENT) (PRUDENT MANAGEMENT)  
BILL, 2001**

**The Clerk:** The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

**THE INSURANCE (AMENDMENT)  
(PRUDENT MANAGEMENT) BILL, 2001**

**The Clerk:** The Insurance (Amendment) (Prudent Management) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001

**The Clerk:** The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001

**The Clerk:** The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### THE COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001

**The Clerk:** The Companies Management (Amendment) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

### THE PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) (FINANCIAL INTELLIGENCE UNITS) BILL, 2001

**The Clerk:** The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.  
Bills, Second Reading.

## SECOND READINGS

### THE CUSTOMS TARIFF (AMENDMENT) (VARIATION OF DUTIES) BILL, 2001

**The Clerk:** The Customs Tariff (Amendment) (Variation of Duties) Bill, 2001.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Thank you, Mr. Speaker. I beg to move the second reading of a Bill entitled, The Customs Tariff (Amendment) (Variation of Duties) Bill, 2001.

**Mr. Speaker:** The Honourable Third Official Member, do you wish to speak on this?

**Hon. George A. McCarthy:** Yes, Mr. Speaker. As you and Honourable Members will recall, the Budget Address was delivered on 21 March, 2001. The

Budget Address gave details of revenue measures that government proposed to introduce during 2001. These measures in the aggregate for the year 2001 are expected to yield \$19.9 million, as set out in the Budget Address.

Changes to previously existing rates of import duty are part of those revenue measures. These changes are expected to yield \$7.4 million in revenue during 2001. To give immediate effect to those changes, Government Motion No. 2/2001 was tabled in this Honourable House on 21 March, 2001, and passed by a majority of Members on the same day. This is the reason why this Bill is now being presented to Honourable Members.

The Bill seeks to amend the Customs Tariff Law (2001 Revision) for the purpose of giving effect to variations in import duties in respect of various goods including eggs, certain types of bakery products, drinking water and jet skis. It is important to point out that under this Bill bread continues to be free of import duty.

The Bill also varies the rate of package tax imposed under the principal Law in relation to goods in packages.

I believe that Members will find it useful to have a recap of the changes to import duties outlined in Government Motion No. 2/2001 and this Bill. In this regard, I asked the Clerk if the Schedule of items affected by this change could be circulated, and I note that this has been done. So, as I go through the Schedule, I will ask Members to take note since there are some, especially in the area of boats, who were not immediately clear when the motion was originally presented on 21 March 2001.

Mr. Speaker, for the benefit of yourself and Honourable Members, the code numbers stated in the details which I will present relate to the code numbers stated in the Customs Tariff Law (2001 Revision), and there are two columns, one sets out the duty that existed prior to 21 March 2001, and the other deals with the new duty applicable subsequent to that date. I will just read through the items:

| CODE # | HEADING                                                                                                                                                               | DUTY | NEW DUTY |
|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------|
| 04.03  | Flavoured milk, yoghurt and ice cream                                                                                                                                 | Free | 20%      |
| 04.31  | Birds' eggs and egg yolks, fresh, dried or otherwise preserved.                                                                                                       | Free | 15%      |
| 06.01  | <i>(This section repeals the previous description and substitutes the following)</i> Live plants trees and plants issued for propagation or cultivation.              | Free | Free     |
| 06.02  | <i>(New subsection)</i> Other Live plants (including ornamental plants for landscaping or decoration whether bearing flowers or not)                                  | Free | 20%      |
| 08.01  | Fruit, fresh, chilled or frozen. but not further prepared                                                                                                             | Free | 15%      |
| 19.05  | <i>(New Code Number)</i> Bread loaves whole or sliced                                                                                                                 | Free | Free     |
| 19.21  | <i>(Repealing and substituting the following)</i> Bakery products including biscuits, rolls, buns and similar products but excluding products under Code Number 19.05 | Free | 20%      |
| 22.01  | Purified, desalinated and natural waters, other than aerated waters                                                                                                   | Free | 20%      |
| 88.01  | Aircraft parts and associated equipment                                                                                                                               | 20%  | 20%      |

|       |                                                                                                                                                                                                                                                                                                                                                                            |      |      |
|-------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|------|
| 89.01 | <i>(New Subsection)</i> All boats for local use, whether sailing from abroad under own power or not, and whether registered or not, including parts and associated equipment, but excluding ocean-going vessels in the Islands temporarily (subject to the discretion of the Collector of Customs acting in accordance with section 19 of the Customs Law (1998 Revision)- |      |      |
| 89.01 | Boats under 18 feet, including rowboats, canoes, kayaks, but excluding other boats for pleasure or sport                                                                                                                                                                                                                                                                   | Free | Free |
| 89.02 | Boats between 18 feet and 35 feet excluding boats for pleasure or sports                                                                                                                                                                                                                                                                                                   | Free | 10%  |
| 89.03 | Boats over 35 feet                                                                                                                                                                                                                                                                                                                                                         | Free | 5%   |
| 89.04 | <i>(New code)</i> Vessels for pleasure or sports including Jet skis, wave runners, personal watercraft, but excluding rowboats, canoes and kayaks                                                                                                                                                                                                                          | 10%  | 20%  |
| 89.05 | Other floating structures, including inflatable rafts, floating docks, submersible drilling or production platforms, platform tanks, cofferdams, landing-stages, buoys and beacons                                                                                                                                                                                         |      | 20%  |

Item 2 of the third Schedule to the Customs Tariff Law (2001 Revision), Goods in packages: For each 100 pounds or part thereof, previously \$.50, now \$1.00.

These are the items affected in the Customs Schedule, and I commend this Bill to Honourable Members.

**The Speaker:** The question is that a Bill entitled, A Bill for a Law to Vary Duty Under the Customs Tariff Law (2001 Revision) be given a second reading.

The Floor is open for debate.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I have a few questions regarding the methodology government uses to arrive at what should be taxed at the port of entry and what should be exempt; what should be 20%, what should be 15% and what should be 10%. I was one of those who spoke about the need to exclude foods from the taxation process. I am still a strong believer that regardless of what government says about what it earns from taxing foods, that food products should be excluded.

I know a lot of people who are consuming food in this country are not Caymanians, especially since approximately 58 percent of the workforce is now non-Caymanian. When we look at the number of tourists visiting our shores, the consumption of food is really not consumed only by Caymanians, but by others as well.

Some might ask why give up this revenue source when the number of Caymanians who are assisted by removing duty from foodstuff is few. There is a significant number of Caymanians who are concerned about duties on food items simply because it affects one of the basic needs human being have—the need for food. The need for shelter is already affected by the taxes government levied on building materials.

There are those who argue that they are able to purchase less as a result of government taxation. There are those who also argue that it helps to inflate the cost of living.

My basic concern at this moment is, when government finds itself in a situation where it needs money, how does government decide who is taxed. Is the methodology being improved by this new Government?

I would like to say that I have seen a customs invoice where an importer of aggregate was able to put the amount of freight as “nil” on the invoice. The freight cost should have been several thousands of dollars. The duty on that would have been 20 percent, therefore, the amount government received was tremendously less because in scrutinising the transaction they failed to note that there should have been a cost for transporting the aggregate from Mexico to the Cayman Islands.

I also saw where that particular invoice was amended at a later date when it was clear that an amount would have to be considered for freight. That correction was made on 6 April 2001, and the original invoice was altered to no longer read “nil” but in fact, another invoice was made and signed on 6 April 2001 where an amount was given; an amount nowhere near the cost of freight for that amount of aggregate from Mexico to the Cayman Islands, and where three transactions have been done with the Cayman Islands Government and no attempt has been made to assess the true value of the freight cost for this.

When we find that government is interested in taxing artificial flowers, or puts a 20 percent tax on water, we have to ask, if government is in such dire need of additional revenue, why is it that the importation of aggregate into this country is not being policed in order to collect what is due?

I also understand there is an ongoing situation, in this country, whereby another company is importing aggregate into the country at \$1.00 per ton. Why these discrepancies? How do we objectively arrive at these decisions on tariff duties? How did we arrive at the \$1.00? And why are we still at \$1.00? Is the need so great in this country to have the additional supply that government must continue to charge \$1.00 per ton? Government turns a blind eye when it comes to the true cost of the freight in transporting aggregate to the Cayman Islands!

This is all done knowing that we have aggregate production in the Cayman Islands, not just one, but several persons are involved in mining. I know there is an ongoing study on the pros and cons of mining in the Cayman Islands versus the importation of fill and aggregate, but it has not been concluded. Therefore, what is this policy based upon?

The last government made a decision in regards to the \$1.00 per ton. I do believe that I know why that decision was made. I cannot see why that continues to be the policy when government, who is saying it needs money, turns around and reintroduces taxes

on foodstuff where it had been removed. What logic is involved in this situation?

I would like to see a situation where 20 percent duty is placed on the importation of bottled water, the rationale being that it would help local production. We can justify that also because we need the money. What is the logic behind the aggregate question? Why are we not raising the duty on the importation of aggregate? We need the money! We have local production—yet we have a situation that is not fair.

I want to make government aware that if it is going to talk about transparency, then we have to also be transparent about the basic decisions made to tax or not to tax; to levy a particular percentage tax versus another.

The customs invoice I mentioned is significant because I will go so far as to say that the declaration was an illegal declaration. It was corrected, altered or post-dated at a point, but not done in such a way to make it a true representation of the cost amount which would have been incurred by the company importing this aggregate.

I need to voice this, and I want the Financial Secretary to give us an idea of what government is doing to make their taxation methodology more objective. I do not agree with the taxes on foodstuff; I will never agree to this. I think it is irrational that people must pay more and even if the supermarkets are not passing it on, government has to find a way to get the merchants in this country to pass on the benefits to the people of this country who are consuming these products. Because they do not believe the benefits are being passed on to the people does not mean they should get in there and get a piece of this particular action. If cuts have to be made and if money has to be borrowed, those are the things I would do before going back on my 1996 election promise, which was to see that taxes were removed from foodstuffs.

I did not support the motion and I find it as difficult to support it in the form of a Bill.

**The Speaker:** Does any other Member wish to speak?

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker. There is one question I have and hopefully the Third Official Member can answer it. Under the heading of “boats” it says, “All boats for local use including parts and associated equipment” and “Between 18 and 35 feet, 10 percent; over 35 feet 5 percent.” Does that include the parts and associated equipment for boats of that size?

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. When this tariff came to the House on 9 March 2001, I voted “Aye.” However, in my debate on the Throne

Speech and Budget Address, I outlined briefly that I had some concerns about it. Because it comes in one package it could not be voted on in a piecemeal manner. I do have some concerns with taxing our people and not taxing the financial industry as much as I would like to see it taxed.

I believe, the Second Elected Member for George Town debated yesterday, about the financial industry not contributing to the cost of providing the haven this country has provided for them and their success. I know of lawyers in this country who do not pay for a business licence. We note in overseas papers where law firms in this country advertise for lawyers who they pay up to \$250,000 per year, and yet they come here and only pay work permit fees. Well, that is a small drop in the bucket!

If the law firms can afford to pay up to \$250,000 for imported lawyers, they must be able to pay more than just work permit fees.

I noticed in the new measures for this year that it is doubled for accountants, but that is just from \$750 to \$1500.

When we tax ice cream, that touches most people, so, we have to be extremely careful. I invite the new Government to look at different ways of taxing to be able to provide the services we have enjoyed in this country for many years. Maybe we have become spoiled! We cannot, forever tax the “little man.”

I noticed a truck the other day with one of those decals across the windscreen that said, “Poor People Fed Up!” Well, I believe they are because since March 9 I have had much representation about the tariff measures. I have explained the reason for it, and they understand. I have some further concerns with the area which the Third Elected Member for West Bay discussed, and that is the issue of boats between 18’ and 35’. In most instances it is going to be the people the decal on that truck was talking about—poor people! Boats 18’ to 35’ is 10 percent import on what used to be free and boats over 35’ which used to be 10 percent is being reduced to 5 percent?

This is telling me luxury tax is being reduced. Nevertheless, on importation of vehicles we have a luxury tax—the lower the original cost of the vehicle, the lower the duty. Well, a boat over 35’ means that if you can afford to buy an expensive boat whether it is in the range of 50’, 60’, or 100’ for luxury.—Those people who buy expensive boats are not buying them to catch a few groupers before the Minister for Tourism ban the groupers, they are hoping to go to the Sandbar every Sunday for pleasure. That is luxury! It needs to be increased!

We do not cater to these types of boats, unlike other islands within the Caribbean, which has hundreds of sailing boats and others because we cannot shelter them in this country. We are not going to dig out the North Sound for them to come in here; therefore, they are not allowed to come. It cannot be that we are encouraging them to come. I have already spoken in this House about boats dumping everything

they use in the North Sound. If we are not going to penalise them for that, let us start charging duties for bringing these boats in. We cannot reduce that and increase it on the little man who goes out at night to fish, trying to make a living. We cannot do that! It is not fair! This is one of the reasons why the poor people are fed up. We do not need to add to that for the people.

I believe that the government needs to seriously look at it and repeal it; it must be increased. Anyone who can spend up to \$500,000 or \$100,000 for a boat can pay 20 percent duty to bring it into this country. We cannot expect someone buying a little 18' or 20' boat to go fishing with, to pay 10 percent and the rich pay less; that is exactly what has happened here for many years.

I appeal to the people to assist the country because of the financial constraints the government is going through to provide the services the country needs. Next year we are certainly not bringing back any duties on the poor people. I will stand up in this Honourable House and oppose it strenuously! I invite government to look at that area again.

Because of bottled water being produced in this country, I understand the rationale for applying duty on bottled water which was free before.

I also support taxing the wave runners. The wave runner businesses are springing up all over the place and a lot of that is not to the benefit of Caymanians. They can bring in these pleasure crafts free, make bundles off of them, and government gets nothing. I also have some concerns about the area the Third Elected Member for George Town went into.

Anything produced in this country needs to be used; likewise, fresh fruits. I stand for the total ban of fresh fruits that are seasonal. Ban importation period, or increase the duty on it so much that it will not be in the best interest of any merchant to import it while seasonal. For instance, mangoes—we produce mangoes, bananas, plantains, et cetera in this country. It is my understanding that we are self-sufficient in some of those areas. I invite the Minister of Agriculture to bring a ban on the importation of the seasonal fruits that we are self-sufficient in, during that time.

The Chamber of Commerce had a slogan at one time: "Buy Cayman." I agree with that! We need to buy it before anybody else takes it. They must live by those same words also. When they have something to sell, they are very glad to say "Buy Cayman" but when they want to buy, they go overseas to buy it. Now, let us charge them taxes on bringing it in.

Anything produced in this country must have a high Custom tariff levied on it. Anything! The importation of anything produced in this country must attract high Custom tariff.

We heard the Third Elected Member for George Town elaborate on the importation of aggregate. There is nothing wrong with importing aggregate, but let government make some money on it as well. We

drag it across the North Sound, charge nothing to do that and \$1.00 per ton is charged.

In my debate, I called for the construction of new docking facilities for bulk cargo. The excuse we are getting is that people will bring it in on their own place. It is time for government to look at a facility where it comes across its dock.

It may sound penny wise and pound foolish to build another dock, but we can hardly walk around George Town and one of the reasons is because of the amount of cargo coming off at the dock. George Town is almost ready to be turned into a pedestrian city. We need a new dock someplace else, on the eastern end, the southern end, where we can import aggregate, cement, fuel, and no one will avoid paying the docking fees or duty.

As soon as these people come to negotiate with government for a licence for the importation of bulk cargo, that is the Ace they pull out of their sleeve, *'We cannot take it across the dock because it is going to cause more traffic congestion in George Town. We will bring it across the North Sound onto our property.'* In the meantime, the North Sound—being the most sensitive area—is dug up and no penalties are applied for that. Then, it is still only \$1.00! Government needs to look at that to see whether or not it is time to review those importation licenses.

I am also asking government to look at the financial industry. We are faced with increased expenditure to ensure that these same people maintain their businesses in this country. There is a fallout effect for the Cayman Islands on the whole. We are saddled with the responsibility to ensure that we monitor in accordance with the Financial Action Task Force (FATF), the Organisation for Economic Cooperation and Development (OECD) and all the requirements of the other initiatives. That is additional cost to this country and it cannot be levied to the poor people. It has to be laid squarely on the shoulders of those who are responsible.

It is time the financial industry carried its weight in this country. It is time the government of this country stop taxing the small people to support the people who are taking the cream off of the top. This has been going on all of our lives. We have catered to that environment, and rightly so because it has been to our benefit to do that. But we have taxed the man on the street in order to do that. I trust this new Government will change the way the financial industry is supported.

At least one of the Ministers has been a professional in the financial industry for a very long time. I believe there are two of the Ministers who have been in this industry. One worked for the big accounting firms and he knows exactly where I am coming from. It is time they looked at taking more from the financial industry to support the needs of this.

I look forward to the Third Official Member's reply to my comments. Thank you.

**The Speaker:** Does any other Member wish to speak? The floor is opened for debate.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. The Bill before us today seeks to impose duty on basic food items, flavoured milk, yogurt and ice cream from duty free to 20 percent; bird's eggs, egg yolks, dried and otherwise, from duty free to 15 percent et cetera.

My concern, represented by voting "No" on the motion bringing this Bill before us, along with the First Elected Member for Cayman Brac and Little Cayman, the Third Elected Member for George Town, and the Second Elected Member for Bodden Town, as the record will show, was simply because these duties would have a greater effect on the small man.

It is my opinion, the reason these duty heads are always targeted for easy ways of raising revenue, is the same as what was pointed out in December by the Third Official Member, when he spoke of various revenue heads being in elastic and some being elastic. These basic food items would be categorised as in elastic, that is, that when duty is increased on these items the volume consumed does not dramatically decrease. It is quite easy to estimate the impact of collecting duty on these items because they are not going to change dramatically in volume once you increase the cost through the duty being applied.

Other items are categorised as elastic because when duty is applied the revenue earned would not increase significantly because the volume would be cut back. It is time that this country moved from addressing these basic ways of raising revenue. In my debate on the Throne Speech and Budget Address, I outlined some and I will not bore the House by repeating those initiatives.

According to the recently released census, my district has the second lowest per capita income in this country, being \$15,780 for Cayman Brac in 1998. When I hear a Bill that increases the tax on the poor man, it is especially important that I voice my opposition to this Bill as it affects my district. The impact will be even greater because of the low level of income.

I also use this opportunity to ask the Third Official Member to assist me in understanding how, at this time, they were able to make an estimate that this Bill will generate some \$12 million in revenue, when last year it was highlighted that a private member's motion sought to remove the duty and it was difficult to estimate the loss of revenue because of how the reporting was done by Customs. It was said that there were not clear categorisations and specifications to allow for the 1999 duty package to be accurately calculated as to its impact on total revenue. However, we are now able to include in our country's budget an estimate that this Bill will yield some \$12 million.

If there are new mechanisms of categorisation, or a new policy which has made it easy, I would like

to know so that I can place congratulations where it is due.

I thought it fit to register my opposition, as I did at the time of the motion, to bring in duties against the poor man where there are other options we could pursue. I also endorse what the Elected Member for East End said, as well as the Third Elected Member for West Bay, that the reduction in duty on the boats 35' and over seems to be inconsistent. This Bill is being brought to raise revenue; it is being brought out of the government's desperate attempt to raise funds. Why are we reducing import duty on pleasure craft of 35' and over?

It is apparent to me that this country truly needs a fiscal policy that would outline government's position on taxation and how its taxes will be levied. As we all know, tax is the only mechanism whereby government can quantify its policies. If government seeks to provide protectionism for various industries, it applies duty against competitive imports. I think it is imperative that the government of the day develops a clear policy that will govern its total tax incidence and how we will be imposing taxes upon the people of this country.

I am not in a position to support this Bill.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. In my contribution to the Throne Speech and Budget Address I made my position on the tax measures and budget quite clear. It was one of deep concern, but also one of understanding in the short term, the difficulties faced by the new administration.

I would like to echo the sentiments of certain colleagues who spoke against certain taxes on food-stuff. As I see it, this tax measure has to be a short-term approach, that is, for five months after it is removed from being sent here. I recognise that Rome was not built in a day, and I am willing to ensure that the country and the business of running the country are continued. However, I made it quite clear, and I make it quite clear, that this is not the form of governance via taxation policy which I can support in the long term.

We heard of the medium term financial strategy and long term financial planning. Government has to find ways and means to raise revenue in this country to allow it to run itself in a way that is not disproportionate towards poor people.

I do not try to hide who I am or where I am from. I know what it is to be poor. As I said before, we cannot continue to beat the same horse over and over and over.

When I look at specific measures there are a few things that jump out. A few have already been mentioned. I cannot see the logic in taxing 18' to 35' boats at a rate of 10 percent and then taxing anything over 35' at the rate of 5 percent. It means that if a person

wanted to do business in the North Sound or any other type of watersports business who bought a boat for \$35,000, at 10 percent, they will pay \$3,500 in tax. At the same time, we are saying that someone with a 36' boat, and let's say they got it for a good deal and got it for \$70,000, at 5 percent, they will pay the same \$3,500 in tax. I wish that could have been considered in another way. However, the Third Official Member might provide all Honourable Members with an enlightenment we currently do not have.

I also note there is an exclusion of ocean-going vessels in the Cayman Islands temporarily. I recognise some of the need for this with larger vessels passing through our territory on the way to another jurisdiction, it would be practically impossible to monitor this on collecting the taxes. However, how about the luxury yachts we see in the harbour for days on end? What do other countries do?

I note it says under section 19 of the Customs Law (1998 Revision) that the Collector of Customs has certain discretions. However, I would be interested to know what other territories do when luxury yachts visit for extended periods, let us say two weeks, and persons aboard come on shore, use the roads, et cetera, and are not necessarily paying any tax. A lot of times they do not even have to buy food when they are here; they could be consuming their food on board. So they derive the benefits but do not pay anything for it.

About two months ago I was in a restaurant overlooking the harbour and I saw a helicopter fly off of a luxury yacht. I wonder what other territories do in this regard, and whether or not it is feasible to have a clearer policy. Obviously this is something that cannot be done today, however, it is food for thought as we move to long term financial planning.

It is difficult to look at any such measures before us—fresh fruit, eggs, et cetera, having taxes when considering the position the country is in. It is difficult to support such measures, coming from where I come from, and believing what I believe. There are entities on this island not paying their way. The annual fee for certain professionals was already mentioned; that seems to be rather low. For example, accountants pay \$1500 a month. It has also come to my attention—

**The Speaker:** I think you said per month.

**Mr. Rolston M. Anglin:** Per year. Sorry, Mr. Speaker. Thank you.

It has also come to my attention that there also seems to be a difference in the way certain professionals pay their fees. I have been told that certain firms pay their fees solely on the basis of the Partners in their firms. If they have ten Partners, then that is the fee they would pay for the year. They are all part owners of the firm. Others have said they will pay for all qualified professionals within the firm. I would hope that is the spirit of the annual fee that they have to

pay for all professionals within their firm. Professional firms are like any other entity—there are less Chiefs than Indians; that is, less partners than associates. I hope this will be stringently enforced and that the view in the long term will be that entities (and I mean people, partnerships and companies) who are more able to pay, and who for a long time—up until now in my view—have not paid their fair share. They have not contributed in an equitable fashion in terms of the running of this country.

After all, if a man who makes \$1,000 per month goes into the grocery store and has to feed a family of four, he is going to wind up paying almost an identical amount in tax as the person who makes \$5,000 per month with a similar size household. There is no equity in that. How can a person who makes \$1,000 a month, in percentage terms survive, solely looking at things like foodstuffs—necessities, items that are not elastic in demand, items needed to survive? It is not fair! The person who makes \$1,000 pays five times as much tax, in percentage terms, than a person making \$5,000. There is no equity in such a system!

I would like to share with the current Government a saying by Confucius, "To see what is right and not do it is want of courage." We must get out of the mindset that we are going to have purely consumption based taxes in this country that are unequally distributed and unequally burdensome and harsh on poor people in this country.

This is not an approach that I can support in the long term. However, given the constraints faced in the short term, I feel obligated to support it because the country must go on. However, I too have had representation from constituents who have told me their view is that they are willing to give government a chance to put together its medium and long term financial strategies. This approach is one that must come to an end in this country. We can no longer have the tax burden unequally distributed to those who are less able to pay.

In the words of the Elected Member for East End, "Poor people fed up!"

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak to the amendment? (Pause)

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Perhaps on occasions like this I would like to still be on the Backbench. Nevertheless, there are responsibilities one has to live up to so sometimes when unsavoury debate has to take place about matters, you wish you could push it aside, but you still have to deal with it.

Speaking for the Government, it is certainly a time when Government would like to not have to entertain any tax measures with regards to trying to strike as close to a balanced position as it could with the 2001 estimates. Unfortunately, that is not the



case, and that is why we have the Bill before us today.

Having said that, there are several points I believe, need to be addressed and clarified. Before going into some specifics, let me make a general statement to say that government takes on board the thought of not falling into the usual trap, whenever we need to find revenue, to look at consumption taxation.

There are those who said that just after taking up office in the new Government, I said there would be no new taxes. I was on the premise from the beginning that we did not wish to have to entertain any consumption taxes. What we did not know at the time was that when the duties had been taken off the food items by the previous government, even though it seemed they did not know the total amount of projected shortfall, having done so, the situation obtained at the end of the day was that there was some estimated \$10 million to \$12 million revenue lost for the year 2000.

The position we found ourselves in would have been compounded twice over for this year and there was no time to sit down and work out strategically new and innovative ways to raise the revenue from other sources. We were able to tap into some of those sources, but we simply could not pick numbers and throw them out and do it in a sensible fashion.

So that it will be very clear, the Second Elected Member for Cayman Brac and Little Cayman spoke on this \$12 million. These measures are not estimated to raise \$12 million because not all of the duty taken off has been put back on. That figure is estimated to be in an excess of \$7 million this year.

I want to use an example, and I will go on to show that just as Members have been saying, and quite rightly defending their positions and representing their constituents, they cannot be pleased with a tax package which affects the consumer. I want to bring to light a thought process that seemed to prevail and show that this Government is not going to be engaging in that thought process when it comes to raising revenue.

When we talk about those duties being taken off, that was done on 3 February 2000, when the Third Official Member made the announcement that these duties were going to be taken off. What actually transpired was (part of this is a view, and part is a known fact) that when the budget session started the present Third Elected Member for George Town had brought a private member's motion, which addressed taking off the duties from certain items.

The view is that the Government, in order to preempt debate on his private member's motion and to take away his thunder, introduced the reduction of these duties. That was done on the same day the estimates were delivered, if I remember correctly. I stand to be corrected, but it is not a major issue and I know it was around that same time.

When those estimates were delivered to the country, they were delivered, having calculated and

projected based on historic records that all of these duties were going to remain as they were. At the very last moment before the Budget Address was delivered, they announced they were taking them off, but there was no adjustment on the revenue side for taking them off.

Having said that, and we understand very clearly that the same single-entry bookkeeping the former Leader of Government Business used to throw at people, is obviously the only kind that he knows how to do because that was exactly what he did. They deducted duty on one side to look good to the country, but they left the revenue the same as if they were going to collect the duty. That happened on 3 February.

Finally, the present Third Elected Member for George Town got to bring his motion on 11 February 2000. He spoke on his motion and then the Government replied.

I now quote Mr. Truman Bodden (at that time he was the Honourable Truman Bodden) when he made his reply to the motion.

**The Speaker:** Please state the date.

**Hon. D. Kurt Tibbetts:** It was 11 February 2000.

The then Leader of Government Business, quoting from page 1469 of *The 1999 Official Hansard Report*, said, **"This motion says: 'AND BE IT ALSO FURTHER RESOLVED THAT the *Legislative Assembly* makes meaningful suggestions with regard to removing this tax which greatly burdens the people of these Islands.'**

**"It is a very good motion. But where are the meaningful suggestions to cover the revenue that the honourable member's motion is taking off?"**

He went on further, on page 1470, to say, **"I commend the Fourth Elected Member for bringing forward this motion. I believe it will take time and in-depth study to try to come up with alternative ways to be able to remove the import duty because it is not a matter of just simply taking it off now. If we take it off now, Mr. Speaker, before we have looked at the alternative ways of raising the revenue, then it obviously is going to cause the budget to be way out of whack as far as the revenue side goes."**

This was on the 11 of February, and they had just done the very same thing on the 3<sup>rd</sup>! I am quoting from the *Hansards*, Mr. Speaker. I am not making it up.

So, the government committed the same sin on the 3<sup>rd</sup> of February 2000, and the former Leader of Government Business spoke with forked tongue (if I may call it that) by trying to cajole the then Fourth Elected Member for George Town, saying "it is a good motion," while at the same time saying, "but we cannot do it like that because we have to think about the revenue that is lost." They did not think of it when doing the other one!

**Hon. Edna M. Moyle:** And they did not even allow the debate to be finished on the motion.

**Hon. D. Kurt Tibbetts:** Let me just finish off the point by saying that the government of the day did not allow the motion to see its full passage to either be rejected or passed. In fact, I think this Honourable Legislative Assembly closed sine die before the motion had been completed.

I make that point to simply say that perhaps it is a fact that there is no one on this government bench with nine degrees. Perhaps some of us are lay people. I can assure the country, and you, Sir, that collectively and singly we all have enough sense to know better than to even think of doing this, much less say it.

With that very short exercise, let me say that the government's is totally aware of the situation that the ordinary folk in this country find themselves in. We are not removed from that. As time goes on, our actions, policies, and our involvement in taking input from the Backbench, will prove that the sole intention is within systems which prevails and with changing the best way we know how. We simply wish to reach the stage of achieving the equity the Second Elected Member for West Bay referred to.

It is unfortunate, but because our system of indirect taxation is believed at this point to be the best system, given the climate in which the country operates, it is a very difficult task to achieve equity without the ability to tax directly. I am not suggesting that is what we should be doing; I am simply stating what I believe to be a fact. It is difficult to create that equity unless we are being innovative.

What the Government has done is, it has created a fiscal advisory group, chaired by Mr. Robert Bodden. That committee has been meeting weekly and as part of its terms of reference has to do a report by 1 May. The committee is looking in depth into new and innovative ways of creating a revenue stream for central government to operate. It understands and appreciates fully that the whole intention is to be able not to have to look at any more consumption taxes.

It also has, as part of its purview to look at the global expenditure of government and try to pinpoint areas which needs to be addressed. The Ministers and Official Members are very conscious of the situation obtaining, and that is a big part of our exercise in trying to create policies whereby we need to raise revenue in the right areas, and cut expenditure as best we can without decreasing the level of services government provides. So, I believe, that we are conscious of the needs and where we should address certain areas, to try to get to this point where there is enough revenue coming in for government to operate in a prudent fashion, but with a balanced perspective and to also create a balanced budget annually.

We need to get beyond that point, because the truth of the matter is that part and parcel of our medium term financial strategy is going to be increasing

the level of our general reserves to a much more comfortable situation for the country; this has to be the case. We are not a country with many natural resources that we can hold on to and tap into when we need. Our success story has great dependence on outside factors over which we have no control, therefore, it is certainly in order for us, as a matter of course, to be saving for a rainy day. So, that is part and parcel of the plan.

Not begging for time, but speaking factually, there are things which have to be done, but there has to be a certain amount of time allowed for those things to be done. I do not make that statement seeking any easing up from the Backbench because the government fully recognises that the responsibility of the Backbench is to keep government on its toes. I have no problem with that whatsoever! Been there, done that, and I love it!

The premise under which this Government operates is that the better the Backbench operates to keep us on our toes, the better Government will perform. We are not going to run. Let me get on to some of the specific issues to give some clarity.

In the actual schedule, and perhaps by the time I am through the luncheon break will allow us to deal with this so that we are very clear as to the way forward, and allow for any changes that might occur in the schedule to be done in committee stage. I noticed Members spoke about the insertion of the new code number 89.03, boats over 35'. The previous duty was 10 percent and the new duty is 5 percent. I have conferred with the Ministers and something is amiss. That certainly was not the intention.

Perhaps there is a simple answer to it. I think it will be corrected. I flagged that so that Members will understand. I am not trying to cover anything up, but I can clearly state that when we sat and discussed these issues, it was not the intention to add duty to smaller vessels and reduce this duty as it appears now. Perhaps the Third Official Member will take note of that and we can deal with that at committee stage.

I also need to mention that in regards to aluminium boats and other small crafts less than 18' which the ordinary person will use to go on a little fishing trip, it was not intended for those types of crafts to attract any duty. Not having the legal skills of others in the chamber, I cannot put words to correct the way the schedule is written to indicate that. I believe we will also look at that in committee stage.

I do not think the way it is worded now is very clear as to whether or not those types of vessels attract duty. Generally speaking, one might say that using it for your own purposes to go fishing is called "pleasure." People like me will make a distinction between that. I do not know whether the person who put it together makes that distinction or not, but we can deal with that to ensure there is no ambiguity, and as I said, we can deal with that at committee stage.

Let me, again, categorically state that this Government is going to move forward not only with the

best of intentions, but with as much vigour as possible work along with the other representatives, the private sector, to come to the position where we have a revenue stream sufficient to keep government functioning the way it should to provide the services at the level it should. We are also very conscious of looking at creating efficiency within the public sector and dealing with financial reform initiatives, while working towards that level so we can get to that point.

**The Speaker:** If you like, we can take the luncheon suspension and you can complete after that.

**Hon. D. Kurt Tibbetts:** That is fine.

**The Speaker:** We shall suspend proceedings until 2.15 PM.

#### PROCEEDINGS SUSPENDED AT 12.47 PM

#### PROCEEDINGS RESUMED AT 2.43 PM

**The Speaker:** Proceedings are resumed.

Honourable Members, I must once again bring to your attention that we took 32 minutes longer than the prescribed lunch hour, and I was not notified as to the reason. I ask that we try to be prompt because there is much left on the Order Paper.

The Honourable Minister for Planning, Communications and Works continuing his debate on the second reading of The Customs Tariff (Amendment) (Variation of Duties) Bill, 2001.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

In order for it to be understood, I apologise on behalf of the Government if indeed it was the Government who caused the delay in our resuming. There were a couple of overseas calls that we had to make and it took us longer than we assumed it would. We thought a message had been given to you. If you did not receive any message, we apologise.

Just to finish my short contribution on this Bill, I want to move on to address an area which some Members spoke on, although it is not directly related to the Bill itself. Comparisons were made to the methodology which government might use in regard to collecting revenue, and perhaps not looking at other areas in the matter in which they think we should. It is in regard to the importation of aggregate.

At present, my information is that there are three entities with permission to import aggregate into the country, the third entity being one that received permission quite recently. Perhaps they may not have been notified yet. If my understanding is correct, already two of the entities that have permission have imported aggregate into the country and it seems that the payment of duty is being handled differently. I have not been able to verify this, but it is not of major importance now whether or not this is the case based on what I am going to say.

As fate would have it, this Tuesday when Executive Council met, part of our discussions involved the creation of a policy which was sound and would create a level playing field regardless of who was involved in the importation of aggregate. This is being addressed as we speak.

So that it is clearly understood, the Ministry that holds responsibility for the importation of aggregate is the one that I take charge of. I intend to get all the facts laid out as soon as we have those facts available. Executive Council is going to closely examine the way the situation has been treated thus far, and we are going to decide on a policy and will let everyone know what that policy is. The platform from which that policy will be created will be to ensure that competition takes place in such a manner that the consumer is allowed the benefit of that competition. In order for that competition to afford itself the best end result for the consumer, means that those who are providing the material by importing it must all face the same music once it reaches our shores.

When it comes to what they buy it for, how they transport it and the cost, the Government is not concerned. That is up to their negotiating skills and contacts. In regards to what is going to be paid to government for the importation of this aggregate, let me assure one and all that everybody is going to pay the same price. There will be no difference—regardless of who it is.

It was mentioned by the Member for East End about provisions of a port facility for the importation of aggregate. That was also part of the discussions that took place. There are concerns about having several entities use the North Sound as the avenue through which the aggregate is imported. There are environmental concerns. I have heard some of the entities speak of creating some facility in some other location where this aggregate can be offloaded. I have seen some plan where it was to be done via a conveyor belt system. I do not know what will pan out with this because obviously discussions will have to take place.

Even if these importers are bitter rivals amongst themselves, they are going to work together with government in order for it to happen otherwise, it is not going to happen at all.

Once we get the facts together, we are going to get those entities together and outlay the way in which government wishes for the importation of aggregate to take place after we take input from everyone. The country will know because that is the way it is going to be. We are not going to deal with one entity in one fashion, and deal with other entities in another fashion. I am not making any comparison to what has happened in the past, I am simply saying how it is going to be.

One point was the method by which it is allowed to be imported; the way it is offloaded into the country. We are going to address that as quickly as we can because it seems there is a mind within the peo-

ple engaging in that business, that importation may play an important role in the supply of aggregate in the Cayman Islands in the future.

Regarding not collecting duty on aggregate, and then deploying a consumption tax for the ordinary citizen to pay, I take that point. That is certainly not a situation government wishes to exist into perpetuity. We are going to look to see what is fair and address it. The important thing to recognise in trying to create this level playing field, is to ensure that the competition which would naturally take place between the entities wishing to import this aggregate be done where everyone has the same opportunity, and that the best price possible is given to the public.

I have tried to address some of the areas, and the Honourable Third Official Member will certainly be able to speak to whatever I have not addressed. I just wish to say that the Government intends to address the area of revenue in a manner most palatable to the entire country, and we are of the firm belief that there are certain sectors in society that need to be looking either by discussing it with us, or by having these measures passed in legislation to ensure that those sectors pay their fair share. This is not about robbing Peter to pay Paul; this is about the system under which the country operates, the benefits derived by the various sectors from the system we have, in trying to create equality to the best of our ability given the circumstances under which we have to operate.

I commend the Bill. Government wishes it could have taken another course, but for this time around, this was the best we could bring about a balance even though we were a way off. Unfortunately, any other choice would have meant more borrowing and there would have been another type of criticism. This time we were damned if we did, and damned if we did not. Next time we will work the best way around to be damned for nothing at all.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) Final call, does any other Member wish to speak? (Pause) No other Member wishes to speak. Does the mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Mr. Speaker, thank you. I would like to start by thanking Honourable Members for their comments on this Bill. The Leader of Government Business dealt extensively on the queries raised by all Honourable Members. I do not think there is much for me to add.

The Third Elected Member for George Town asked how the government determined what items should be taxed. The Leader of Government Business responded in his winding up. I think the most poignant point was when he said, "The government will be addressing the matter of revenue in a matter most palatable to society."

The Minister also commented on the committee that has been set up under the chair of Mr. Robert (Bobby) Bodden, the Fiscal Advisory Committee. The Minister also mentioned that the committee is due to submit its first report on 1 May. In keeping with the terms of reference, the report being submitted is very much anticipated.

The Second Elected Member for Cayman Brac and Little Cayman asked how it was possible to determine that reinstatement of duty on bakery products will yield \$12m when it was previously stated that the duty yield from these items could not be quantified. I will admit he is correct in his statement. I can recall saying exactly that—that was the situation, it could not be quantified.

Let me first mention that \$12 million would not be the yield, it would be (as the Leader of Government Business pointed out) \$7.4 million. This \$7.4 million takes into account the effect of the duty reinstatement on this particular category of items because it would be effective as of 21 March. In effect, there would be nine full months remaining. So, the annual effect would be \$9.9 million, but taking into account the yield from 22 March onward.

Secondly, as was pointed out, the way the system is now structured and the fact that data is not captured in a per item basis, it makes it somewhat difficult to be specific in terms of how much duty has been generated on a particular item or category over a period of time. However, it is safe to say that independently the Collector of Customs has taken the view that the amount of duty stated as being recovered, as a result of the reinstatement of duty on the items mentioned under bakery products, is very much consistent with what has also been said by the revenue officer. It should be pointed out that with the reinstatement of duty on selected items that there are certain items still remaining duty free. These are bread, butter, sugar, and cereal.

The Elected Member for East End commented that each sector should be making its fair contribution. We hope that the report which is to be submitted by the fiscal advisory group, chaired by Mr. Bodden, will be making recommendations especially as such would pertain to the financial industry.

Although it has been set out in 2001 budget as \$1.8 million, it is projected that the annual yield of the additional fees that will be prescribed will amount to approximately \$7.4 million. As all Honourable Members can appreciate, because these fees are specified to be paid at a given date, and most of them are by 31 January, it would be somewhat difficult for the financial industry and the country as a whole to introduce fees during the course of the year making such fees retroactive. Therefore, this will take into account new activities from the date these fees are promulgated into law, and also as of the beginning of the 2002 New Year. The annualised yield for 2002 will be expected to be an additional \$7.4 million.

The Second Elected Member for West Bay commented on the type of regime in place, and also commented on the inequity of the present system. The Member is quite correct, but this is a matter that will have to be looked into, and it is not one I would want to make cursory comments on at this point. First of all, it is a matter that will have to be examined very carefully because the structure we now have in place, the consumption based or indirect tax system, allows a narrow band from which to achieve the revenue yield during the course of any given year.

We have heard, on many occasions, Members of this House talking about the need to diversify or expand the tax base. We also hope the report to be presented on 1 May will give some lead in this direction.

One final thought, and this is a matter that will have to be examined very carefully, is the question of government subsidising many of the services. The Second Elected Member for George Town mentioned yesterday the example of the garbage collection fee. The \$300 he mentioned was determined many, many years ago. It is likely that it is significantly higher now, and government only charges a fraction of that in terms of the garbage collection fee.

It is not that we have in place a cost recovery system. This has to be an integral part, and will be, of the financial reform initiative. To the extent government continues to provide subsidies for services it will have to be supported by all Honourable Members of this Legislative Assembly. As we continue to look at what is happening in terms of what our infrastructure base is, and the type of society we have, the Cayman Islands is not the typical third world country. We are a well developed cosmopolitan society. When we look in terms of the structure of the tax base we have for support, it needs to be revisited if government is to continue to provide the services required from time to time.

Attention has been turned once more with a certain level of commitment to the financial reform initiatives. We have the medium term financial strategy that is very much now in the making. When we look at everything happening around us, this country as a whole can be heartened that, as said by the Second Elected Member for West Bay, he is prepared to support the measures presented by way of the additional revenue yield being sought of \$19 million on a short term basis. When we take everything into account along with the report submitted by the fiscal advisory group, as Members turn their attention to that report and the financial reform initiatives, look in terms of the level of subsidies and receivables outstanding at this time; these are serious causes for concern. All of these are being addressed.

I thank all Members for supporting this Bill.

**The Speaker:** I shall put the question that a Bill entitled the Customs Tariff (Amendment)(Variation of Duties) Bill 2001, be given a second reading. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED: THE CUSTOMS TARIFF (AMENDMENT) (VARIATION OF DUTIES) BILL 2001, BE GIVEN A SECOND READING**

**The Speaker:** The House will now go into committee to discuss the Customs Tariff (Amendment) (Variation of Duties) Bill 2001.

**HOUSE IN COMMITTEE AT 3.16 PM**

**COMMITTEE ON BILL**

**THE CUSTOMS TARIFF (AMENDMENT) (VARIATION OF DUTIES) BILL, 2001**

**The Chairman:** Please be seated. The House is now in Committee. With the leave of the House, may I assume that, as usual, we should authorise the Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk state each Bill and read its clauses?

**Assistant Clerk:**

|          |                                                                                         |
|----------|-----------------------------------------------------------------------------------------|
| Clause 1 | Short title.                                                                            |
| Clause 2 | Amendment of first schedule of Customs Tariff Law (2001) Revision.                      |
| Clause 3 | Amendment of third schedule of Customs Tariff Law (2001) Revision—Rates of package tax. |

**The Chairman:** The question is that clauses 1 through 3 do stand part of the Bill. Are there any amendments?

The Honourable Third Official Member.

**Hon. George A. McCarthy:** Yes, Mr. Chairman. There is a proposed amendment to the Bill and it is presently being worked on by the legal draftsman. It has not arrived as yet; this has to do with the area of boats.

I should mention that in the schedule handed out this morning there are certain discrepancies that have come to light.

**The Chairman:** Is it your wish that we suspend until that arrives?

**Hon. George A. McCarthy:** If you would allow a ten minute suspension we could obtain the amendment that will be given by the Legal Department, shortly.

**The Chairman:** We shall suspend proceedings for 15 minutes.

**PROCEEDINGS SUSPENDED AT 3.17 PM**

**PROCEEDINGS RESUMED AT 3.31 PM**

**The Chairman:** Proceedings in committee are resumed. I shall put the question that clause 1 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 1 do stand part of the Bill.

**Hon. George A. McCarthy:** Mr. Chairman, there is an amendment to clause 1, Sir.

**The Chairman:** Clause 1 is short title.

**Hon. Edna M. Moyle:** I think the amendment is "Short title and commencement."

**The Chairman:** Preamble, yes.  
We will have to recommit clause 1.  
The Third Official Member.

**Hon. George A. McCarthy:** Thank you, Mr. Chairman. In accordance with the provisions of Standing Order 52(1) and (2), I the Honourable Third Official Member, give notice to move the following amendments to the Customs Tariff (Amendment) (Variation of Duties) Bill, 2001:

That the Bill be amended as follows: (a) by deleting clause 1 and substituting the following clause—  
"Short title and commencement 1. (1) This Law may be cited as the Customs Tariff (Amendment) (Variation of Duties) Law, 2001. (2) This Law is deemed to have come into force on 20 April, 2001."

**The Chairman:** I shall put the question on the amendment to Clause 1. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: AMENDMENT TO CLAUSE 1 PASSED.**

**The Chairman:** The question is that Clause 1, as amended, do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSE 1, AS AMENDED, PASSED.**

**The Clerk:**  
Clause 2 Amendment of First Schedule of the Customs Tariff Law (2001 Revision).

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** There is an amendment to clause 2, by deleting paragraph (j) and substituting the following paragraph - "(j) by inserting, in their appropriate places, the following code numbers and items:

|       |                                                                                                                                                                                                                                                                                                                                                            |      |
|-------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
|       | <i>All boats for local use, whether sailing from abroad under own power or not, and whether registered or not, including parts and associated equipment but excluding ocean-going vessels in the Islands temporarily (subject to the discretion of the Collector of Customs acting in accordance with section 19 of the Customs Law (1998 Revision)) -</i> |      |
| 89.01 | <i>up to 18 feet, (but excluding jet skis and wave runners)</i>                                                                                                                                                                                                                                                                                            | Free |
| 89.02 | <i>over 18 feet</i>                                                                                                                                                                                                                                                                                                                                        | 10%  |
| 89.03 | <i>Jet skis, wave runners</i>                                                                                                                                                                                                                                                                                                                              | 20%  |
| 89.04 | <i>Other floating structures, including inflatable rafts, floating docks, submersible drilling or production platforms, tanks, cofferdams, landing-stages, buoys and beacons</i>                                                                                                                                                                           | 20%" |

**The Chairman:** The question is that the amendment does stand part of Clause 2. It is open for debate.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Chairman.

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna O'Connor-Connolly:** Thank you, Mr. Chairman. On a point of clarification, I wonder if it is really the intention for inflatable rafts to attract 20 percent whereas boats under 18 feet, excluding jet skies and wave-runners to be imported free?

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** This item is presently attracting duty at the rate of 20%.

**The Chairman:** The First Elected Member of Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I wonder if Section 4 of the Customs Tariff Law which gives the Governor power from time to time to waive or reduce any or all duties specified in codes . . . has a request been made for this to happen or, can there be an undertaking that where these sections will come into effect that the Governor will be approached for reduction and waiver as set out in section 4 of that Law?

Perhaps I can read section 4.

**The Chairman:** Please go ahead.

**Mrs. Julianna Y. O'Connor-Connolly:** It says, “**The Governor may from time to time waive or reduce any or all of the duties specified under the following code numbers in the First Schedule in relation to any person or group of persons in Cayman Brac and Little Cayman . . .**.” Has a request been made to this effect, or will one be made subsequent to these amendments we hope to put through today?

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Chairman, that section is not being amended, from all indications these concessions will remain in effect.

*(Long pause and discussion off microphone)*

**Hon. George A. McCarthy:** In moving this amendment, we have come upon an anomaly. I am going to be asking Mr. Ballantyne, the Second Official Member, to assist in explaining the changes required.

**The Chairman:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Chairman, the Bill proposes to restrict the code 88.01 to aircraft parts and associated equipment and inserts a new code 89 in place of certain matters that were previously under 88.01. In order to have the benefit of the concessions available under section 4 of the Law, it would be necessary to add into section 4 of the Law, by means of a committee stage amendment, after 88.01 and before 93.01, the following: “89.01, 89.02, 89.03, and 89.04.” That would then give the Governor the ability to reduce . . . oh, I beg your pardon. I thought 89.05 became 89.04. It does. So it is 89.01, 89.02, 89.03, and 89.04 which needs to be added in to section 4 of the Law by a committee stage amendment, if that is acceptable to the committee.

**The Chairman:** I have a concern. We are now amending the Schedule to the Law. The amendment is technically to Clause 4 of the principal Law, which was not included in the Bill now before the committee.

**Hon. David F. Ballantyne:** That appears to be the case, Mr. Chairman, but from my reading of the Bill, it says “the Customs Tariff Law in clause 2 of the Bill is amended in the First Schedule in the column headed ‘duty.’” You would have to add an amendment to the effect that the Customs Tariff Law is amended in section 4 . . . and then the details of that amendment. There would have to be a further amendment to the committee stage amendment to that effect.

Unless there is something different about amending the Schedule, the Schedule forms part of the Law. So, if it is competent to amend the Schedule we would appear to be amending the Law anyway, it

is just a different part of it. That is how it looks, unless any member considers differently.

The form in which the Schedule may be amended appears to be only by a Bill, if I am reading it correctly. If we have a Bill in front of us, which is amending the Law, whether it is amending the schedule or the substantive part of the Law does not appear to preclude making an amendment by way of a Bill which is what we have in front of us. If the committee stage amendment amends the Bill, which in turn amends the Law, I think that is in order unless you still have concerns.

**The Chairman:** I am completely in your hands with legal terminology. However, I was saying that Clause 1 was amended, and Clause 4 should come before you get to the Schedule, if we are doing it procedurally.

**Hon. David F. Ballantyne:** I would agree with that. The sequence should be Clause 1 of the Bill, Clause 2 should be an amendment to section 4, and then Clause 3 should be an amendment to the Schedule. So, I agree with that.

Perhaps it would assist the functioning of the committee if I, with the leave of the Third Official Member, seek to move that the committee stage amendment be itself amended by inserting paragraph (aa) into the committee stage amendment to the effect “that section 4 of the principal Law be amended by adding the following codes: ‘89.01, 89.02, 89.03, and 89.04.’” and the remainder of the committee stage amendment would be as it is. That would put it then in the right sequence.

Perhaps I should add that that amendment should be by adding a new Clause 2 to that effect and renumbering the existing clause to Clause 3.

**The Chairman:** While we are at it, the final clause should read 4, because that says 2.

**Hon. David F. Ballantyne:** That is correct.

So, the committee stage amendment would be deleting Clause 1 and substituting the following clause (which The Third Official Member read out).

The second would be by inserting a new Clause 2 which would be to the effect “that section 4 of the principal Law be amended by adding the following codes” (and that would be under paragraph (aa)); then (b) would be a renumbered Clause 3 “that Clause 2 be renumbered Clause 3” and the remainder of the committee stage amendment.

And then the final amendment would be that Clause 2 be renumbered Clause 4.

**The Chairman:** Maybe you will have to say the second Clause 2 because there are two clause 2’s in the Bill. I thought that was consequential so you have the authority to amend it.

**Hon. David F. Ballantyne:** If I can recall the detail, which I hope I will, I will undertake to do that.

**The Chairman:** Would Members of the committee prefer to have this circulated prior to being . . . or are you willing to go ahead with it?

The Honourable Second Official Member, what is your final verdict on what we should do?

**Hon. David F. Ballantyne:** I think the Clerk should read back the amended committee stage amendment so the committee can be clear about what it is we are doing.

**The Clerk:** Mr. Ballantyne, are you asking me to read back the amendment proposed?

**Hon. David F. Ballantyne:** I think, just to read back the amendment proposed to the committee stage amendment.

**The Clerk:** There was one suggestion that we should put (a) and put an (aa) that section 4 of the principal Law be amended by adding the following codes—

**Hon. David F. Ballantyne:** May I just interject at that point and say “(aa) by inserting a new Clause 2 as follows:” and the new Clause 2 would be “that section 4 of the principal Law be amended by adding the following codes: 89.01, 89.02, 89.03, 89.04.”

The next part of the committee stage amendment (which is (b)) would be by renumbering Clause 2 to be Clause 3 of the Bill (having inserted a new Clause 2); Clause 2 to be renumbered Clause 3 (and the rest is the same by deleting (j) and substituting the following paragraph.)

Finally, in item (c) of the committee stage amendment, by renumbering the second Clause 2 of the Bill to be Clause 4.

That is my understanding of what we are proposing to do.

**The Chairman:** Madam Clerk, will you read the amendment as dictated by the Honourable Second Official Member?

**The Clerk:** After (a) we are going to be adding (2) by inserting a new Clause 2 as follows “that section 4 of the principal Law be amended by adding the following codes: 89.01, 89.02, 89.03, 89.04” and (3), by renumbering Clause 2 to 3, and (c) by renumbering the second Clause 2 of the Bill to Clause 4.

**The Chairman:** Are Members satisfied with that not being circulated?

I shall put the question that the amendment do stand part of the new Clause 2. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: NEW CLAUSE 2 AMENDED.**

**The Chairman:** The question is that Clause 2 as amended do stand part of the Bill.

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

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: NEW CLAUSE 2, AS AMENDED, PASSED.**

**The Clerk:**

New Clause 3                      Amendment to the First Schedule of the Customs Tariff Law (2001 Revision).

**The Chairman:** The question is that new Clause 3 do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: NEW CLAUSE 3 PASSED.**

**The Clerk:**

Clause 4                      Amendment to the Third Schedule of the Customs Tariff Law (2001 Revision) Rates of package tax.

**The Chairman:** The question is that new Clause 4 do stand part of the Bill. (It is simply renumbering) Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: NEW CLAUSE 4 PASSED.**

**The Clerk:** A Bill for a Law to Vary Duties Under the Customs Tariff Law (2001 Revision).

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: TITLE PASSED.**

**The Chairman:** That concludes proceedings in committee on a Bill entitled the Custom Tariff (Amendment) (Variation of Duties) Bill, 2001. The question is that the committee do report to the House. Those in favour please say Aye. Those against, No.



that the committee do report to the House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: COMMITTEE TO REPORT TO THE HOUSE.**

**HOUSE RESUMED AT 4.30 PM**

**The Speaker:** Please be seated. Proceedings of the House are resumed. Bills Reports.

The Honourable Third Official Member.

## **REPORT**

### **THE CUSTOM TARIFF (AMENDMENT) (VARIATION OF DUTIES) BILL, 2001**

**Hon. George A. McCarthy:** I am to report that a Bill entitled, The Custom Tariff (Amendment) (Variation of Duties) Bill, 2001, was considered by a committee of the Whole House and passed with amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Third Readings.

## **THIRD READING**

### **THE CUSTOM TARIFF (AMENDMENT) (VARIATION OF DUTIES) BILL, 2001**

**The Clerk:** The Custom Tariff (Amendment) (Variation of Duties) Bill, 2001.

**The Speaker:** The Honourable Third Official Member

**Hon. George A. McCarthy:** I beg to move that a Bill entitled The Custom Tariff (Amendment) (Variation of Duties) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that The Custom Tariff (Amendment) (Variation of Duties) Bill, 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE CUSTOM TARIFF (AMENDMENT)  
(VARIATION OF DUTIES) BILL, 2001 GIVEN A  
THIRD READING AND PASSED.**

**The Speaker:** I will now entertain a motion for the adjournment of this House.

The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

## **ADJOURNMENT**

**Hon. Edna M. Moyle:** I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House adjourn until 10 am tomorrow. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.32 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM FRIDAY, 20 APRIL 2001.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**20 APRIL 2001**  
**10.25 AM**

*Twenty-Second Sitting*

*[Prayers read by the Second Elected Member for West Bay.]*

**The Speaker:** Proceedings are resumed.  
Government Business. Bills, Second Readings.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READINGS

##### THE BANKS AND TRUST COMPANIES (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001

**The Clerk:** The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001.

**The Speaker:** The Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development.

**Hon. George A. McCarthy:** I crave the indulgence of the House to debate this and the following four Bills, as listed on the Order Paper, together as they were all connected.

Close examination of these Bills demonstrates that the Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001, the Insurance (Amendment) (Prudent Management) Bill, 2001; the Mutual Funds (Amendment) (Prudent Administration) Bill, 2001, are very much interconnected.

Also, somewhat related to these are the two other Bills. But the Companies Management (Amendment) Bill, 2001, contains features in it that relate to Bills numbers 1, 2, and 3; and the Companies (Amendment) (Custody of Bearer Shares) Bill, 2001, will be dealing specifically with the immobilisation of bearer shares.

For the benefit of Members, I crave your indulgence to debate these Bills as a single unit, thus avoiding having to speak to the Bills individually. This will also allow for Honourable Members to respond by a single debate on all five Bills.

**The Speaker:** The question is that we debate the following Bills in a single debate: The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001; The Insurance (Amendment) (Prudent Management) Bill, 2001; The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001; The Companies (Amendment) (Custody of Bearer Shares)

Bill, 2001; and The Companies Management (Amendment) Bill, 2001 be debated together.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THAT THE BANKS AND TRUST COMPANIES (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001; THE INSURANCE (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001; THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001; THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001; AND THE COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001, BE DEBATED TOGETHER.**

**The Speaker:** We shall now move the Second Readings of the other four Bills.

##### THE INSURANCE (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001

##### THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001

##### THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001

##### THE COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001

**The Clerk:** The Insurance (Amendment) (Prudent Management) Bill, 2001; The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001; The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001; and The Companies Management (Amendment) Bill, 2001.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Starting with the first three, **The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001, The Insurance (Amendment) (Prudent Management) Bill, 2001; The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001**, these Bills address issues raised by the FATF in relation to criteria 1, 2, 3, of the FATF. I will read those criteria.

**“1) Are there effective regulations and supervision, if any, for all financial institutions in a given country or territory onshore/offshore on an equivalent basis with respect to international standards applicable to money laundering?”**

**“2) Is it possible for individuals or legal entities to operate a financial institution without authorisation or registration, or with very rudimentary requirements for authorisation or registration?”**

**“3) Are there measures designed to guard against holding of management functions and control or acquisition of a significant investment in financial institutions by criminals or their confederates?”**

This series of Bills is designed to make explicit certain regulatory practices regarding screening of the operators and controllers of both applicants for licences and licensees. These are: a Bill for a Law to Amend the Banks and Trust Companies Law, 2001; a Bill for a Law to Amend the Mutual Fund Law 2001; and the Mutual Funds (Amendment) (Prudent Administration) Bill, 2001.

These regulatory practices are, in fact, the international standard and their purpose is to prevent financial services providers from being operated and controlled by inappropriate persons. Therefore, Clause 2 of each Bill expressly provides for a *fit and proper* test for applicants and licensees in a formula common to many regulatory systems. This test is founded on: 1) honesty, integrity and reputation; 2) competence and capability; and 3) financial soundness.

In the case of **The Banks and Trust Companies Bill** this *fit and proper* test is extended to applicants via clause 3, which allows the Governor in Council to refuse a banking or trust company's licence where the business would not be conducted by fit and proper persons.

Clause 5 allows the Monetary Authority to refuse to approve a director or officer who is not fit and proper in exercising its power to approve a director or a senior officer or licensee banks or trust companies.

Clause 6 allows the existing enforcement powers of the Governor in Council to be brought to bear if the management of the licensees' businesses has not been conducted in a fit and proper manner, or if a director, manager, officer of the licensee, or a significant shareholder, is not a fit and proper person.

In respect of the **Mutual Funds Bill**, the *fit and proper* test is extended to applicants via clause 3, which allows the Monetary Authority to refuse a mutual fund licence if the Authority is not satisfied that the mutual fund will be operated by directors, managers or senior officers who are fit and proper.

Clause 4 allows the Governor in Council to refuse a mutual fund administrator's licence if it is not satisfied that the mutual fund will be operated by directors or managers or senior officers who are fit and proper.

The corresponding *fit and proper* test for licensees under the Mutual Funds Law is found in Clause 6, which allows the Monetary Authority to invoke existing enforcement powers in the event that a regulated mutual fund no longer meets the *fit and proper* criteria.

Clause 7 allows the Governor in Council to invoke enforcement powers in the same circumstances in respect of a mutual fund administrator and also adds to the existing enforcement powers the power to revoke a licence.

The comparison provision in the Insurance Bill is in Clause 2 which enables the Governor in Council to refuse to grant a licence to an applicant that does not satisfy the *fit and proper* criteria and may revoke a licence where an insurance licensee ceases to comply with this criteria.

Clause 3 enables the Governor in Council to invoke its other enforcement powers short of revocation as contained in section 11 of the principal Law where an insurance licensee has contravened the *fit and proper* criteria.

Clause 4 in **The Banks and Trust Companies Bill**, and Clause 5 in the Mutual Funds Bill, make explicit the longstanding practice that where a licensed bank or trust company, or mutual fund administrator applies for a waiver of the existing requirements to obtain approval for any issue or transfer of his shares, this is only given if the shares of the licensee are publicly traded on a recognised stock exchange.

Any waiver is subject to a notification requirement regarding any changes in control of a bank or trust company or a mutual fund administrator, as the case may be in substantial shareholdings. The notification requirement enables the provisions in Clauses 5, 6, and 7 as mentioned previously to be operated if necessary. It applies also to exemptions previously granted by virtue of Clause 7 of the Banks and Trust Companies Bill and Clause 8 of the Mutual Funds Bill.

I should note for clarity that there are no provisions in the Insurance Law equivalent to the waiver of approval for issue and transfer of shares in the Banks and Trust Companies Law, and the Mutual Funds Law: consequently, the absence of amendment in this aspect.

The remaining element of Clause 3 of **The Banks and Trust Companies Bill** provides the statutory underpinning for the recent policy initiative of the Government regarding category B banks. It requires that all category B banks that are not branches or subsidiaries of banks licensed in other jurisdictions establish a physical presence in the Cayman Islands where books and records and facilities appropriate to their operations will be maintained. This must be achieved within nine months of the passage of this amending Bill.

There are a number of points that I think would be helpful to explain. Firstly, the Cayman Islands has not licensed any private banks since 1992. This is because it is considered not in our interest to accept banks where there is no consolidated supervision

exercised in cooperation with another regulatory authority as there is with branches and subsidiaries.

Secondly, the new policy affects 46 of the pre-1992 private banks when account is taken of the 16 that already have a physical presence. Their local agents have all been notified of the new policy and those that wish to remain will have ample time to re-organise their affairs in an orderly manner.

Thirdly, the policy will better enable the Monetary Authority to exercise appropriate oversight of this residual set of banks a sole supervisor.

The Cayman Islands is the first jurisdiction to address the whole private bank issue in a coherent and sensible way in tune with international standards of the Basle Committee on Banking Supervision. To our credit this has been recognised by our foreign regulatory colleagues. These Bills make current policy and practice plain to anyone seeking to understand our regulatory framework. Their embodiment in legislative form accords with certain recommendations offered in the KPMG review in which context they were discussed with and accepted by our financial services industry.

The Bills also respond to queries raised in the course of discussions with the FATF representatives, including the terms of the titles of the Bills themselves, prudent management to put our policies and practices beyond doubt. Their embodiment in legislative form will ensure that there are no further queries or misunderstandings on this matter that obstruct our discussions with the FATF review group during their onsite visit at the end of this month.

Turning now to the remaining two Bills, **The Companies Management (Amendment) (Custody of Bearer Shares) Bill, 2001 and The Companies Management (Amendment) Bill, 2001.**

As mentioned earlier, the primary function of The Companies (Amendment)(Custody of Bearer Shares) Bill, 2001, deals specifically with the immobilisation of bearer shares. The Companies Management (Amendment) Bill, 2001, deals with essentially three points:

- The Bill includes the *fit and proper* requirements for applicants and licensees, and waiver conditions where the licence is listed on a recognised stock exchange;
- The Bill repeals approximately 47 old exemptions subsisting in the Companies Management (Exemption) Regulations (1998 Revision);
- The Bill reinstates exemptions from the Local Companies (Control) Law (1999 Revision) removed in 1999.

Turning now specifically to **The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001.** The Companies Law allows exempted companies to issue bearer shares, if they wish, which are shares that are not registered in the name of any shareholder and which may be transferred by delivery of the share certificate. Therefore, whoever is in pos-

session of the share certificate at any given time owns a share.

While the bearer shares are not widely used for private purposes in our industry, they are widely accepted as a feature of important and legitimate institutional capital market transactions in both Europe and North America. In basic terms, this Bill provides a system for ensuring that where bearer shares are issued by a Cayman Islands company, they are at all times in the custody and control of an immobilised custodian as defined in the Bill.

The Bill allows for authorised custodians which would be local firms, licensed by the Monetary Authority in that capacity under the Companies Management Law; recognised custodians would be foreign firms gazetted by the Monetary Authority and operating securities clearance or settlement systems in a country specified in schedule 3 of the Money Laundering Regulations, 2000.

A custodian is responsible for maintaining beneficial ownership details on any bearer shares it holds including performing any "*know your customer*" due diligence; the "register of members" filed with the Companies Registry is required to include against any bearer shares issued, the name of the custodian who is holding them.

There are a number of associated provisions around this core concept designed to answer practical matters: to be followed where a custodian no longer wishes to act, and circumstances under which a company or the beneficial owner can deal in bearer shares without recourse to a custodian, for example, where the beneficial owner wishes to convert his shares to registered shares, or where a company wishes to redeem its bearer shares.

The transitional provisions require a Cayman Islands company that has bearer shares outstanding to ensure that those shares are deposited with a custodian within 12 months of the commencement date of this amendment. The Registrar may, on application, extend this time by up to 12 months for good cause shown. At the end of 12 months, in addition to any extension period granted, any bearer shares that remain unaccounted for become ineffective.

This is subject to a facility for the holder of any bearer shares deemed ineffective to apply to the courts and its discretion for the shares to be restored to him at any time within three years of the deeming date provided. And that the rights under the shares only become restored when deposited with an approved custodian.

The Bill provides for fines ranging from \$1,000 to \$50,000 on summary conviction for shareholders, or directors and officers responsible, or custodians that deal with bearer shares otherwise than in compliance with the law. This immobilisation of bearer shares was part of our publicised commitment to the OECD, as well as it responds to issues raised in the KPMG report and our FATF review.

In collaboration with the industry, we chose immobilisation rather than abolition because, as I said earlier, bearer shares are common capital market instruments in Europe and North America including a number of FATF countries. The system proposed in this Bill therefore balances legitimate commercial use with the regulatory and law enforcement needs to be able to locate beneficial ownership information via the proper channels and procedures to insist on ensuring that Cayman Islands entities cannot be used as a shield for illicit operations.

Turning now to **The Companies Management (Amendment) Bill, 2001**.

As recognised and commended in the KPMG report, the Cayman Islands is one of only a few jurisdictions that regulates the business of company management. We have done so since 1984.

The main purpose of this Bill is threefold. Firstly, to include company formation registered office services and bearer share custodianship under the licensing system. Secondly, to introduce explicit *fit and proper* criteria for applicants and licensees to mirror those introduced in the Mutual Funds Law, the Insurance Law and the Banks and Trust Companies Law. Thirdly, to define the conditions under which waivers of prior approval of share transfers of licensees may be granted, again to mirror the provisions introduced in the laws aforementioned.

I will deal briefly with Item 1, as it is specific to this Bill where other provisions have been explained in my presentation of the Banks and Trust Companies, the Mutual Funds, and the Insurance Laws.

I would like to note that the expansion of the licensing scope introduced by this Bill is already present in the Channel Islands, The Bahamas, and the British Virgin Islands.

Clause 3 is the expanded version of the business of companies management to be covered by the law. Items (a), (b) and (j) of Clause 3 are primary additions. Clause 5 provides for two types of licences to be issued under the law: a corporate service licence which would cover activity relating to bare company formation and registered offices services; and a company management licence which would entitle the holder to provide any service covered by a corporate services licence in addition to—

- (1) provision of company directors' offices, secretaries and shareholders;
- (2) management of company assets; and
- (3) bearer shares custodianship services.

Having the two types of licences allows the Monetary Authority to set regulatory requirements by reference to the nature of the activity being conducted.

Clause 12 of the Bill allows three months for anyone coming within the incremental scope to apply to the Monetary Authority for the necessary licence and may lawfully continue its business for that period or until the Authority decides the application.

This Bill is necessary to 'round-out' our regulatory regime in respect of the business of companies management and it also addresses recommendations in the KPMG Report and issues arising in the course of discussions with the FATF.

I, therefore, commend the Bills that I have commented on: The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001; The Insurance (Amendment) (Prudent Management) Bill, 2001; The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001; The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001; and The Companies Management (Amendment) Bill, 2001. Thank you, Mr. Speaker.

**The Speaker:** The question is that Bills entitled: The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001; The Insurance (Amendment) (Prudent Management) Bill, 2001; The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001; The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001; and The Companies Management (Amendment) Bill, 2001, be given a Second Reading.

A note on the procedure I shall follow, on the conclusion of the debate and the Mover exercising his right of reply, the question will be taken separately on each individual Bill. The floor is open to debate.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

I only have a few points to raise in the hope they can be addressed during the Third Official Member's closing remarks on these Bills.

The first criterion of the FATF read by the Honourable Third Official Member was basically that the jurisdiction should have adequate regulation in place to protect against money laundering, and referred to it as being comparable to other jurisdictions.

I was hoping that the Honourable Third Official Member would highlight to what degree some comparison has been undertaken with the Cayman Islands and these Bills to other jurisdictions, especially with the Companies (Amendment)(Custody of Bearer Shares) Bill, 2001, if this amendment and the resulting regulations would be in place in other jurisdictions including members of the G-7 nations.

We are all very cognisant of the need to make these amendments to our legislation in order to bring us in line with the various initiatives put forward by the FATF in our hope that we will soon be removed from their blacklist. We must also be cognisant that we are in a very competitive environment. And, while we like to pride ourselves in making innovative amendments to our legislation—and this will be recognised very shortly in being removed from the blacklist—we must also ensure that in doing so we do not hamper our competitive edge.

I was hoping that the Honourable Third Official Member would also provide us with the views of the

private sector on these various Bills to ensure that those utilising the centre and the resulting legislation are also comfortable with the regulations.

I have no problem supporting these Bills. I only urge that the Honourable Third Official Member and other members of the negotiating team ensure that once these initiatives are in place. And, that the necessary public relation initiatives and communication to the authorities is provided so that we are recognised for our ongoing efforts to adhere to the requirements put in place by the FATF.

We must not lose sight that these are all initiatives put in place with the ultimate goal of being removed from the FATF blacklist. With that said, and those questions posed, I give my undertaking to support these Bills.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I notice these Bills before the House are part of that continuing process which we started in earnest last year to ensure that legislation was enacted to make the Cayman Islands compliant with the request of the FATF.

The framework in which we continue to operate, that is, being part of an international community but not players in the sense that we determine the politics of that community—that is a very dangerous road to walk when you are influenced by factors you cannot determine or influence. We are passive, I believe. I have no other alternative to this but to be passive in terms of the way we go forward in revising our laws and creating a structure that will be recognised by the international community as one that will preserve economic stability internationally, law and order, and morality of nations.

I think it is about time that the Government began to look at the need to develop alternatives to our dependence on the financial institutions of this country or on the international markets. It would appear that we are moving in such a way as to say that once we have made our structure, once our financial community has the same type of regulations and bureaucratic nuances as they have in New York, London or Tokyo, that perhaps we will not be as favoured.

In supporting these Bills, we need to encourage the Government to look at diversification of our economy, which we have been speaking about for the last 30 years or so; but it seems to be an appropriate time to say that time is running out. It is about time Government developed some kind of domestic economic strategy for the country.

Our total reliance on international trade places us in a position where we are not necessarily as strong as we could be if we started using our relationship with international businesses to develop local productivity in areas such as manufacturing, et cetera.

The Honourable Minister of Education has always talked about the cottage industry. We see how not everybody fits into the mould of banking and tourism. Therefore, I will close by saying that I support the continuation of this process to bring us in line with the international requirements, but I caution that we might also be digging our grave. This is a good time to bear that in mind and create alternatives for this dependence.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I intend to speak at some considerable length in my continuing debate on the Throne Speech and Budget Address about these super-national initiatives which include those of the FATF and the Organization for Economic Co-operation and Development (OECD). So, I do not propose to say a great deal at this stage about the underlying reasons for the Bills currently before the House.

Most Members will recall that in June of last year the FATF issued its report setting out 25 criteria in support of the original 40 recommendations which were means of ensuring international cooperation in the fight against money laundering. They concluded that Cayman had met 13 of those criteria. To meet the criteria means that you fail to satisfy the standards that have been developed by the FATF. We had partially met four of those criteria.

Since that report, extensive efforts have been made by the Cayman Islands Government to deal with the criticisms of the FATF. The Bills that are currently being considered by this House are part of that ongoing exercise.

I noted the concern of the Second Elected Member for Cayman Brac and Little Cayman about whether or not there had been consultation with the private sector. I can assure this Honourable House that there has been extensive consultation with the private sector in relation to the drafting of all of the legislation we are considering today. The Bills before the House have come with the blessing of the private sector, they knowing full well that the passage of this legislation is essential to meeting the criticism of the FATF and ultimately to being removed from the FATF's blacklist.

If I have the opportunity today I will speak about the overall plan of action of the Cayman Islands Government in relation to having the Cayman Islands removed from the blacklist so I will not go into any detail about that at this point.

I believe the technical aspects of the various Bills have been explained adequately by the Honourable Third Official Member, and they have the support of the industry. I commend them to this Honourable House.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I rise to support the amending Bills before Members of this Honourable Parliament. They are but another step in the continuing exercise of the Government of the Cayman Islands in its genuine and strenuous effort to have the Cayman Islands removed from the blacklist.

The past negotiating team (as well as the present) deserves the applause and appreciation of all residents of the Cayman Islands. The negotiations are often complex and being a small jurisdiction we rarely get what we want. I believe that for the team to have been successful in getting us removed from the OECD list (and hopefully in short order from the FATF list) is a step that should indeed be applauded and commended.

It is easy to criticise and make suggestions until you are in the frontline. I know *that* not only from my legal background, but also from the short three years I had in Executive Council observing the Honourable Second and Third Official Members and the former negotiating team. There were many long hours, and often they did not have the luxury of time to make decisions. I truly and sincerely congratulate them for their efforts and wish the very best for the new negotiating team. If there is one area where we should not stoop to the temptation of political penetration it is in the international negotiations.

Mr. Speaker, these amendments before us seek to impose the *fit and proper* test. I fully endorse this but I do it against the background that it will affect, particularly under the Banks and Trust Companies Law, the B licences. I would appreciate if the Honourable Third Official Member would indicate in his summary how many institutions we would have in this jurisdiction (Cayman) so that we could have a better handle on the potential economic effect within the nine-month period.

I am not in a position to say if the nine-month statutory requirement is a mandatory one by the international bodies. If not, is there still room to look at that period? It may be a very stiff timetable for these B licensed banks to have a physical presence within the Cayman Islands. If the Honourable Third Official Member says it is a mandatory requirement where we have no discretionary powers or ambit to make a request for a further extension, then so be it. But it is one of my concerns that there would be potential loss of B class banks from our jurisdiction. There are always other jurisdictions willing to take them from Cayman—the envy of many countries now waving the big economic banner over our heads.

I also note that the power of the Governor in Council will be somewhat limited, in that, there are specific provisions under Clause 4. Again, I see that as taking away from our domestic jurisdiction in dealing with our affairs. But knowing the background

against which the negotiations were made, the team did the best they could in this regard.

I look forward to when this international tangling will be behind us and the Cayman Islands continues to be a viable competitor in the international market. I wish God's richest blessings on the negotiating team and ask the entire Cayman Islands to also support them. This is the way forward if we are to survive, and independence is not the answer despite what the proponents might put forward. I thank you, Sir.

**The Speaker:** Does any other Member wish to speak? Does any other member wish to speak? (Pause)

If not, does the Mover wish to exercise his right of reply? The Honourable Third Official Member.

**Hon. George A. McCarthy:** Thank you, Mr. Speaker.

I would like to thank Honourable Members for their favourable comments in support of these Bills.

The Second Elected Member for Cayman Brac and Little Cayman raised a question in regard to support of these Bills by the private sector. I would like to assure him that consultations have taken place within our financial industry on a very wide basis in order to obtain the necessary support and to ensure that there is clarity in understanding as to what these amendments are about. Therefore, wide consultation has taken place.

Secondly, between the First Elected Member for Cayman Brac and Little Cayman and the Third Elected Member for George Town, questions were implied as to our competitiveness. These Members pointed out a situation that we have to be concerned about. This is not one where it is to Cayman's advantage to be putting itself on the front line saying that we are pursuing innovative practices. Obviously, we are being guided by objective standards.

In terms of the objective test that we are dealing with, and the background against which these Bills have been developed (the 25 criteria developed by the FATF during the course of last year, against which many countries have been assessed) it is in this regard that these Bills are being brought.

One of the things I should point out in terms of the *fit and proper* person's test for licensees and practitioners within our financial industry is that this will not pose an onerous burden on our financial community. These are practices that have been observed for a considerable period of time; it is just a matter of qualifying these practices into legislation and making the requirements mandatory. It is not a question of introducing new concepts as such because as everyone in the Cayman Islands and the international community knows that for the Cayman Islands to have risen to rank as one of the leading financial centres is not one that would have been supported by bad practice. It is very much supported on a firm and solid foundation.

These are areas of tidying up. We are taking no chance in terms of leaving any stone unturned so that

any excuse can be proffered that would delay the Cayman Islands being removed from the FATF black-list.

The First Elected Member for Cayman Brac and Little Cayman raised a question in terms of where we now stand in regard to the B banks affected. I should mention to the Member that consultation has been made with our financial community. In regard to the nine-month period, we do recognise that it could be somewhat onerous, but the category of B banks affected amounts to about 62. Of these, 16 are substantial financial institutions with physical presence within the Cayman Islands and mind and management residing here. Therefore, we do not have to be concerned about those institutions. We know they are well managed and well regulated.

It is not that a situation to the contrary exists in regard to the other 46 financial institutions, but these are institutions that have no physical presence within the Cayman Islands and for which the Cayman Islands is the primary regulator. Given the situation occurring quite recently in regard to one of the banks in particular, that was looked at by a Senate review committee in New York. Also, looking in terms of the implication of that for the Cayman Islands, consultation has been carried out very widely throughout the Cayman Islands community. It is in this regard that a decision has been taken that it would be useful for these 46 financial institutions (with no physical presence in the Cayman Islands and for which we are the primary regulator) to establish a physical presence.

When we look at the financial implications of this, there will be a sacrifice in terms of revenue. But given the way in which the regulatory requirements of the world are moving in terms of *fit and proper* persons' tests, establishing a need to have knowledge of financial activities, or licensed financial institutions within our borders. It is felt that this is a prudent approach to take in addressing the situation with these 46 B banks that are so affected. I thank Honourable Members for their support.

#### **THE BANKS AND TRUST COMPANIES (AMENDMENT) BILL, 2001**

**The Speaker:** I shall now put the question that The Banks and Trust Companies (Amendment) Bill, 2001 be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE BANKS AND TRUST COMPANIES (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001 GIVEN A SECOND READING.**

#### **THE INSURANCE (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001**

**The Speaker:** I shall now put the question that the Insurance (Amendment) (Prudent Management) Bill, 2001 be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE INSURANCE (AMENDMENT) (PRUDENT MANAGEMENT BILL), 2001 GIVEN A SECOND READING.**

#### **THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001**

**The Speaker:** I shall now put the question that The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001 be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001 GIVEN A SECOND READING.**

#### **THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001**

**The Speaker:** I shall now put the question that The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001 be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001 GIVEN A SECOND READING.**

#### **COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001**

**The Speaker:** I shall now put the question that the Companies Management (Amendment) Bill, 2001 be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.



## **AGREED: THE COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001**

**The Speaker:** Our next move is to go into committee. Is it the wish of the House that we take our morning break prior to going into committee?

We shall suspend proceedings for 15 minutes.

**PROCEEDINGS SUSPENDED AT 11:25 AM**

**PROCEEDINGS RESUMED AT 11:50 AM**

**The Speaker:** Proceedings are resumed.  
Bills, Second Reading.

## **THE PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) (FINANCIAL INTELLIGENCE UNITS) BILL, 2001**

**The Clerk:** The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Speaker.

As the Member responsible, I wish to move that a Bill entitled, The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001, be read a second time.

**The Speaker:** Do you wish to speak to it? Please continue.

**Hon. David F. Ballantyne:** Thank you. Reference has already been made in the House to the implementation plan submitted to the FATF by the Cayman Islands Government. In that plan there are a number of measures concerning the Financial Reporting Unit under the Proceeds of Criminal Conduct Law (PCCL). In particular, there is a commitment that membership of the Egmont Group by the Cayman Islands Financial Reporting Unit (FRU) would be pursued as a priority and if possible accomplished by 30 June 2001.

Additionally, a commitment has been given to extend the ability of the FRU to share information with overseas financial investigation units, commonly known as FIUs. At present, under the PCCL, the FRU may only share information with overseas law enforcement agencies.

The Egmont Group definition of a financial intelligence unit includes FIUs, which are administrative agencies as well as law enforcement agencies. A good example was France, where their FIU is an administrative FIU and is part of their Ministry of Finance. So, there is a mixture of law enforcement agencies and administrative financial intelligence units.

Let me briefly quote from the background of the Egmont Group to give Members a better flavour of

what this means. The following are extracts from an information paper on financial intelligence units prepared by the Egmont Group—

**“Anti-money laundering investigations conceivably touch a number of law enforcement agencies within a particular jurisdiction. This, along with the fact of ever-present resource limitations, means that a completely effective multi-discipline approach for combating money laundering is often beyond the reach of any single law enforcement or prosecutorial authority. In many cases, there is also a reluctance on the part of financial institutions to provide to government authorities information that might be related to but is not obviously indicative of a crime. One may add to these restrictions on information exchange in certain instances the unwillingness or inability to share such information among relative government agencies and the seemingly insurmountable obstacles to rapid exchanges of information with foreign counterparts.”**

Regarding the concept of a financial intelligence unit, the Egmont Group have this to say, **“Over the past years, a number of specialised governmental agencies have been created as countries develop systems to deal with the problem of money laundering. These entities are commonly referred to as financial intelligence units, or FIUs. These units have attracted increasing attention with their ever more important role in anti-money laundering programmes, that is, they seem to provide the possibility of rapidly exchanging information between financial institutions and law enforcement/prosecutorial authorities as well as between jurisdictions while protecting the interests of the innocent individuals contained in their data.”**

And the beginning of the Egmont Group is this: despite the fact that financial intelligence units were created in several jurisdictions throughout the world during the first years of the 1990s, their creation was still at first seen as isolated phenomena related to the specific needs of those jurisdictions establishing them.

Since 1995, however, a number of FIUs began working together in an informal organisation known as the Egmont Group, named after the location of the first meeting at the Egmont-Arenberg Palace in Brussels. The goal of the group is to provide a forum for FIUs to improve support to their respective national anti-money laundering programmes. This support includes:

- expanding and systematising the exchange of financial intelligence information,
- improving expertise and capabilities of personnel of such organisations, and
- fostering better communication among FIUs through application of technology.

So, it came to the definition of an FIU. That occurred at the fourth meeting of the Egmont Group

which took place on 21-22 November 1996 in Rome, when over 30 countries were in attendance along with international organisations. The Egmont Group then moved one step closer to becoming the primary framework for cooperation among FIUs.

The Egmont Group examined the functions of the various FIUs and like agencies so as to determine those missions and functions that are carried out in common. The conference came to an agreement on the definition of an FIU, a definition that will likely facilitate the establishment of new units by setting a minimum standard for such a unit.

According to this definition, a financial intelligence unit is “**A central national agency responsible for receiving (and, as permitted, requesting), analysing, and disseminating to competent authorities, disclosures of financial information:**

- (i) concerning suspected proceeds of crime, or**
- (ii) required by national legislation or regulation, in order to counter money laundering.”**

One of the purposes for defining the FIU was to distinguish it from the other components of an anti-money laundering programme. The definition also helped create a specific identity for the Egmont Group as distinct from the FATF or other international bodies concerned with money laundering. The definition was meant to be specific enough to distinguish these agencies from other types of government authorities, yet it had to be generic enough to include the many variations of these units.

In creating the definition, the Egmont Group attempted to avoid emphasising any particular type of structure—police, judicial, administrative, or regulatory. Since the Egmont Group adopted this definition, it has increasingly become the standard against which newly forming units are measured.

Therefore, to enable the FRU to share information with administrative FIUs overseas, for example, France, an amendment to the PCCL is required to introduce a definition of a Financial Intelligence Unit. That is what the Bill before the House seeks to do.

The proposed definition incorporates the Egmont Group definition as the basic description of a FIU, but makes it clear that a FIU also continues to include a law enforcement agency. The effect of the passage of this Bill would be to enable the FRU to share information not only with a law enforcement agency, but with a FIU as defined by the Egmont Group.

It is considered important to make this amendment simply because a commitment has been given to do it, but secondly, it is understood that the French membership on the FATF—if this amendment is passed—would be satisfied with the ability of the Cayman Islands to cooperate. While it is not specifically designed for France, France is an important member of the FATF. It would however, enable the FRU to cooperate with any existing FIU. I have details

of all such units in existence in the world. At the present time, according to the information provided by the Egmont Group, they extend to some 48 countries, including all the metropolitan countries, but including many so-called offshore centres such as the BVI, the Isle of Man, Jersey, Guernsey, Hong Kong, Luxembourg, Switzerland, and various others. So, the Cayman Islands would be in good company in joining the Egmont Group. The Government has committed to pursue application of the Egmont Group, which the change to this law would facilitate. Mr. Speaker, with these words, I commend this Bill to the House for consideration. Thank you.

**The Speaker:** The question is that a Bill entitled, The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Unit) Bill, 2001, be given a Second Reading.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** Thank you, Mr. Speaker. I seek clarification and apologise for not clearly following, but could the Second Official Member inform if this is merely a change of name from what was known as the Financial Reporting Unit, and if he could say, in his winding up, how this function increases the existing functions of reporting? And does the Government have any idea what is being reported to other overseas financial intelligence units?

We do not want to be seen as endorsing an internal information providing unit that the persons on Executive Council, the House or the chief justice would not have any idea as to what is being reported. That would not be a position I would support. Thank you, Mr. Speaker.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I have some concerns about the FIU as well. Some time ago there was a question on the floor of this Honourable House and I have yet to understand the total function of this unit and who heads it. I am concerned also as to who is responsible for the unit and who is going to be informed of the information that is shared.

In the absence of any clear indication as to who is in charge, my concern is also that this unit may not be going on witch-hunts. I heard the Second Official Member speak about the need to have the FIU share the information on suspicious transactions. But it appears that the unit is going to be sharing that on its own. I wonder if he could explain to this Honourable House if there are clear lines as to who the unit will be disclosing this information to. I know he spoke about other units, and regulatory bodies and other enforcement bodies in other countries. But, particularly in this country . . . it is my opinion that the unit has no direction as to who is in charge, who they report to and

what they report; and who is to know what is being reported and how they conduct their research.

Mr. Speaker, I support the creation of the unit, but there has to be some direction and order in it. I look forward to the Honourable Second Official Member touching briefly on that to inform this Honourable House.

**The Speaker:** Does any other Member wish to speak? The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. I want to thank the Honourable Second Official Member for providing his briefing on this Bill.

I am minded that the Preservation of Confidentiality Law (1976) was deemed to be an important law, and remains an important piece of legislation in the operation of offshore financial centres. The preservation of one's confidentiality is part and parcel in doing financial business, even on a private individual basis. It is an inherent right that one operating an offshore account or company must be provided in order for a centre such as the Cayman Islands to remain competitive.

Over the years we have made this preservation of confidentiality subject to certain conditions namely, the legitimate claim of criminal activity. We have broadened the scope of what is determined to be criminal activity over the years. However, I am concerned that this Bill before us today goes further to remove the layer of protection provided by this jurisdiction for the users of the centre.

The mechanisms put in place for the Mutual Legal Assistance Treaty, The Misuse of Drugs Law, and The original Proceeds of Criminal Conduct Law, ensured that there was a check system—an authority locally that first vetted the claim for information to ensure that there was a legitimate claim—that this information being sought was a true violation under our laws as to what is determined criminal activity.

From my understanding, this Bill will allow the financial reporting unit to communicate directly to overseas financial intelligence units as recognised under the law following this amendment. I hope the Honourable Second Official Member will be able to rest my concerns by assuring me that there will remain an authority in place that will vet every request for information prior to our financial reporting unit providing this information to overseas FIUs.

I am very much aware of the changing trends in offshore finance moving away from the haven to the offshore financial centres to now international financial centres, and the need to ensure that not only the mechanism and regime is in place to prevent the use of our centre for illicit activities, but also that the international image of the centre is preserved as pristine: one with strong convictions to the prevention of the use of this centre for illicit activity.

I am quite aware of the importance that this plays in our survival in the industry. However, this must be carefully balanced against what is necessary to compete in the industry, that is, the preservation of confidentiality. I cannot support any measure that seeks to eliminate what I deem as a very fundamental part of an offshore financial centre, that is, the preservation of confidentiality.

I humbly ask the Honourable Second Official Member to assist me by elaborating on the mechanism that would be in place if this Bill is accepted to ensure that fishing expeditions cannot be undertaken by international financial intelligence units in conjunction with our own international reporting unit. Thank you very much, Mr. Speaker.

**The Speaker:** Does any Member wish to speak? The Second Elected Member for Wet Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. I also wish to voice some concern and need for clarification in regard to deliberating over whether or not I can support the matter before us.

I would like to thank the Honourable Second Official Member for informing us as to some of the genesis of establishing such a unit. However, when it comes to client confidentiality and the underpinning confidence the international community will have in the financial system that we create and seek to alter and amend, that it would be favourable and held with a high degree of confidence.

While I understand that the fundamentals of our financial centre here in Cayman would go along way increasing confidence, an international recognised unit such as the Egmont Group that was talked about today, is seen as the umbrella organisation to which all other units will belong.

I would respectfully ask the Honourable Second Official Member if he could clearly show Honourable Members of this House and members of the community how this unit will work in relation to the Cayman Islands Monetary Authority. We have heard a lot about the expansion of the Monetary Authority, the human capital that will be involved and the financial resources that will have to be used to expand the Monetary Authority so that it will become an internationally acceptable regulatory body. Further, to serve as the catalyst to our regulatory machinery regarding this financial centre that we seek to hone and have accepted internationally. We seek to have placed on it a high level of confidence by international investors, supranational nations and indeed by those nations' regulatory regimes.

I would certainly think that if the Cayman Islands is going to build up the necessary skill-base in terms of human capital within the Monetary Authority to become truly independent, when it comes to the matter of reporting suspicious transactions and suspicious clients, that this machinery that we seek to increase in size and make independent, will serve locally as our

umbrella organisation that ensures the highest level of confidentiality to our international investors. And, at the same time withstands the scrutiny of other international organisations and nations.

I certainly would think that our regulatory body, the Cayman Islands Monetary Authority, would be always in a position of knowledge. After all, how can we expect anyone to have confidence in the Monetary Authority if we ourselves are in a knowledgeable position? If they do not know what is going on in the financial services arena in terms of who the players are, seeing their financial statements and doing inspections, but actually knowing what is going on in terms of the reporting of suspicious transactions. As far as I am concerned, that is where the 'rubber meets the road'.

From what I can see, there has been an air of mystery surrounding the creation of the FIU. From the very outset, not having that link (whether it is formal or informal to the point that there would only be interrelation when a suspicious transaction or a suspicious person is reported) I would think would be the minimum amount of interplay between these two bodies.

In this world who can do what? I have always found people's opinions of that to be intriguing. To put it bluntly, for a long time in this country, even up until this day, Caymanians are told what they can and cannot do. The people of these Islands have proven beyond the shadow of a doubt that when given the opportunity they can compete in this global arena. We have a lot of competent Caymanian professionals in the financial services arena.

We have had a high level of success in terms of our lawyers passing the Bar exam on their first attempt; we have had numerous people pass the Certified Public Accountant (CPA) exam in the United States on their first attempt; we have had numerous people pass the Chartered Accountancy exam on their first attempt; the Association of Chartered Accountants exam on their first attempt.

When you see these organisations being formed and who makes up the personnel (and look at where they are from) it really shows you quickly how people think of you in terms of your capabilities and what they are willing to say confidently, "I know a Caymanian [cannot] do."

We know of the international initiatives and we have heard about the Egmont Group and this is a drive to ensure that our FIU can receive membership into this Egmont Group. We are also hearing that the Egmont Group itself is in its infancy stages. But, I certainly would hope that as we go down the road to making the Cayman Islands Monetary Authority independent (as we pay the financial consequence), that that Authority will be the ultimate regulatory Authority in this country. Its role will not simply be reduced to handing out licences to doing onsite inspections, but it will be *in the know* when suspected persons and suspicious transactions are reported in this country.

Maybe it is just me, but I could not dream of sitting in the chair being a leader in another country's regulatory machinery. For example, the United States or France looking at our Islands as they do, critiquing our regulatory machinery and not being able to see clearly that it is not always *in the know* regarding the financial services industry that they are going to be purported to be the regulators of. I would like to know whose ultimate discretion it is to release information to other regulators in other countries.

I believe that if we are going to make the Cayman Islands Monetary Authority independent and go through the pains of telling the world and ourselves that it is indeed our regulator here in Cayman . . . they have to have a say in it. I could just be missing the boat, but I cannot see it being any other way. But again, some of these things go back to what Caymanians are truly capable of. Can we keep matters confidential? Are we that professional? The days of jumping through the loops have to end. We train ourselves, but seemingly that does not cut it.

Mr. Speaker, the mechanics of the FIU as we understand it has to be allowed to have policing powers. I am no lawyer, but it seems to me that achieving that end is not necessarily insurmountable because we have a lot of capable people in this Honourable House. We pass laws; we repeal laws; we amend laws. So it can be done!

And so, I do not think it will be acceptable for the country to simply hear that it has to be the way it is because the Monetary Authority does not have policing powers and capabilities. When you look at other countries and their regulatory machinery, you see how they cater their laws to ensure that the players in their regulatory machinery have policing powers.

I would like to commend the Honourable Second Official Member for bringing this Bill here today. We must continue to move forward in terms of our ability to prove to the international arena that we are committed to the highest level of regulation, scrutiny, and an internationally acceptable level of cooperation—real cooperation.

Confidentiality is key in any relationship, especially when talking about people's finances. There is no one in this world that likes any and every regulator to be able to 'dig around in every corner' of his financial affairs. We understand that, but when we seek to create this new way forward, in my view it has to make good sense.

I have been told that the Cayman Islands Monetary Authority will be the ultimate regulator in this country. If you are going to be the ultimate regulator, you should constantly be *in the know*, especially when it comes to the reporting of suspicious transactions and suspicious persons. Thank you, Mr. Speaker.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you. Mr. Speaker, I do not propose to address all the concerns raised by previous speakers, particularly the questions of whether or not the FRU is properly staffed by sufficient Caymanians or not. I do not believe that is within the ambit of the Bill we are debating.

It seems that some Honourable Members are labouring under some misconceptions in relation to the objective and scope of the proposed amendment. The Bill currently before the House seeks principally to extend the ability of our financial reporting unit to exchange information to certain enforcement agencies and units elsewhere. As the PCCL currently stands, that ability is limited to the exchange of information to other law enforcement agencies.

Having travelled with the other members of the negotiating team to Miami in December to the meeting of the FATF Review Group of the Americas, I was able to learn that one of the continued concerns of particular countries within the group (specifically France) that this issue of the limitation currently in place in relation to the agencies with which our FRU can exchange information is regarded as significant. It is one that creates a major hurdle to our being delisted by the FATF.

The amendment before us for consideration will allow an extension of the entities to whom information can be given by Cayman's FRU. It extends the definition of the FIU to mean a central public body responsible for receiving, and as permitted, requesting, analysing, and disseminating to competent authorities disclosures of financial information: (a) concerning suspected proceeds of crime; or (b) required by national legislation or regulation in order to counter money laundering. The definition also includes law enforcement agency.

Some of the legitimate concerns expressed by other Members relate to the issue of *confidentiality*. The Second Elected Member for Cayman Brac and Little Cayman referred to the Confidential Relationships Preservation Law. Once this particular piece of legislation is passed (this amendment) the relevance of that law to the exchange of information to these agencies which are set out in the definition of FIU will no longer be critical. This law will operate outside the ambit of the Confidential Relationships Preservation Law.

There was careful consideration given to extending this definition allowing other partially administrative FIUs to have access to this information. There were considerable discussions with the private sector about it. Indeed, Cayman's FATF implementation plan which was referred to earlier by the Honourable Second Official Member and the Honourable Third Official Member has been circulated to members of the private sector. There is contained in that document, which includes the plan, quite extensive discussion of the fact that this particular amendment would be made to the PCCL. The FATF plan and attached documentation has been forwarded to the Review

Group of the Americas. It has been circulated widely within the private sector after careful discussion, debate, and indeed approval of the private sector.

While the concerns of Members are legitimate, I wish to assure them that this has been given careful consideration by all concerned, those on the negotiating team, Executive Council, and the private sector. In those circumstances, I commend this amending Bill to all Members.

**The Speaker:** I think this will be a convenient time for the luncheon break. Proceedings are suspended until 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.43 PM

#### PROCEEDINGS RESUMED AT 2.45 PM

**The Speaker:** Proceedings are resumed. Debate continues on the Second Reading of a Bill entitled, The Proceeds of Criminal Conduct (Amendment)(Financial Intelligence Unit) Bill, 2001.

Does any other Member wish to speak? If no other Member wishes to speak, would the Mover like to exercise his right of reply?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I think, Mr. Speaker, that I am duty bound to exercise that right in order to try to address some of the concerns that have been mentioned by Honourable Members.

The first thing I wish to do is to thank Honourable Members for their contribution to this discussion. Although it seems to be pretty wide-ranging sometimes, I do not think there is any harm in that. The points that were made have to be listened to and either addressed or explained or somehow dealt with to Members' satisfaction.

I would like to make a couple of clarifications right at the outset. The amending Bill does not change any of the functions of the FRU here; what it does (as the Second Elected Member for George Town pointed out) is simply extend the range of the FIU with whom our FRU can exchange information to include non-law enforcement financial intelligence units. So, it is not altering the position of the FRU here.

I listened carefully to the comments about confidentiality and would like to share a few thoughts on that issue. Under the existing PCCL the FRU is able to share information both locally and overseas. In relation to local sharing of information, information may be disclosed to any institution or person in the Islands (and I am referring to section 21(7) of the PCCL). It is my view that under that provision information can be, and is disclosed to the Monetary Authority, but not in every case.

One has to recall (if I may put it this way) that the Monetary Authority is a regulatory institution. It is not a law enforcement agency. The FRU is more akin to

law enforcement than it is to regulation. The reason I say that is that it has certain law enforcement functions. And without going over the details again, which might only serve to prolong the debate and perhaps confuse, the main activity the FRU engages in in relation to the matter under consideration is the receipt, analysis and dissemination—those three things—of suspicious activity reports coming to it from financial service providers in the financial services industry. So, it is the reception point for that information.

Now, I was not here in 1996 when this law was passed. But I understand that it was deliberate that a FRU or Authority was established to be the reception point, rather than these matters being reported directly to the police as is the case in the UK. The requirement in the UK is to report suspicious activities to a constable. The reason for that is that it established a filter and it allowed (if I understand the history of it correctly) the financial services industry to have confidence in the confidentiality that was attached to the information—not suggesting that the police would have been less than confidential, but what is referred for law enforcement is not every suspicious activity report. What is referred for regulatory purpose is not every suspicious activity report. It is required to be examined and analysed.

What I am suggesting is that you have something quite valuable in the form of a buffer, if you like, between the financial services industry and law enforcement and regulatory action. The test of all of this is whether it works. It may be interesting to this Honourable House to know that following upon recent amendments to the Law, the rate of reporting of suspicious activity reports has doubled. There has been 100 per cent increase in the reporting of suspicious activity. That does not necessarily mean there is more bad business out there; it simply means the system is working. And on some other appropriate occasion I can provide more information about that.

What I am here to say today is that there is control over the disclosure of the information under the existing Law. There is no change to that. I would refer you to section 21(6) of the Law. This is the Law as it is; it has nothing to do with this Bill. I will read it: **“6) Where information is disclosed to the Reporting Authority under subsection (3) the Reporting Authority shall not further disclose the information without the consent of the Attorney-General who, when considering whether to give his consent, shall take into account- (a) the purpose for which the further disclosure is to be made; and (b) the interests of third parties; and the Attorney-General may impose such conditions on the further disclosure as he may think fit.”**

What I am saying is that there is a control over the disclosure of this information to overseas law enforcement at the moment, and by virtue of this amendment to any administrative financial intelligence unit.

As a matter of fact I can tell the House that when I am required to decide whether to disclose information I have regard to these provisions and I do attach conditions. The kinds of conditions I attach are as follows:

- that the information should only be used for the purpose for which it is required: if it is for a criminal investigation it is for that purpose;
- the second standard condition is that it be kept confidential;
- the third condition is that any further use of that information should require an application for consent to come back to the Cayman Islands for any further use of that information.

Today I was made aware of a case which happened exactly like that in relation to assistance provided to Canada in a given case where information was provided for investigation purposes initially, they required to use it subsequently for criminal proceedings and permission was given for that. The net result was that certain parties were convicted and certain property was forfeited in Canada. So, the Cayman Islands played its part by providing relevant information.

I hope that you will understand from what I am saying that the general nature of the work of the FRU is not targeting local criminal activity. It is my view that most of the criminal activity that occurs is from the outside using vehicles within the Islands. I have said this before, and I am of that view from my experiences. The cases that are presently out there tend to be of that type.

This is in the nature of the business of the Islands; it is in the nature of the financial services industry. Metropolitan countries, institutions, and individuals in these countries use the Islands mostly for legitimate purposes, mostly for good business reasons. Some people use institutions in the Islands for reasons that are not good business reasons—and they are not helping you or the Islands. It is incumbent upon us to try to minimise the potential of that happening. Membership by the FRU of the Egmont Group will facilitate that.

I would like to share with you in relation to the Egmont Group a few comments. I would like to say to you that the Egmont Group itself in its statement of purpose which was issued in Madrid on 24 June 1997:

**“Recognising the international nature of money laundering; Realising that in order to counter money laundering an increasing number of governments around the world have both imposed disclosure obligations on financial institutions and designated financial intelligence units, or “FIUs” to receive, analyse and disseminate to competent authorities such disclosures of financial information; Mindful of both the sensitive nature of disclosures of financial information and the value of the FIUs established to protect their**

**confidentiality, analyse them, and refer them, as appropriate, to the competent authorities for investigation, prosecution, or trial; Convinced that co-operation between and among FIUs across national borders both increases the effectiveness of individual FIUs and contributes to the success of the global fight against money laundering; Understanding that effective international co-operation between and among FIUs must be based on a foundation of mutual trust . . .”**

I would like to suggest to you that it is the trust that the financial services industry reposes in the FRU that allows it to operate in the way that it does. I think that the unit can, and will improve. I am not here to say that it should remain as it is, and I have heard the comments about the composition of it. What I will say, however, is that this Bill will not affect its operation as a matter of law; it will not remove any of the controls that exist to protect the confidentiality of information and protect the ability of the financial service providers to provide information in confidence without fear of it rebounding on them either from their clients or elsewhere.

I would invite Members to consider that this is a progressive amendment to the Law, designed to facilitate the reception point for information coming from here. It will not alter the controls on the information being provided.

I think that is all that I can say usefully at this time, except that the Bill itself represents one of the last steps on the commitment to fulfilling the objectives of the FATF exercise. You will recall last year that two much more significant amendments were made to this Law by first of all empowering the making of regulations which brought about the money laundering regulations which put the code of practice onto a mandatory footing, which was a major step; and, secondly, a new offence was created, a substantive offence in the PCCL. This, with the exception of a relatively minor committee stage amendment to increase the period of time for the purposes of obtaining restraint orders based on the difficulty encountered in a case entitled *McCorkle*, this is the objective to provide the FATF with no good reason to continue to label this jurisdiction as non-cooperative.

This is only part of it. The Third Official Member has outlined the other measures that are all part and parcel of the FATF implementation plan. I have tried to be as broad as I can in my coverage and I appreciate that I may not have dealt with all of the points. I am quite happy to separately address those in any way the House considers appropriate.

My main concern in moving this Bill and in winding up this debate is to explain to you as best I can what the effect of the change in the Law will be and to assure you that it does not alter things at this end. It really alters them at the other end and the ability of the country to cooperate through established and tested mechanisms.

Mr. Speaker, I think that is all that I may usefully add at this point and thank you and the House for your attention.

**The Speaker:** I shall now put the question that a Bill entitled, the Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Unit) Bill, 2001, be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**Mrs. Julianna Y. O'Connor-Connolly:** Can we have a division please?

**The Speaker:** Certainly. Madam Clerk, please call a division.

**The Clerk:**

**Division No. 5/01**

**AYES: 12**

Hon. James M. Ryan  
Hon. David F. Ballantyne  
Hon. George A. McCarthy  
Hon. D. Kurt Tibbetts  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Alden M. McLaughlin, Jr.  
Mr. Anthony S. Eden  
Mr. V. Arden McLean

**NOES: 2**

Mrs. J. Y. O'Connor-Connolly  
Mr. Lyndon L. Martin

**ABSENT: 4**

Hon. W. McKeever Bush  
Mr. Cline A. Glidden, Jr.  
Dr. Frank S. McField  
Mr. Gilbert A. McLean

**The Speaker:** The result of the division is 12 Ayes and 2 Noes. The Bill has accordingly been given a second reading.

**AGREED BY MAJORITY: THE PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) (FINANCIAL INTELLIGENCE UNITS) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The House will now go into Committee to discuss a Bill entitled, The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001 and five other Bills.

**HOUSE IN COMMITTEE AT 3:01 PM**

## COMMITTEE ON BILLS

**The Chairman:** The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk state each Bill and read its clauses?

### THE BANKS AND TRUST COMPANIES (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001

#### CLAUSES 1 – 3

**The Clerk:** The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001.

Clause 1 Short title.

Clause 2 Insertion of section 2A in the Banks and Trust Companies Law 2000 (Second Revision) Determination of fitness and propriety.

Clause 3 Amendment of section 5—Application to be made to Governor.

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSES 1 – 3 PASSED.**

#### CLAUSE 4

**The Clerk:**

Clause 4. Amendment of section 6—Shares not to be issued or transferred without approval of Governor.

**The Chairman:** Honourable Third Official Member do you have an amendment?

**Hon. George A. McCarthy:** Thank you, Mr. Chairman. In accordance with the provision of Standing Order 52(1) & (2), I give notice to move the following amendment to The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001: That Clause 4(b) of the Bill be amended by deleting the new subsection (1a) proposed for insertion in section 6 of the principal Law and substituting the following—

“(1) (a) The Governor may exempt from the provisions of subsection (1) a licensee whose shares are publicly traded on a stock exchange recognised by the Authority, and any such exemption—

“(a) shall be subject to a condition that the licensee shall, as soon as reasonably practicable, notify the Authority of -

“(i) any change in control of the licensee;  
“(ii) the acquisition by any person or group of persons of shares representing more than ten percent of the licensee’s issued share capital or total voting rights; or  
“(iii) the acquisition by any person or group of persons of shares representing more than ten percent of the licensee’s issued share capital or total voting rights of the licensee’s parent company;

“(b) shall be subject to a condition that the licensee shall, as soon as reasonably practicable, provide such information to the Authority, and within such period of time, as the Authority may require for the purpose of enabling an assessment as to whether persons acquiring control or ownership of the licensee in the circumstances set out in paragraph (a) are fit and proper persons to have such control or ownership; and

“(c) shall be subject to such terms and other conditions as the Governor may deem necessary.”

I should mention that the reason for this amendment is that the way the existing wording is now set out in section 4(b) and also 5(b) of the Mutual Funds Law, if examined carefully it places an onerous burden on financial institutions. A report would be made on a daily basis to the Monetary Authority if their shares which are traded in the aggregate exceed 10 percent. For multinational institutions this would not be an unusual occurrence. This is not what this amendment is seeking to achieve. The way the present Bill is worded is not consistent with the objective of the amendment which is to ensure that anyone acquiring a substantial interest in any financial institution which would be considered to be probably 10 percent or more, thus having the ability to influence the affairs of such financial institutions as fit and proper persons.

So, it is not in the aggregate; it is where you have an individual acquiring a significant shareholding or a group of people of common interests coming together to attempt to achieve the same.

**The Chairman:** The amendment has been moved. The question is that Clause 4 be amended. Does anyone wish to speak to it? If not, does the Mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Just to thank Members for their support, Mr. Chairman.

**The Chairman:** I shall now put the question that the amendment to Clause 4 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.



**AMENDMENT PASSED.**

**The Chairman:** The question is that Clause 4 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSE 4 AS AMENDED PASSED.**

**CLAUSES 5 – 7**

**The Clerk:**

Clause 5 Amendment of section 11—Number and approval of directors.

Clause 6 Amendment of section 13—Powers of Governor.

Clause 7 Transitional provisions.

**The Chairman:** The question is that Clauses 5 through 7 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSES 5 – 7 PASSED.**

**The Clerk:** A Bill for a Law to Amend the Banks and Trust Companies Law 2000 (Second Revision) to Provide for the Prudent Management of Banks and Trust Businesses and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: TITLE PASSED.**

**THE INSURANCE (AMENDMENT) (PRUDENT  
MANAGEMENT BILL, 2001**

**CLAUSE 1**

**The Clerk:** The Insurance (Amendment) (Prudent Management Bill, 2001.

Clause 1 Short title.

**The Chairman:** The question is that Clause 1 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSE 1 PASSED.**

**CLAUSE 2**

**The Clerk:**

Clause 2 Amendment of section 4—Applications for licences.

**The Chairman:** There is an amendment to Clause 2, the Honourable Third Official Member.

**Hon. George A. McCarthy:** In accordance with the provision of Standing Order 52(1) & (2), I give notice to move the following amendment to The Insurance (Amendment) (Prudent Management) Bill, 2001: That Clause 2(a) of the Bill be amended, by deleting the new subsection (7a) proposed for insertion in the principal Law and substituting the following—

**“(7) (a) The Governor shall refuse to grant a licence if the Governor is of the opinion that the business to which the application relates would be carried on by persons who are not fit and proper to be directors or, as the case may be, managers or officers in their respective positions.”**

I should mention that it is quite evident that the reason why this amendment is being made is to improve on the wording as set out in the present Bill.

**The Chairman:** The question is that the amendment to Clause 2 do stand part of the Bill. Does anyone wish to speak to it? If not, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** I now put the question that Clause 2 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSE 2 AS AMENDED PASSED.**

**CLAUSE 3**

**The Clerk:**

Clause 3 Amendment of section 11—Powers of the Governor in case of suspected insolvency, etc., of licensees.

**The Chairman:** The question is that Clause 3 do stand part of the Bill. No Debate? Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSE 3 PASSED.**

**The Clerk:** A Bill for a Law to Amend the Insurance Law (1999 Revision) to Provide for the Prudent Management of Insurance Companies and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: TITLE PASSED.**

### **THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001**

#### **CLAUSES 1 – 4**

**The Clerk:** The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001

Clause 1 Short title.

Clause 2 Insertion of section 2A in the Mutual Funds Law (1999 Revision)—Determination of fitness and propriety.

Clause 3 Amendment of section 4—Mutual fund licenses.

Clause 4 Amendment of section 11—Mutual fund administrators' licences.

**The Chairman:** The question is that Clauses 1 through 4 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSES 1 – 4 PASSED.**

#### **CLAUSE 5**

**The Clerk:**

Clause 5 Repeal and substitution of section 12—Restriction on issue etc., or transfer of shares in licensed mutual fund administrator.

**The Chairman:** There is an amendment to Clause 5.

**Hon. George A. McCarthy:** Yes.

In accordance with the provision of Standing Order 52(1) & (2), I give notice to move the following amendment to The Mutual Funds (Amendment) (Prudent Management) Bill, 2001: That Clause 5 of the Bill be amended by deleting the new subsection (2) of section 12 proposed for insertion in the principal Law and substituting the following—

**“(2) The Governor may, in respect of a licensed mutual fund administrator whose shares are publicly traded on a stock exchange recognised by the Authority, waive the obligation to obtain approval under subsection (1), and any such waiver—**

**“(a) shall be subject to a condition that the licensed mutual fund administrator shall, as soon as reasonably practicable, notify the Authority of—**

**“(i) any change in control of the licensed mutual fund administrator;**

**“(ii) the acquisition by any person or group of persons of shares representing more than ten percent of the issued share capital or total voting rights of the licensed mutual fund administrator; or**

**“(iii) the acquisition by any person or group of persons of shares representing more than ten percent of the issued share capital or total voting rights of the parent company of the licensed mutual fund administrator;**

**“(b) shall be subject to a condition that the licensed mutual fund administrator shall, as soon as reasonably practicable, provide such information to the Authority, and within such period of time, as the Authority may require for the purpose of enabling an assessment as to whether persons acquiring control or ownership of the licensed mutual fund administrator in the circumstances set out in paragraph (a) are fit and proper persons to have such control or ownership; and**

**“(c) shall be subject to such terms and other conditions as the Governor may deem necessary.”**

As I explained, Mr. Chairman, in the amendment to the Banks and Trust Companies Bill, the reason this amendment is being proposed is to avoid the onerous task that would occur if trading were to take place where shares are acquired in the aggregate by various persons in excess of 10 percent. This is to ensure that reporting occurs where a single person or a group of persons acting with a common interest acquire more than 10 percent or a greater shareholding in a mutual fund entity, thus putting them in a po-

sition to exercise significant control over the activity of that fund. This is why the wording is now being proposed, Mr. Chairman.

**The Chairman:** The question is that the amendment to Clause 5 do stand part of the Bill. Does anyone wish to speak to it? If not, I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: AMENDMENT TO CLAUSE 5 PASSED.**

**The Chairman:** I now put the question that Clause 5 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSE 5 AS AMENDED PASSED.**

#### CLAUSES 6–8

**The Clerk:**

Clause 6 Amendment of section 29—Powers of authority in respect of regulated mutual funds.

Clause 7 Amendment of section 30—Powers of Governor in respect of licensed mutual funds administrators.

Clause 8 Transitional provisions.

**The Chairman:** The question is that Clauses 6 through 8 do stand part of the Bill. No debate? I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSES 6 – 8 PASSED.**

**The Clerk:** A Bill for a Law to Amend the Mutual Funds Law (1999 Revision) to Provide for the Prudent Administration of Mutual Funds and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: TITLE PASSED.**

## THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001

### CLAUSES 1 – 7

**The Clerk:** The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001.

Clause 1 Short title.

Clause 2 Amendment of section 2 of the Companies Law (2000 Revision)—Definitions and Interpretation.

Clause 3 Amendment of section 40—Register of members.

Clause 4 Amendment of section 184—Declaration by proposed company.

Clause 5 Amendment of section 187—Annual return.

Clause 6 Amendment of section 194—Board to hold meeting.

Clause 7 Insertion of new part 15—Custody, etc., of bearer shares.

**The Chairman:** The question is that Clauses 1 through 7 do stand part of the Bill. No debate? I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSES 1 – 7 PASSED.**

**The Clerk:** A Bill for a Law to Amend the Companies Law (2000 Revision) to Provide that Bearer Shares shall be held by a Custodian and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: TITLE PASSED.**

## THE COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001

### CLAUSES 1-12

**The Clerk:** The Companies Management (Amendment) Bill, 2001.

Clause 1 Short title.

Clause 2 Amendment of section 2 of the Companies Management Law (2000 Revision)—Definition.

Clause 3 Amendment of section 3—Definition of company management.

Clause 4 Amendment of section 4—Definition of group companies.

- Clause 5 Amendment of section 5—Application to be made to Governor.  
 Clause 6 Insertion of new sections—Display of Licence, etc.  
 Clause 7 Amendment of section 7—Shares not to be transferred without approval of the Authority.  
 Clause 8 Repeal of section 8 and substitution—Net worth requirements.  
 Clause 9 Amendment of section 11—Accounts and audit.  
 Clause 10 Amendment of section 13—Number and approval of directors.  
 Clause 11 Amendment of section 21—Regulations.  
 Clause 12 Repeal and transitional provisions.

**The Chairman:** The question is that Clauses 1 through 12 do stand part of the Bill. No debate? I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSES 1 – 12 PASSED.**

**The Clerk:** A Bill for a Law to Amend the Companies Management Law (2000 Revision) to Provide for the Licensing and Registration of all Persons Involved in the Business of Company Management in the Islands, and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AGREED: TITLE PASSED.**

### **THE PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) (FINANCIAL INTELLIGENCE UNITS) BILL, 2001**

#### **CLAUSES 1 AND 2**

**The Clerk:** The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001.

- Clause 1 Short title.  
 Clause 2 Amendment of section 2 of the Proceeds of Criminal Conduct Law (2000 Revision)—Definitions and interpretation.

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AGREED CLAUSES 1 AND 2 PASSED.**

#### **CLAUSE 3**

##### **The Clerk:**

- Clause 3 Amendment of section 22—Assisting another to retain the benefit of criminal conduct.

**Hon. David F. Ballantyne:** Mr. Chairman, I wonder if I may intervene.

**The Chairman:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you. There is a committee stage amendment circulated which is designed to replace the earlier committee stage amendment circulated, for which I tender apologies. The earlier amendment sought to substitute a phrase, within a reasonable time of the filing of the application, for an expression within certain days. And on a truer reflection, it was decided that would not be workable. Therefore, the suggestion now is that it be replaced with a more definite period of time or such longer period as the court may permit.

The necessity for this committee stage amendment is that for some time there has been a difficulty with the PCCL in practice where a restraint order is sought, either locally or in response to an overseas request. Under section 9 of the Law, any such restraint order is exercisable where the Court is satisfied that proceedings will be instituted against the person within seven days of the application for an order for restraint.

In the case to which I referred in my earlier submission, the case of McCorkle, the seven days proved to be too short a period of time for United States' authorities to institute proceedings. As a consequence, a restraint order had to fall away. Because of this, it has been in the minds of those in Government with these responsibilities at a suitable point to bring forward an amendment to this period of time. The proposed amendment would be to increase that period of seven days to 21 days, or such longer period as the Court may grant, in order to allow a more viable period for the bringing or institution of proceedings.

I regret bringing it at this stage, but the timing of this legislation has been such that we have had difficulty in hitting very tight targets. And the measures thought to be sufficiently important to justify bringing it now are that if we are offering increased cooperation to FATF countries, we want to make sure we can actually work and not hit the problem we hit in the case of McCorkle.

I am quite prepared to take Members through this if they wish, but it basically is a change of the time limit in section 9 and also in the schedule of the Law as can be seen by the parts (b) and (c) of the committee stage amendment.

Part (a) of the committee stage amendment is a re-numbering of Clauses 3 and 4 of the Bill to Clauses 4 and 5 respectively.

I am happy to go into any detail necessary beyond the explanation I have given. If I may just add, I believe that I made a reference to section 21(6) of the PCCL. That reference should have been to section 22(6). I take this opportunity to correct that for the record. Thank you.

**The Chairman:** My interpretation of this committee stage amendment, although the previous amendment was circulated, the first time the amendment is being moved is now in Committee. So, you may proceed with this amendment. I have waived the 2 days' notice of the amendment.

**AMENDMENT TO CLAUSE 3  
RENUMBERING OF CLAUSES 3 AND 4,  
AS 4 AND 5**

**Hon. David F. Ballantyne:** I am grateful for that.

I think the present wording makes much more sense and I can commend it to the House in the knowledge that it will work and give the Court the power to extend the period when appropriate. Accordingly, I move the committee stage amendment as indicated, that the Bill be amended as follows:

- (a) by re-numbering Clauses 3 and 4 as Clauses 4 and 5, respectively.

**The Chairman:** The question is that Clauses 3 and 4 be renumbered as Clauses 4 and 5. Those in favour, please say Aye. Those against, No.

**AGREED: CLAUSES 3 AND 4 RENUMBERED  
CLAUSES 4 AND 5.**

**NEW CLAUSE 3**

**Hon. David F. Ballantyne:** (b) by inserting, after clause 2, the following:

*“Amendment of section 9 - cases in which restraint orders and charging orders may be made”*

**3. Section 9 of the principal Law is amended—**

(a) in subsection (2)(a), by repealing the words “within seven days of the application for an order under section 10(1) or 11(1)” and substituting the words “within twenty-one days of the granting of an order under section 10(1) or 11(1) or such longer period as the court may grant (in this section referred to as ‘the permitted period’)”;

(b) In subsection (4)(a), by repealing the words “within seven days of the application for an order un-

der section 10(1) or 11(1)” and substituting the words “within the permitted period”; and

(c) In subsection (4)(b), by repealing the words “within seven days of the application for an order under section 10(1) or 11(1)” and substituting the words “within the permitted period.”

**The Chairman:** New Clause 3 has been duly moved. Any debate? If not, I shall put the question that Clause 3 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: NEW CLAUSE 3 PASSED.**

**NEWLY RENUMBERED CLAUSES 4 AND 5**

**The Clerk:**

Clause 4 Amendment to section 22—Assisting another to retain the benefit of criminal conduct.

Clause 5 Amendment of section 23—Acquisition, possession or use of property representing proceeds of criminal conduct.

**The Chairman:** The question is that the renumbered Clauses 4 and 5 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: NEW CLAUSES 4 AND 5 PASSED.**

**Hon. David F. Ballantyne:** Mr. Chairman, it may be my oversight, but I did not give mention of the New Clause 6.

**NEW CLAUSE 6**

**The Clerk:**

New Clause 6 Amendment of Schedule—Modification to the Law when applied to external confiscation orders and related proceedings.

**Hon. David F. Ballantyne:** The Bill is amended by inserting, after Clause 5, the following clause—

*“Amendment of Schedule - modifications to the Law when applied to external confiscation orders and related proceed-*

**6. The Schedule of the principal Law is amended—**

(a) in paragraph 5 as follows:

(i) in subparagraph (2), by repealing the words “within

*ings*

seven days of the application for an order under paragraph 6(1) or 7(1)" and substituting the words "within twenty-one days of the granting of an order under paragraph 6(1) or 7(1) or such longer period as the court may grant (in this Schedule referred to as "the permitted period")";

(ii) in subparagraph (3)(a), by repealing the words "within seven days of the application for the order" and substituting the words "within the permitted period"; and

(iii) in subparagraph (3)(b), by repealing the words "within seven days of the application for the order" and substituting the words "within the permitted period"; and

(b) in paragraph 8 as follows:

(i) in subparagraph (b), by repealing the words "within seven days of the application" and substituting the words "within the permitted period"; and

(ii) in subparagraph (d)(iv), by repealing the words "within seven days of the application" and substituting the words "within the permitted period".

**The Chairman:** The question is that New Clause 6 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: NEW CLAUSE 6 PASSED.**

**The Clerk:** A Bill for a Law to Amend the Proceeds of Criminal Conduct Law (2000 Revision) to Enable the Sharing of Information with Financial Intelligence Units.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: TITLE PASSED.**

**The Chairman:** This concludes proceedings in Committee. The question is that the Bills be reported to the House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: THAT THE BILLS BE REPORTED TO THE HOUSE.**

**HOUSE RESUMED AT 3.42 PM**

**The Speaker:** Please be seated. Reports.

## **REPORTS ON BILLS**

### **THE BANKS AND TRUST COMPANIES (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001**

**Hon. George A. McCarthy:** I am to report that a Bill entitled, The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001 was considered by a committee of the whole House and passed with amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Reports.

### **THE INSURANCE (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001**

**Hon. George A. McCarthy:** I am to report that a Bill entitled, The Insurance (Amendment) (Prudent Management) Bill, 2001 was considered by a committee of the whole House and passed with amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Reports.

### **THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001**

**Hon. George A. McCarthy:** I am to report that a Bill entitled, The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001 was considered by a committee of the whole House and passed with amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Reports.

**THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001**

**Hon. George A. McCarthy:** I am to report that a Bill entitled, The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001 was considered by a committee of the whole House and passed.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Reports.

**THE COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** I am to report that a Bill entitled, The Companies Management (Amendment) Bill, 2001 was considered by a committee of the whole House and passed.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Reports.

**THE PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) (FINANCIAL INTELLIGENCE UNITS) BILL, 2001**

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I beg to report that a Bill entitled, The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001 was considered by a committee of the whole House and passed with amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Third Readings.

**THIRD READINGS**

**THE BANKS AND TRUST COMPANIES (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001**

**The Clerk:** The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001.

**Hon. George A. McCarthy:** I beg to move that a Bill entitled, The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill entitled, The Banks and Trust Companies (Amendment) (Prudent Management) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE BANKS AND TRUST COMPANIES (AMENDMENT) (PRUDENT MANAGEMENT) BILL GIVEN A THIRD READING AND PASSED.**

**THE INSURANCE (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001**

**The Clerk:** The Insurance (Amendment) (Prudent Management) Bill, 2001.

**Hon. George A. McCarthy:** I beg to move that a Bill entitled, The Insurance (Amendment) (Prudent Management Bill), 2001 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill entitled, The Insurance (Amendment) (Prudent Management) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE INSURANCE (AMENDMENT) (PRUDENT MANAGEMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001**

**The Clerk:** The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001.

**Hon. George A. McCarthy:** I beg to move that a Bill entitled, The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill entitled, The Mutual Funds (Amendment) (Prudent Administration) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MUTUAL FUNDS (AMENDMENT) (PRUDENT ADMINISTRATION) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001**

**The Clerk:** The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001.

**Hon. George A. McCarthy:** I beg to move that a Bill entitled, The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill entitled, The Companies (Amendment) (Custody of Bearer Shares) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COMPANIES (AMENDMENT) (CUSTODY OF BEARER SHARES) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE COMPANIES MANAGEMENT  
(AMENDMENT) BILL, 2001**

**The Clerk:** The Companies Management (Amendment) Bill, 2001.

**Hon. George A. McCarthy:** I beg to move that a Bill entitled, The Companies Management (Amendment) Bill, 2001 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill entitled, The Companies Management (Amendment) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COMPANIES MANAGEMENT (AMENDMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE PROCEEDS OF CRIMINAL CONDUCT  
(AMENDMENT) (FINANCIAL INTELLIGENCE  
UNITS) BILL, 2001**

**The Clerk:** The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001.

**Hon. David F. Ballantyne:** I beg to move that a Bill entitled, The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001 be given a Third Reading and passed.

**The Speaker:** The question is that a Bill entitled, The Proceeds of Criminal Conduct (Amendment) (Financial Intelligence Units) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PROCEEDS OF CRIMINAL CONDUCT (AMENDMENT) (FINANCIAL INTELLIGENCE UNITS) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** I am in the hands of Honourable Members. We are expected to adjourn at 4 pm. Is this a convenient time? If so, I would accept a motion for the adjournment. The Honourable Minister for Health and Information Technology.

**ADJOURNMENT**

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Wednesday, 25 April 2001. As communicated to you and other Members of this House, the purpose for this adjournment until Wednesday is so that Honourable Members of Executive Council can meet with the Chief Minister of BVI and other visiting dignitaries on very important matters.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday, 25 April 2001. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 3.44 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 25 APRIL 2001.**





**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**25 APRIL 2001**  
**10.14 AM**  
*Twenty-third sitting*

*[Prayers read by the Honourable Minister for Planning, Communications and Works]*

**The Speaker:** Proceedings are resumed. Item 2 on today's Order Paper. Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable Minister for Education, Human Resources and Culture who is off the Island on Government business, and from the Elected Member for East End who is off the Island tending to a family member who is sick in Miami.

Item 3, Government Business, Bills, Second Reading. Continuation of Debate on the Throne Speech, delivered by His Excellency the Governor on Friday 9 March 2001, together with the Budget Address delivered by the Honourable Third Official Member on Wednesday 21 March 2001.

The Second Elected Member for George Town continuing.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**THE APPROPRIATION BILL, 2001**

**DEBATE ON THE THRONE SPEECH, DELIVERED  
BY HIS EXCELLENCY THE GOVERNOR  
ON FRIDAY 9 MARCH 2001**

**TOGETHER WITH**

**THE BUDGET ADDRESS DELIVERED BY  
THE HONOURABLE THIRD OFFICIAL MEMBER  
ON WEDNESDAY, 21 MARCH 2001**

*(Continuation of debate thereon)*

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr Speaker.

When we adjourned a week ago, I had just concluded that section of my contribution to this debate dealing with the upcoming constitutional review. I had completed my contribution to the debate on the Budget Address and had dealt extensively with the issue of immigration. I also dealt with youth and education.

Before I move on to continue my contribution on the Throne Speech, as a result of yet another press release last week by some members of the defeated Executive Council, I feel compelled to make some comment on that.

In what can only be described as an unprecedented assault on the new Government and its policies, we have been subjected to a series of press releases by some members of the former government. As distasteful and distracting as that might be, that is without a doubt part of the exercise of those former members' democratic right. While I might forcefully disagree with what they say, they are entitled to say it. However, what I found very, very disturbing recently was what appeared to me to be a deliberate attempt. In their effort to diminish the suitability and abilities of the current Leader of Government Business, to use his first name in what was a public statement that serves to demean the office which he holds.

While I can understand the envy that the former Leader of Government Business, Mr. Truman Boden, may have, I am surprised that in his efforts to lessen the credibility of the current Leader of Government Business he took steps that resulted in trivialising and debasing the office which he only recently relinquished. That is most unfortunate.

In a democracy, we must all accept when the people speak, even if the way they speak means that we are no longer a Member of this Honourable House. But to strike at the very institution he held for 16 years, demonstrates to me a lack of regard for the process of democracy and an absolute lack of regard for the office he once held. That, I totally deprecate.

I believe that everyone in this country has heard enough now of the past government's explanation of the state of the country's finances. However, there are some important questions that remain unanswered, and I would strongly suggest and invite those members of the former Executive Council who are so fond of making press statements, to answer some of these questions which this country wishes to hear answers to. Particularly, I believe, that the people of this country would like an explanation of the circumstances surrounding the write-off by the defeated Executive Council of the \$5 million owed by Cayman

Airways to the Civil Aviation Authority and Customs. I hope that answer is forthcoming from the former Leader of Government Business.

While he is answering that, I believe the country is owed an explanation as to the neglect of the education system for the past eight years which resulted in what I can only describe as the condemnations contained in the Millett Report.

And further, I believe that the country is entitled to an explanation as to the reasons for the misleading and grossly understated tourism figures for the years 1994 to 2000, which have recently been disclosed by the new Minister of Tourism.

So, while I appreciate that former ministers may need something to occupy their time, and while writing press releases seems to be the thing that makes them most happy, I believe that their time can be best spent answering these kinds of questions than seeking to demean the office of the Leader of Government Business. With those few remarks, I will return to my debate on the Throne Speech.

This morning I wish to deal at some length with what is termed the supranational initiatives with which the Cayman Islands and most, if not all, other offshore financial centres have been grappling for the past year or so. Members will recall that between June and September of last year, the past government railroaded through this Honourable House some major amendments to legislation which has had the effect of radically altering the way business is conducted in this country.

Additionally, the past government made commitments to the Organization for Economic Cooperation and Development (OECD) to exchange tax information in relation to criminal tax matters by the end of 2003, and to exchange information relating to civil and administrative tax matters by the end of 2005.

I have always taken the position that this exercise was conducted with indecent haste and without due consultation with the industry. Those actions of Government last year seriously rocked the financial industry which had to go flat out to bring itself up to speed with the new amendments.

The way this was handled cost the financial industry dearly. Indeed, it seriously shook the financial industry's confidence in government. All in all, the handling of the matter last year was a most regrettable and unfortunate affair.

I have never suggested, and I am not now suggesting that Cayman did not have to make certain commitments, or indeed that the handling of these supranational initiatives is not a complex matter. I have always said that the crisis situation in which government found itself last year could have and should have been avoided. But the treatment of those initiatives last year was similar to the way the past government treated everything, including the many domestic issues with which we are now wrestling.

They treated them by denying their existence and deferring the handling of them. The result was their trademark crisis management.

We are past all of that now. What is done is done. But the issue of these supranational initiatives is going to be with us for some time. They are a complex and constantly evolving landscape and Cayman has a number of significant hurdles in relation to them yet to overcome. I believe that the financial industry is going to have to face major challenges for the foreseeable future.

The initiatives and the international pressure will not go away once we get off the Financial Action Task Force (FATF) blacklist. We shall continue to be under pressure, I believe, from one or another of the consortium of international agencies for a long time yet. The key for us is to strike the right balance by conforming to global standards of regulation and scrutiny; but at the same time striving not to lose our competitive edge by becoming too expensive or over regulated. I accept that this is a major challenge. But it is one that we must try to meet.

One of the major criticisms of the past government's handling of this area was the lack of any real dialogue with the private sector. I wish to assure all Members of this Honourable House and the wider community that as long as I remain a Member of the negotiating team, I shall strive to encourage the new government to involve the private sector as fully and as meaningfully as possible in this whole process. In this vein, I am happy to report that since the new Government took office, dialogue with the private sector has improved and is now bearing fruit. Much of the damage that was done to that relationship, the Government/private sector relationship, as a result of the past government's actions last June has been repaired.

As an example of this, I believe very shortly, either during the course of this week or very early next week, the Cayman Islands Monetary Authority (CIMA) in conjunction with various private sector professional associations, will issue guidance notes for the financial industry. These notes will complement the new money laundering regulations as well as offer guidance on what constitutes best practice in this jurisdiction.

The development and authorship of these guidance notes is a truly collaborative effort and is the best evidence yet of the renewed government/private sector relationship. The issuance of these guidance notes is another significant step to be taken by Cayman in our efforts to deal with the criticisms of our financial regulatory regime by the FATF. Members will recall that in February of last year, the FATF published a list of some 25 criteria which have been established as the benchmark to assess whether or not jurisdictions have satisfactory anti money laundering regimes.

The FATF then went on to conduct a review and as a result of the review of Cayman, they determined

that our anti money-laundering regime did not satisfy all of the required standards and consequently Cayman was placed on the FATF's blacklist.

Since then, Cayman has worked diligently to address these concerns of the FATF. Shortly after our listing a delegation left Cayman for Washington to meet with representatives of the US Government. A plan of action was outlined at that meeting to address the deficiencies perceived by the FATF amendments have been made to the Monetary Authority Law, the Proceeds of Criminal Conduct Law (PCCL), to address the FATF concerns relating to customer identification and further the Monetary Authority was given the legal authority to obtain access to information relating to customer identification as well as the ability to disclose this information to overseas regulators. Other amendments to the PCCL also placed a legal obligation on financial service providers to provide suspicious activity reports to the financial reporting unit.

Members of this House and of the wider community will also be aware of the KPMG audit of the financial regulatory regime of Cayman, conducted last year and jointly commissioned by the Cayman Islands Government and the United Kingdom Government. In the process of that report, KPMG considered the significant changes Cayman had made to its anti money-laundering regime since the FATF review. In their report, published late last year, they noted that "they found positive evidence of the Cayman Islands' commitment to prevent money laundering."

Mr. Speaker, the elections followed swiftly after the publication of the KPMG Report and in December of last year, shortly after the elections, the new negotiating team, made up of the Leader of Government Business, the Honourable Kurt Tibbetts; the Minister of Tourism, the Honourable McKeeva Bush; the Minister of Health, the Honourable Linford Pierson and the Honourable Attorney General, Mr. David Ballantyne and I travelled to Miami for a face to face meeting with the FATF's Review Group of the Americas. We were accompanied by the managing director of the Monetary Authority and the head of the Financial Reporting Unit (FRU).

The purpose of that meeting was to report what steps Cayman had taken since it was blacklisted by the FATF in July 2000. Following that meeting, Cayman's position was considered by the FATF at its plenary in January 2001. Regrettably, they concluded that, although Cayman had made significant strides, it had not at that point done enough to be removed from the blacklist.

Since then, Cayman has been making an extra effort to address these outstanding concerns of the FATF. Indeed, in March 2001 in response to a request by the chairman of the FATF Review Group of the Americas, Cayman submitted an implementation plan setting out what steps it proposed to take and over what period it proposed to take them to deal with the outstanding criticism of the FATF.

Some of the actions which appear in this implementation plan and the timetable contained in it included the amendments to the various pieces of legislation which came before this Honourable House on Friday of last week, amendments to the Companies Law, the Banks and Trust Companies Law, the PCCL, the Mutual Funds Law, the Companies (Management) Law, and those amendments were passed by this House on Friday.

The effect of the various amendments that this House passed was to give the Monetary Authority greater regulatory oversight of the financial industry and to improve our ability to cooperate internationally as well as to reduce the scope for abuse of this jurisdiction for the purposes of money laundering.

Another important step which will be taken shortly (hopefully in the June meeting of this House) will be the further amendment of the Monetary Authority Law to give operational independence to the Monetary Authority. This lack of operational independence has been one of the criticisms of the FATF for some time. Giving the Monetary Authority full operational independence will have the result of placing full responsibility for operational decisions within the remit of the board of directors of the authority and remove the need for certain decisions, such as the approval of licenses, to be dealt with by Executive Council.

The other bit of information I wish to convey was alluded to by the Honourable Third Official Member during his contribution last Friday in relation to the raft of financial legislation being amended. The Cayman Islands will be visited by members of the FATF Review Group of the Americas next week to carry out an on site inspection of our regulatory regime and indeed of the financial industry in order to see first-hand how these various legislative changes that have been made are actually working in practice. The inspection is expected to be conducted on Monday and Tuesday of next week.

I have sought in this part of my contribution to give Honourable Members and the wider community an overview of the actions that have been taken by government, particularly over the course of this year (since the elections in November) to deal with the criticisms of the FATF and to give them some perspective on where we are in the whole process.

There are some issues remaining to be completely addressed, such as the operational independence of the Monetary Authority. I believe that with the efforts which have been made, and with the development of a firm implementation plan setting out when the outstanding issues are addressed, Cayman should pass muster and be delisted by the FATF at its plenary in June of this year. However, having said that, I should also say that in all of the efforts being made, and with all of our hopes, we must not lose sight of the fact that Cayman has a very bad image internationally. From John Grisham's novels, to television shows and to the recent performance by Mr.

John Mathewson in the US Senate Committee, for years and years Cayman has been portrayed as a haven for dirty money. As undeserved as this image may be, I am afraid it is one of the sad ironies of being considered the fifth largest financial centre in the world, a fact that I believe we have boasted far too much about.

We must not lose sight of the politics involved in the name and shame game played by the big industrial nations that spearhead these various initiatives. It is not enough for us to rail about what the big nations are doing to poor little us; we have to play the game the way it is played on the global stage. In the past, Cayman has simply not done enough, in my view, to get the very positive message we have to send into the international press.

The strides we have made, over the last nine months in particular, to enhance our anti money laundering regime are worthy of international commendation. In fact—and this is another irony—in a number of instances our anti money-laundering regime is substantially better than the regimes of some of the countries driving these international initiatives. Notable among these is the mother country herself!

I am reminded that I should not say the “mother country” I should say the United Kingdom! However, as I said, it is not enough to say how inequitable the whole process is, we have to take action to ensure that Cayman receives the positive PR it deserves as a result of the many efforts we have made to comply with global standards and to address the criticisms of the FATF.

Again, Mr. Speaker, on a positive note, I can report that in the very near future with the renewed government/private sector partnership I spoke about earlier, Cayman should be in a position to commence a cooperative and effective public relations campaign.

I will conclude this discussion of the FATF with what I regard as another critical point: Cayman has made, and continues to make, tremendous steps to be considered a good global citizen and to address these many criticisms of the FATF in particular, indeed in an effort to be delisted. However, in all of this we must continue to be cognizant that the ultimate objective of this exercise is really not getting off the list, although that is very important. The ultimate objective must be to preserve the continued viability and attractiveness of Cayman as a financial centre.

In all of these efforts to come off the list, we must be careful not to make it so difficult and expensive for business to be conducted in Cayman that the financial industry loses its attractiveness and competitiveness in the financial world. That would be even more disastrous than any blacklist could possibly be.

I will now move on to the OECD initiatives and the advanced commitment Cayman has given to the OECD in June of last year, to exchange information with the OECD in relation to criminal tax matters by the end of 2003 and to exchange information in regard to civil and administrative tax matters by the end

of 2005. What has been left to be determined is the nature and scope of the information to be exchanged. Since this commitment has been given, there have been a number of important developments relating to the OECD Harmful Tax Competition Initiative.

I would like to apprise Members of this House and the wider community of the most significant of these developments—the process started at the Commonwealth Finance Ministers’ Meeting in September 2000. This led to a further very important meeting of the OECD and non-OECD jurisdictions in Barbados in January 2001. The meeting in Barbados involved representatives from more than 40 jurisdictions and multilateral organisations including many OECD states and many non-OECD states, and also including a number of jurisdictions that are not on the OECD tax haven list.

The meeting provided a framework for many of the jurisdictions threatened by the OECD in regard to their tax regimes or otherwise to meet and present their positions to OECD representatives and also to non-OECD jurisdictions. The participation of the Commonwealth, which is made up of OECD and non-OECD jurisdictions, which represents a much larger group of jurisdictions than does the OECD, was critical at this meeting. As a result of coordinated pressure from the Commonwealth and the targeted jurisdictions, at this meeting for the first time, the OECD opened the door to changing the process to the point of allowing non-OECD jurisdictions to have a role in establishing the principles for setting rules for international cooperation in regard to tax matters.

That meeting ended with the creation of what has come to be called “the Barbados Remit” which defines a new process that would allow for broad participation in setting standards among states who are willing to engage in the process.

It was also agreed in Barbados that a joint working group would be established comprised of representatives from six of the OECD states—France, Ireland, Japan, Australia, the UK, and Netherlands—and representatives of several non-OECD multilateral organisations including two representatives from the Commonwealth (Malta and Malaysia); two from Caricom (Barbados and Antigua); two from the South Pacific Forum (Vanuatu, and the Cook Islands); and one of the UK Overseas Territories. The UK Overseas Territories delegation chosen was that of the British Virgin Islands.

The Cayman Islands has agreed to assist the BVI delegation with its functions in the working group, and Cayman has been active in that regard since January.

The Barbados meeting also established that the non OECD section of the joint working group would be chaired by Prime Minister Owen Arthur of Barbados and that the OECD section would be chaired by Australian Ambassador, Anthony Hinton.

The most significant outcome in my view was the opening of the door to cooperation among the juris-

dictions targeted by the OECD in its harmful tax competition initiative, together with the other small and developing jurisdictions which are threatened by the OECD in other regards.

Over the course of the last three months, there has been a series of meetings involving the entire joint working group and also the non-OECD section of the working group. These meetings among the representatives of the non-OECD groups, states and territories have provided opportunities to begin working together to develop common positions on technical matters leading to the possibility of shared strategies for dealing effectively in the international arena of taxation policy. This process is ongoing.

The most significant development was that non-OECD jurisdictions developed a common proposal which is consistent with the Barbados Remit, and then put to the OECD members of the joint working group. This proposal supported the creation of an inclusive global forum for the setting of international standards in regard to cross-boarder tax matters rather than the currently existing process of the OECD unilaterally developing standards that it then seeks to impose globally. I can report that the Cayman Islands has also been active in meetings involving the OECD and the jurisdictions that have committed themselves to participating in the process of shaping the technical aspects of cross-boarder cooperation in regard to tax matters in the OECD's global forum process.

Mr. Speaker, the principal task of the global forum at the present time is establishing norms for the sharing of information in regard to criminal tax matters by the end of 2003, and civil tax matters by the end of 2005 consistent with the advance commitment given to the OECD. In the global forum process, the non-OECD jurisdictions have been able to work together to present joint positions that are more persuasive than the position of any single jurisdiction could possibly be. Again, the Cayman Islands have been an active participant in this process.

One of the important points that has risen in discussions with the OECD in this context is whether or not any of the jurisdictions such as Cayman that made early commitments would be disadvantaged for having done so. The Cayman Islands have been very active in seeking to ensure that it maintains the advantages it gained by making a commitment in May of last year, and in ensuring that jurisdictions which have waited until this year to make the commitment would not gain any competitive advantage over the Cayman Islands as a result of their delay.

In response to these various concerns put forward by the Cayman Islands and others, the OECD has provided verbal assurance that there will be a level playing field in terms of the content and timing of these advanced commitments. It seems that the OECD has recognised that it is in their interest to ensure that cooperation is rewarded. Therefore, they have agreed verbally that any deal which the OECD

accepts from any one jurisdiction making a commitment after June of last year will be available to jurisdictions which made earlier commitments, including Cayman. This applies to general terms such as the scope of what the OECD is seeking, as well as in the context of information exchange, as well as to the timetables for implementation.

Another important point worth mentioning is that the OECD has also indicated that the non-OECD states will not be expected to implement changes to their regimes until corresponding changes have been made by the OECD member states.

The next stage of this process will be the defining of the international standards that will be expected of all nations in respect of tax information exchange. That, in summary form, is the state of play at present.

I know I have gone on at considerable length, Mr. Speaker, but I have done so to give all Honourable Members of this House and the wider community a sense of what has been happening in relation to the OECD initiatives, and how the new Government and the negotiating team have been dealing with this issue.

As I said, this is an evolving process, and one that is going to continue for some time yet. Acknowledging the long term nature and impact of these supranational initiatives, a policy decision has been taken by the new government to enhance the function and resources of the finance and development secretariat. This secretariat is headed by Dr. Christopher Rose, and performs an information gathering and consultancy role to government, to Executive Council, and to the negotiating team. It has proven to be an invaluable asset to government in dealing with these supranational initiatives. So, the decision has been taken to extend and enhance its role and resources.

Mr. Speaker, Cayman must face the reality that we are going to have to deal with these supranational initiatives in one form or another for the foreseeable future. Indeed, as I speak, we await the report of the financial stability forum—another of the international agencies with which we have to deal.

Indications are that there are more initiatives to come, but I am optimistic. The way business is conducted in these islands has changed forever. We have to accept that and commit ourselves to changing with the times and global norms. Indeed, if I may wax a little philosophical, all of life is defined by change: The cardinal rule of nature has always been evolution or extinction. I believe that the continued existence and prosperity of our financial industry is dependent upon our ability to evolve.

I conclude my contribution to this, my first debate on the Budget Address and Throne Speech, in the same way I commenced it, by saying again that this country is at a watershed—without a doubt, the most important watershed in its existence. I have sought to deal at some length with some of the more important matters with which we must wrestle over the course of the next three and a half years.

Dealing with these matters calls for hard work, wisdom, unity of purpose, courage and political will. As I survey this chamber, with all our various differences, I firmly believe that all Members of this Honourable House possess these characteristics, and just as importantly, the will to make the hard decisions that are necessary.

I ask for God's guidance as we strive to move this country forward. I thank you and all Honourable Members of this House, Mr. Speaker, for your indulgence.

**The Speaker:** We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.08 AM

*(The morning break was extended as members attended a private meeting in the Committee Room)*

#### PROCEEDINGS RESUMED AT 12.16 PM

**The Speaker:** Please be seated. Proceedings are resumed. If it is the agreement of the House, I think this would be an appropriate time for us to suspend proceedings for lunch until 2.30 PM.

#### PROCEEDINGS SUSPENDED AT 12.19 PM

#### PROCEEDINGS RESUMED AT 2.39 PM

**The Speaker:** Please be seated. Proceedings are resumed.

Debate continues on the Second Reading of the Appropriation Bill, 2001. The Floor is open to debate. Does any other Member wish to speak? (Pause) The Floor is open to debate. Does any other Member wish to speak? Last call, the Floor is open to debate. Does any other Member wish to speak? If no other Member wishes to speak does the Honourable Mover wish to exercise his right of reply?

The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Thank you, Mr. Speaker.

Let me begin by thanking all Members who contributed to the 2001 Budget Address debate. I will also say thanks to those who have not spoken for their support of the views as outlined in the Budget Address and the concepts outlined in the Throne Speech delivered by His Excellency the Governor.

The views expressed by Members covered a wide range, all of which have been very interesting. It is not possible for me to respond to each issue, but I will comment on a few key ones, starting with the slowing of the economy.

The Budget Address pointed out that economic growth slowed to approximately 4.5 percent in 2000 and this trend is expected to continue into 2001. As we are all aware, the Cayman Islands economy is an open one and events in the external economy affect

us greatly. Our two main industries, tourism and finance, are highly connected with growth in the United States. Indeed, events in the US over the past months have had a great impact on domestic economic growth. We can think of events that occurred quite recently in the stock market, but over the past week, we have seen that area begin to rebound.

However, developments in the US do not affect the Cayman Islands only; they affect the entire world. Many of the Asian countries are just as concerned about the potential impact of a slowing US economy on their countries. The question is what does slower growth on the outside world mean for us here in the Cayman Islands? Also, what steps are we taking to cushion ourselves from developments that are outside of our control?

The slowdown in the US economy means that domestic revenue will not be increasing as fast as in the past. The double digit figures experienced during the recent boom years will now shift to single digit ones. Giving the changing situation, monitoring will be come very important in the future. No one can predict with certainty the pace of the US slowdown. But we can monitor changes very closely and assess the implications for our domestic economy. If we know what is on the horizon, we can adjust quickly to any change. Monitoring will take place at many levels—the international economy, the overall macro-economy, and government finances.

A number of speakers have drawn attention to the measures contained in the 2001 budget. Of prime concern was the revenue enhancement package brought forward. At present, the government is examining all revenue related issues within the context of an appropriate revenue policy for the medium term. It is quite encouraging to note that many of the fundamental issues now being studied have been raised in this debate. This suggests that there is some synergy in thought and we are all focused on attaining the same given objectives.

For example, reference was made to two key issues: first, the call for a higher degree of equity in revenue structure; and secondly, the need to broaden the tax base. The government is cognizant of the need to protect persons at lower income levels as well as vulnerable groups in the society. Any attempt to broaden the tax base in the future will take into account the specific points raised in this debate. These include a shift away from a consumption base tax system and an incorporation of ability to pay criterion. This is an area that is under review and no final position has been taken. But when we are thinking in terms of broadening the revenue base, all aspects will have to be examined very carefully.

It was also mentioned during the Budget Address and in the debate and in other forum, there is a group of persons under the chair of Mr. Robert (Bobby) Bodden, to look at the new revenue measures with a view (and this was emphasised by the Leader of Government Business) not to continue to

tax existing measures where they are creating strains, especially in those areas where persons are most vulnerable within our society, but to see how the existing base can be broadened to achieve greater equity based on ability to pay.

Regarding expenditure, Mr. Speaker, Honourable Members will have observed the tremendous efforts made by the Government in the 2001 budget to contain expenditure growth. Making the cuts required to balance the budget was not an easy task, but was necessary given the present economic situation. I would like to emphasise that this trend towards ensuring aggregate fiscal discipline will continue into the future. The public sector intends to make every effort to produce services for the community at the lowest possible cost. This will flow as a result of the financial reform initiatives currently underway.

Mr. Speaker, as you and Honourable Members of this House would have heard, the objective is to shift away from the present cash base budgeting to an accrual base budgeting that will allow costs to be reflected in a more accurate manner. Also, revenue flows as well. In addition, it will allow for fine tuning in regard to what it is costing government to provide given services that are now being provided. All of these should enhance the efficiency by which government will be doing business. This is an area that is currently under review and will involve the participation of all controlling officers in the government and the commitment of all Honourable Members of the Legislative Assembly. This will be a time when every effort will have to be made to get it right, as quickly as possible.

Up until yesterday, consideration was given as to when it is likely to see accrual accounting in place within the Cayman Islands Government. The year 2003 was looked at. Each year we hope to be making significant progress in this direction. We hope that the new Finance and Audit Bill will be brought to the House during this year. We also hope that instead of just bringing the budget and presenting it, that the fiscal policy of government can be articulated beforehand so that Honourable Members of this Legislative Assembly will have a very good understanding of the context in which a budget will be developed.

The issue of debt is as great a concern to government, as much as it is to everyone. Debt restructuring and debt management issues will be given special attention in the medium term. Every effort will be made to explore concessionary financing and to keep the debt servicing ratio within the stipulated 10 percent ceiling.

What I omitted to provide in the Budget Address was the likely impact upon the revenue that the new borrowings plus the existing public debt would have on revenues going into future years. I am not in a position to provide those details today, but by the time the Loans Bill is brought to this House that information should be refined sufficiently in order to give Honourable Members an indication of how much

general revenue is likely to be used up, taking into account the new borrowings for 2001 added on to existing borrowings and taking that into the future.

Of course, that will also be impacted by the medium term financial strategy and the public sector investment programme which will be developed and we trust will be tabled in this House during this meeting—at least the medium term financial strategy.

It was mentioned that as of 31 December 2000, the public debt (Central Government debt) excluding self-financing (monies raised by Government on behalf of the statutory authorities, Government recoups the payments from the statutory authorities), the un-audited balance as at 31 December 2000 was \$92.4 million. If, for example, approximately \$56 million was drawn down during the course of the year, this would bring this balance; the impact this would have on the public debt position at the end of the year could be in the region of \$133 million.

As Honourable Members can appreciate, this is not straight addition. This takes into account the repayments that would be made on existing debt during the course of the year. When that is taken into account, it is expected that the public debt position as at 31 December 2001 could be in the region of \$132 million. This figure has to be regarded with a certain degree of reservation because when the loan is raised during the course of the year, the question as to whether there will be a moratorium on the loan, or interest and principal repayment will commence during the course of the year, these are factors that will have to be taken into account.

Why it is not possible at this point in time to be specific in terms of (and it is not a question of withholding or hiding information) is because we need to look very carefully at the projected revenue going into the future for at least the next three to four years. That will be impacted upon by revenue measures that will be introduced during the course of 2001. Also, there is a committee chaired by Mr. Robert Bodden and it is quite likely that the recommendations the committee will make will translate into decisions being taken.

If such becomes the case, it will have a favourable impact on the Government's revenue position. When the revenue for the years 2001 to 2005 and into the future is taken into account it needs to be lined up against the debt repayment. Once we know that the revenue in the future will be increasing by, say, 3, 4, or 5 percent, this will have an impact on what percentage of that revenue will be used up for debt servicing. That will be taken as a percentage of general revenue.

So, it is difficult at this time to say that for the year 2001 it will be 10 percent or 9.5 percent. However, as we continue to explore and look closely at the best terms loans can be secured, and what the repayment period will be, then we will have a better sense of whether or not we will remain within that 10



percent ceiling. All indications are that we are going to be doing so.

If we are given a moratorium on the loan and planned repayments through the course of the year, it is expected that that loan balance of \$92.4 million as at 31 December 2000 will be reduced to \$79.8 million as at 31 December 2001. If we continue to exclude the new borrowings proposed for 2001, what would have been the \$92.4 million balance as at 31 December 2000, reduced to \$79.8 million as at 31 December 2001 will be further reduced, given existing repayment schedules to \$66.8 million as at 31 December, 2002.

This would suggest that we need to look very carefully at the new borrowings. The decision will have to be made based on whether part of the principal borrowed during 2001 will be repaid during the course of this year or whether there will be a moratorium on this. However, given the position in terms of \$132.5 million as at 31 December 2001 and, taking into account existing borrowings, if there were no further borrowings during 2002, this would be reduced to \$113.9 million. So, we can see a decline taking place.

Previously, profiles were provided. One was provided as recently as the year 2000, taking into account borrowings for that year, showing what the public debt position would be as at the year 2010. This will be useful for Honourable Members to have to see what changes will be taking place within the public debt position and self-financing position going into future years. Ideally, it would be good if the capital development programmes could be funded from general revenue in addition to having to meet recurrent and statutory expenditure costs. This is a position in terms of having a revenue base in place that any government should be striving for. This would be this Government's commitment.

The Government continues to look into the future implementing the various fiscal and corrective measures that are deemed necessary. In order to achieve efficient public management of government finances, not only will attempts be made to curtail recurrent expenditure, looking especially at the amount of money being used up for personal emoluments, but also provisions will have to be made for a given percentage to be put into general reserves. It has been the country's desire for some time for general reserves to equal at least 25 percent of recurrent and statutory expenditure.

The fiscal policy of the Government will be articulated fully in the medium term financial strategy that will be brought to this House. It will be specific in terms of how much money will be used for the funding of recurrent and statutory expenditure, what percentage will be used for the funding of capital development, and what percentage will be used to achieve transfers into general reserves. This will have to be broken down so it goes beyond mere discretion and it becomes a part of the government's fiscal management tools that will be employed.

Mr. Speaker, one Honourable Member raised the point about alleged collusion by retail banks in the Cayman Islands in the matter of interest rate setting. Let me state that the Government is always willing and ready to respond to matters of concern to the general public. It is recognised that the exchange rate regime and the international nature of banking, influences interest rates in the Cayman Islands. At the same time, it is true that where a few firms dominate the market, the potential exists for collusion in price setting.

Overall, the Government has a duty to the people of the Cayman Islands to ensure that all its concerns are thoroughly investigated. It is very much aware of the hardship that many families face as a result of high interest rates. As a result, it has been suggested that the Monetary Authority will be meeting with clearing banks on a regular basis to discuss the issues relating to interest rate setting.

We are mindful that the banks themselves will have to take into account how well they are able to compete with other offshore centres for the placement of funds, while also taking into account what occurs within the United States. The Federal Fund rate in the United States now stands at 4.5 percent. We have seen a reduction of 50 bases points, or 0.5 percent point as recently as the 25<sup>th</sup> of this month. This has put the prime rate within the Cayman Islands and the US in the region of 7.5 percent. This, we trust, will bring some relief to persons presently having to make mortgage payments. This is an area that has not yet been refined in terms of the methodology that will be used by the Government in its discussions with the Monetary Authority for that body to hold regular meetings with our Clearing banks, which is necessary.

Government gives a commitment to carefully consider this matter because where there is an increase of 1 percent in interest rates, this can translate into significant sums in terms of mortgage repayments. As a result, the level of hardship increases.

Several comments have been made on the forecasts in the Budget Address, both in regard to the world economy and in terms of domestic revenue. I would like to spend some time on this issue, as it will emerge continuously over the next few years.

First of all, we must understand the very nature of forecasting. The future as we know it is always uncertain, and it is dependent upon scores of variables. When forecasts are made, they are based on specific assumptions about the likely course of those variables. If the variables are volatile, such as the stock market, then it becomes extremely difficult to tell the future with any degree of certainty. We must always keep this in mind when considering forecasts. As all economists know, assumption is what it is all about.

Secondly, it is necessary to bear in mind that the forecasts made today at noon, can change drastically by 4 pm, depending upon events that occur during that four- hour period. Having made these preliminary

remarks, I now will address the specific issue of the world economic forecast.

It has been suggested that the world economic forecast for 2001 mentioned in the Budget Address is unreasonable. Let me just clarify that the figure of 4.2 percent was taken from the International Monetary Fund's (IMF) *World Economic Outlook*, the latest edition available at the time of the budget. This IMF publication is the premier source of predictions for global growth. The figure can be easily verified by reference to this source.

In addition, the Government was careful to point out the assumptions on which this forecast was made. This was done particularly to highlight the risk involved in using such a forecast. As a general point, I should mention that whenever we look at forecasts it is always important to consider the underlying assumptions; otherwise, we risk arriving at the wrong conclusion.

The IMF is due to release an updated set of world forecasts. I am sure that the forecast for global growth will be much lower than the 4.2 percent mentioned earlier. This is because conditions, particularly in the US, have changed quite a lot in recent months. In fact, *Consensus Forecasts*, a publication which reflects the forecasts of various agencies such as *The Economist*, Merrill Lynch, and other large private sector firms, now indicate a global growth of 2.5 percent.

Moving on to the issue of the domestic forecast, I should hasten to add that this was not based on the world economic forecast of 4.2 percent as suggested by one Honourable Member. The Cayman economy is directly influenced by the economy of the United States, hence the relevant forecast here is the US one.

I would like to clarify that our domestic forecast was made using more up-to-date information on the US economy. Individual country forecasts are usually done on a more frequent basis than world forecasts. Consensus forecasts for the US economic growth in 2001 as at mid-February was 2 percent.

Since the beginning of this year, the Chairman of the Federal Reserve, Mr. Allan Greenspan, has been at pains to point out the uncertainties connected with forecasting US economic growth. More recently, he spoke on the challenge of measuring and modelling a dynamic economy at the Washington Economic Policy Conference of the National Association for Business Economics.

In summarising this discussion on forecasting, I would simply like to make two general points: 1) The revenue forecasts will be influenced by the economic forecasts. Given the set of information available at this time, government is comfortable with both the economic and revenue forecasts presented in the budget. 2) Over the year the focus of the Government will be on monitoring the changing external and domestic environments and will act as changes take place in the best interests of the people of the Cayman Islands.

The points regarding the need for proper development planning is a crucial one. Government is not daunted by the enormity of this very significant task. Rather, it has accepted the challenge fully and intends to pursue a structured approach in this area using Vision 2008 document as a guide to the future. Since last November, the public service has been engaged in planning activities geared toward the development of medium term planning and budgeting. The 2001 budget benefited from these early efforts.

The Government intends to consolidate work in this area over the next year. All areas of fiscal policy will be investigated including those mentioned in this debate.

Planning for the proper management of government finances is very important. However, it is recognised that a wider planning effort needs to be undertaken. Mention was made of the need for growth management and for a comprehensive economic plan. I am pleased to say that efforts are currently being made in this direction.

Vision 2008 highlighted the need for a growth management plan. This is a high priority area for the government and preliminary work has already started. However, physical and economic planning go hand in hand, particularly in a country such as the Cayman Islands. Accordingly, the intention is to move towards a more general development planning exercise. This will blend efforts to manage both economic and physical growth thereby ensuring the long-term sustainability of the Cayman Islands.

The Honourable Second Elected Member for George Town spoke with regard to the international initiatives. I should mention, Mr. Speaker, and this will be going over a point which he has covered, that there is a team coming in from the FATF to conduct an on site inspection within the Cayman Islands at the end of this month. Honourable Members of this House will have seen the various pieces of legislation put through last week. They would have seen what was also put through during the course of last year. They would have been told of the Government's commitment to strengthen the Monetary Authority in that it is intended that the staffing level will be taken up to 129 persons in posts by the end of December 2003. They would have been apprised of the corresponding increase within the budget of the Monetary Authority and these culminate in the price we are paying for our success.

Every effort will be made by the government and the country to ensure that the FATF on site inspection team is properly apprised as to our regulatory infrastructure, what we have in place, and going through point by point on the 25 criteria against which the Cayman Islands were assessed.

The Honourable Second Elected Member for George Town also mentioned that where we now stand in terms of regulatory strength is beyond quite a number of FATF jurisdictions themselves. He men-

tioned one country, but I know we are beyond quite a number of the FATF countries.

It is not a question of sacrificing our financial industry. This is definitely not the case. As the Honourable Member pointed out, the primary objective is to get off the FATF blacklist but it is more important for Cayman to remain an attractive and viable jurisdiction where international commerce and business can take place. This is the Government's commitment and that of the Country as a whole.

I have to applaud the negotiating team for its commitment in terms of addressing all these initiatives. I will also have to commend the Government for its support of the negotiating team and have to thank the past negotiating team because all the initiatives are connected.

It is not a question that these will all be addressed overnight. However, there is always a price to pay for success. We have a well-developed financial industry within the Cayman Islands. It is not what quite a lot of people would like to make it out, in terms of those perpetuating deliberate prejudice. Within the international community it is well known that we are a well-developed and well-managed financial centre, but it serves the purpose of many, although they know that, to say otherwise.

What the outcome of these initiatives will do has been demonstrated with the OECD. Coming off the FATF list and having in place all of the features to satisfy the 25 criteria, will ensure no country or organisation can ever again point fingers at the Cayman Islands to say we are less than they are. All anyone needs to do is drive from one end of Little Cayman to the other; one end of Cayman Brac to the other; one end of Grand Cayman to the other and it will be seen that we are a well-developed country. Everything fits together to create the synergy.

We know that these international initiatives are not going to stop but we have a voice within the international community. By joining forces with the other Caribbean Overseas Territories and also the non-member group of OECD countries, this should put us in a position to have a stronger voice. Our leadership capacity has already been demonstrated. We will continue to build on this trend and the strengths that have been a part of our heritage going into the future. Thank you very much, Mr. Speaker.

**The Speaker:** The House, having recorded its grateful thanks to His Excellency the Governor for delivery of the Throne Speech on Friday 9 March 2001, the question is that the Appropriation Bill, 2001, be given a second reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Bill has accordingly been given a Second Reading.

**AGREED: THE APPROPRIATION BILL 2001 GIVEN A SECOND READING.**

**The Speaker:** In accordance with the provisions of Standing Order 63(3), the Bill, together with the Draft Estimates, stand referred to the Standing Finance Committee.

There is no further business on the Order Paper for today. I would entertain a motion for the adjournment of this Honourable House.

## ADJOURNMENT

**The Speaker:** Hon. Linford A. Pierson, Minister responsible for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of the House until the conclusion of the deliberations of the Standing Finance Committee and that the Committee commence its deliberations on Wednesday 2 May 2001 at 9.00 AM to enable technical officers to prepare for Finance Committee, in addition to allowing time for Ministers to attend a meeting of the Group of Americas on the FATF matters and also for a meeting in Miami with representatives of Her Majesty's Government.

**The Speaker:** The question is that this Honourable House does now adjourn until deliberations are completed and the Standing Finance Committee is ready to report to the House. Those in favour, please say Aye. Those against, No.

**AYE.**

**The Speaker:** The Ayes have it.

**AT 3.22 PM THE HOUSE STOOD ADJOURNED UNTIL THE CONCLUSION OF THE DELIBERATIONS OF THE STANDING FINANCE COMMITTEE.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**23 MAY 2001**  
**11.01 AM**  
*Twenty-fourth Sitting*

*[Prayers read by the Second Elected Member for West Bay]*

**The Speaker:** Please be seated. Administration of Oaths, or Affirmations. The Oath of Allegiance to be taken by Mr. A Joel Walton, JP, to be the Temporary Acting Third Official Member responsible for the Portfolio of Finance and Economic Development.

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**  
Mr. A. Joel Walton

**Mr. Joel Walton:** I, Joel Walton, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, so help me God.

**The Speaker:** On behalf of the House, I welcome you for the time of your service. Please take your seat as the Acting Temporary Third Official Member.

Oath of Allegiance by Mr Samuel Bulgin, to be the Temporary Second Official Member responsible for the Portfolio of Legal Administration.

**OATH OF ALLEGIANCE**  
Mr. Samuel Bulgin

**Mr. Samuel Bulgin:** I, Samuel Bulgin, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, so help me God.

**The Speaker:** On behalf of the House, I welcome you for the time of your service. Please take your seat as the Acting Temporary Second Official Member.

Item No. 3 on today's Order Paper. Reading by the Speaker of Messages and Announcements.

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

*Obituary: Edward Jerome S. Myrie*

**The Speaker:** On behalf of all Members and Officers of this House, I would ask the House to stand in a minute of silence for the repose of the soul of Jerome Myrie who died under tragic circumstances in Tampa, Florida on Wednesday 16 May.

We pray for the mother of Jerome, Mrs. Georgette Myrie, the Clerk of the Legislative Assembly, for his father Mr. Edward Myrie and for all family members. May God fill their hearts with grace and comfort at this sad time.

*[The House stood for one minute of silence in memory of Mr. Edward Jerome S. Myrie]*

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable Second Official Member, the Honourable Third Official Member and from the Honourable Minister for Tourism, Environment and Transport (TE&T) who are off the Island on official business.

Presentation of Papers and Reports. Report of the Standing Finance Committee (Meetings held 6, 7, 8 and 11 December 2000), to be laid on the Table by the Acting Chairman, the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REPORT OF THE  
STANDING FINANCE COMMITTEE  
(MEETINGS HELD 6, 7, 8  
AND 11 DECEMBER 2000)**

**Hon. A. Joel Walton:** Thank you, Mr. Speaker. In accordance with the relevant Standing Order, I beg to lay on the Table of this House the Report of the Standing Finance Committee Supplementary Appropriation paper for meetings held 6, 7, 8 and 11 December 2000.

**The Speaker:** So ordered.  
Do you wish to speak to it?

**Hon. A. Joel Walton:** Yes, Mr. Speaker. Thank you. There were two amendments to the agenda as initially presented to the committee and I will mention those two items: Item 6, Police - the sum requested was reduced by \$138,000; therefore, the approved sum for that head (Police) was \$268,380.

Item 2 relates to Head 1010, Personnel. There were a few reductions. First, from \$150,000 reduced to \$89,541 for freight personal; the second was for other passages, reduced from \$150,000 to \$85,054; the third, recruitment reduced from \$200,000 to

\$137,638. The approved sum for Personnel was therefore, \$331,003.

The total appropriation approved at that meeting was \$11,561,628.

The other items were considered under "other matters" section and related to virement of funds/creation and re-grading of posts. These both received ratification.

There were a total of four motions also considered and approved by the committee.

Mr. Speaker, the committee agrees that the proceedings of the Standing Finance Committee of meetings held 6, 7, 8 and 11 December 2000 be reported to this House, and this Report do lie on the Table.

Thank you.

**The Speaker:** Report of the Standing Finance Committee (Meeting held 18 May 2001). The Honourable Temporary Third Official Member.

### REPORT OF THE STANDING FINANCE COMMITTEE (MEETING HELD 18 MAY 2001)

**Hon. A. Joel Walton:** I beg to lay on the Table the Report of the Standing Finance Committee (Meeting held 18 May 2001).

**The Speaker:** So ordered.

**Hon. A. Joel Walton:** The Standing Finance Committee met on 18 May 2001 to consider one resolution and that was in reference to the overdraft limit on the Government's current account, which was resolved to be put back to \$15 million until 30 September 2001.

I beg that this Report be accepted by this House.

**The Speaker:** So ordered.

Government Business, Bills, Report on Bills.

The Appropriation Bill, 2001. The Honourable Temporary Third Official Member.

## GOVERNMENT BUSINESS

### BILLS

#### REPORT ON BILL

##### THE APPROPRIATION BILL 2001

**Hon. A. Joel Walton:** I beg to lay on the Table the Report of the Standing Finance Committee on the Appropriation Bill 2001, together with the Draft Estimates of Revenue and Expenditure of the Government of the Cayman Islands for the year 2001, in accordance with the relevant Standing Order.

**The Speaker:** So ordered. Do you wish to speak to it?

**Hon. A. Joel Walton:** There are just two or three separate items I would like to mention. The first set has to do with the changes to the Bill as laid initially by the Honourable Financial Secretary.

There was a change to the Ministry of Tourism, Environment and Transport, item 22-4505. The amount for that head was increased by \$50,000, taking it from \$4,855,591 to \$4,905,591 and that was compensated for by a reduction under item 24, Tourism, 4700, where the sum for that head was reduced by \$50,000, taking it from the presented sum of \$19,810,795 to \$19,760,795.

The total appropriation that was approved by the Committee amounted to \$310,249,886.

In addition, five motions were put and agreed by the Committee and they are recorded in the report which I now beg be accepted by this House.

**The Speaker:** Would you please state that "I have to report that a Bill entitled The Appropriation Bill 2001 has been considered by a committee of the whole House and passed with amendments"?

**Hon. A. Joel Walton:** Sorry, Mr. Speaker.

I beg to report that a Bill entitled, The Appropriation Bill 2001 has been considered by a committee of the whole House and passed with amendments.

**The Speaker:** The Bill has accordingly been set down for a Third Reading.

Bills, Third Reading.

## THIRD READING

### THE APPROPRIATION BILL 2001

**The Deputy Clerk:** The Appropriation Bill 2001.

**The Speaker:** The Honourable Temporary Third Official Member.

**Hon. A. Joel Walton:** I beg to move that the Appropriation Bill 2001 be given a Third Reading and passed.

**The Speaker:** The question is that the Appropriation Bill 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES and one audible NO.**

**The Speaker:** The Ayes have it.

**AGREED: THE APPROPRIATION BILL 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Bills, Second Reading.

## SECOND READING

**THE LOAN BILL 2001**

**The Deputy Clerk:** The Loan Bill 2001.

**The Speaker:** The Honourable Temporary Third Official Member.

**Hon. A. Joel Walton:** I beg to move the Second Reading of The Loan Bill 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. A. Joel Walton:** Yes, I have a couple of brief comments on the Bill.

The Bill sets out a request to borrow a sum not exceeding \$55,473,110 during 2001. This borrowing is required for three broad categories of expenditure. These categories include:

|                                 |                     |
|---------------------------------|---------------------|
| Capital development expenditure | \$24,555,862        |
| Capital acquisition expenditure | 4,700,000           |
| Recurrent expenditure           | 26,217,248          |
| <b>TOTAL</b>                    | <b>\$55,473,110</b> |

**The Speaker:** The question is that a Bill entitled, A Bill for a Law to authorise the borrowing of up to \$55,473,110 for the financing of specified capital projects, capital acquisition and general revenue fund expenditure, be given a Second Reading. The Bill is open for debate.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, my views and contribution on the substantial borrowing has already been articulated in this House, and I will not bore Members or the public by going over that again. However, there are a few issues I want to mention with the hopes that the [Temporary] Third Official Member will respond at the close of the debate.

It is imperative when a Bill of this nature is brought to this Honourable House for Members to vote on, that all information is provided. I have to say that I was stunned earlier this month when I learned that the negotiation for the loan to cover the \$55 million had not yet commenced. I hope by this time those negotiations are well underway. I am also hoping that the [Temporary] Third Official Member will be able to provide this House with some insight on the progress of the negotiations and the expected cost resulting to the country, not only to this generation, but to future generations, of the repaying of such a substantial amount of money.

I would also like to point out that when future borrowing comes before this House, that it be presented with the total picture including interest rates and the result it will have on the total government debt and debt service ratio, which this country will be faced with.

All Members appreciate and respect the need for financial prudence and the circumstances the country

is in. We respect and appreciate the need to continue development and the level of expenditure, but we have different views as to how that should be funded. I spent a substantial portion of my debate on the budget outlining measures that I felt would have been better alternatives than to borrow approximately \$24 million to fund recurrent expenditure and the capital. It is important for the general public and all Members to appreciate that borrowing is only prudent when the return is not only a financial return but a social and economic return exceeding the net cost of borrowing.

I think a medium term financial strategy and public sector investment plan will be coming shortly. I look forward to contributing to such a document. The public sector investment programme and committee would evaluate the capital projects to ensure the return exceeds the cost of borrowing. I am interested in such findings for this existing borrowing package that we are asked to vote for today.

To simply vote on the passage of this Bill would allow the country to borrow \$56 million and place a burden on future generations. We need to know that this borrowing will be negotiated in fair terms and it will be applied to works that will yield the type of return justifying this investment. We need to know that future generations paying this bill will also be benefiting from the resulting expenditure.

Borrowing is all about distributing the cost of an investment over a period of time to match it with the benefits. A school which will benefit future generations—if we show the return being distributed over future generations, it is o.k. to borrow and distribute the matching cost with the benefits. We can sell that to our kids, but to simply sit here and ask this House to vote on \$56 million, a portion of which is on recurrent, we have not solved any problems. We are distributing the paying of today's bills over future generations without doing anything to close the very gap that created the situation.

We must accept that the \$19.88 million revenue enhancement measure does not address the total gap between our recurrent revenue and expenditure. It is simply put there to curtail one particular reduction. We must take long-term measures rather than Band-Aid approaches.

I am not in a position to support this Loans Bill and would like to summarise my reasons: First, I am presented with inadequate information to appropriately evaluate the Loan Bill; Secondly, I am of the view that the portion of the Bill covering recurrent expenditure is simply a Band-Aid approach and does not cure our longer term problems; therefore, I cannot support such measures. I have personally spoken out against past governments for such an approach. Thirdly, I believe that the portion of the Loan Bill covering long-term capital projects may be viable, but I do not find the information before me to make that assessment. Thus, in carrying out my responsibilities to the people of this country, I cannot vote in ignorance without the information before me.

I have no doubt the Bill will pass, and that the borrowing being sought by this Bill will be achieved. However, to sit here on 23 May—almost halfway through the year—and borrow \$56 million to fund a year's worth of capital and recurrent expenditure, I have to express my concern over the total system we have in place. I appreciate that we are in an unusual time because it follows an election year where the budget is presented in February rather than in November of the previous year, but we must address that problem and not only look at it as a problem.

We need to address a change in the fiscal year of the Cayman Islands Government and I have suggested a June to June fiscal year. That would remove a situation of this nature where an election creates this abnormality.

This House demonstrated in the last Finance Committee meeting a willingness to make changes to problems which many governments in the past only spoke about. I think we must look at the whole picture and continue this trend making some positive changes, reviewing the viability of changing the fiscal year to a June to July fiscal year . . . .

*[Inaudible interjections]*

**Mr. Lyndon L. Martin:** . . . July 1 to June 30. I will not get into the game of semantics. I have said my piece on the Loans Bill and I solicit other Members of this House to support my stance and not allow a lowering of the standards. We expect comprehensive information. We are Members of this Honourable Legislative Assembly, with the cognitive ability to analyse and appraise on our own what is financial prudence. I think that this Honourable House should be presented with all the necessary information to assess the requested borrowing of some \$56 million. Thank you.

**The Speaker:** The Floor is opened for debate. Does any other Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, I rise to offer my contribution on a Bill for a Law to authorise the borrowing of up to \$55,473,110 for the financing of specified capital projects, capital acquisition and general revenue fund expenditure.

For it to say that there are specified capital projects and capital acquisitions, and where the money will be spent in general revenue, I believe would not be correct. While some information has been given in regard to how this money will be spent, many details could be added to be clear and unequivocal to the way the money is spent. When I look at the schedule, I see capital development to receive, \$24,555,862; general revenue fund to receive, \$26,217,248; and capital acquisition expenditure, \$4,700,000.

I would be remiss not to note that this amount is the single largest amount ever proposed to be borrowed by the Government of the Cayman Islands for

anything. What makes this very peculiar is that a large part of this is to go to recurrent revenue, meaning that the estimated revenue of the country fell short of what was forecasted and the country has not taken in the revenue to meet its recurrent expenditure. This is a very grave situation and something that all legislators should have a great deal of concern about.

When one views the situation, hand-in-hand with it should be an exercise to determine ways to enhance government's revenue without the usual taxing of the average citizen, without having to raise the cost of post office boxes from \$100 to \$250, and from \$75 to \$100 and so forth; and, certainly, to find ways and means where we do not tax consumer items that the average person and the poor person needs such as milk and eggs.

The business of the country needs to be addressed in a way to find areas of revenue quickly. One of those I believe needs to be finding more revenue from the financial sector, including the banks in this country through the levying of some fee, just like the bank levies a fee on the services it provides the average person doing business with it. We have to find a way to raise revenue from all areas that benefit from the Cayman Islands, being the stable environment that it is, which allows them to do the business they do. We have to stop taxing the poor people of this country while those entities that earn large profits virtually pay nothing compared to the profits they make.

We have almost reached the halfway point in this year. There have been various instances where money has been voted in advance so as to keep the country moving, both for recurrent revenue and capital works or to meet contractual agreements. We understand this can happen, coming out of an election year. Perhaps we have seen the longest delay in arriving at finality with the country's finances in this particular instance. I know there have been various occurrences that have interrupted the normal process of legislative business with the OECD and the FATF and all of those external forces which are attempting to take over our internal operations. So, I understand that there have been certain delays. However, it is clear that even if monies are forthcoming now for doing capital works, these works cannot be completed within this year as the year is almost spent. So, it would seem that some of these works would have to be set back into next year.

I too have certain concerns that there seems to not be any agreement in place, or that there is not a partially negotiated situation for where these funds will come from. The Bill itself sheds some light on this where in section 2 it says, "**The Governor in Council may borrow an amount not exceeding \$55,473,110 in the currency of the Islands.**" And subsection (2) says, "**The amount referred to in subsection (1) may be borrowed- (a) by instalments; and (b) from any institution, and on such terms and conditions, as the Governor in Council may approve.**"

I think Members of this House should have some say on this particular aspect. "From any institution". . . which institution will this be? Will the Government negotiate a \$50 million loan with one single bank in the Cayman Islands? If so, which one?

Is it good for the Government to negotiate a \$56 million loan with one single bank or is it better to have a consortium of banks? These are points of interest, not least of which is the interest that will be paid, particularly when interest rates are down worldwide. Certainly, we hear of interest rates going down half a percentage point in the US every few months. In Cayman, we know that means nothing unless they are on the rise—then they raise the prices higher. When they are lowered, the banks here do not necessarily lower them in turn. These are certain concerns that I think, we as legislators, should have in regard to this particular exercise.

The Governor in Council may enter into a loan, but of course, it is the people of the Cayman Islands, in the next generation who will have to find the money to pay for these loans we propose to take.

I know that any government, including this one, has to have ways and means of finding money and justifying whatever means or methodology they use, as did previous governments; it is the way of government. I think we have reached a point where we ought to be seriously concerned. Fifty-six million dollars in a loan with 39,000 people in the country does not really create such a very reassuring position. It matters not to me which Government, past, present or future—my concern is that there should be good fiscal management in the Cayman Islands. It affects us all; it is not just the business of the government executive. We have to find ways and means of improving the situation that exists.

From the last review of the finances of government done by the accounting firm of Deloitte and Touche, we know the total debt of the country is close to \$400 million. That is not a good situation to be in. My message to the Government and to us, is that we have to become seriously concerned, particularly at the extent of our expenditure versus what our country is now able to generate as revenue.

There are certain particulars of this \$56 million loan that are not clear to me. It is one thing for the Bill to say that the Governor may borrow from "any bank," but what kind of a situation will that be for the country? I will not lend my support to this Bill before the House. Hopefully, it will be negotiated. If is not negotiated before the end of the year or in due time, this \$56 million needed for this year's budget will mean certain things will not be done and certain monies needed to carry on the recurrent affairs will suffer.

This Bill is not a simple Bill before the House, it represents the largest ever borrowing in the history of the Cayman Islands. As such, it concerns me for the reasons which I have stated.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you, Mr. Speaker. The position in which the Government finds itself having to borrow \$55,473,110 is not a flattering position, nor is it the end of the world. It is not uncommon for governments when faced with situations such as we are faced with to have to resort to borrowing. While it is true that this is of historical significance, in that, it has not happened to such an extent before, this country knows that the finances for the last few years were not managed as they were supposed to be, and worldwide there has been retrenchment, recession and cutbacks.

What is important for Members and the Government to learn from this exercise is that we can no longer afford to conduct business as usual. We have to learn from this experience and craft a different system, not the least of which has to do with changing our system of accounting, so that we can be in a better position to forecast and be more accurate in terms of our accounting instead of relying on the antiquated cash system where we even had to resort to some dead reckoning at times.

The position we find ourselves in speaks volumes to a change into a modern accrual system, which is what some Members, including me, had proposed several years ago; indeed, as long ago as 1995. If we do not learn anything else from this exercise, it must be that we hasten to adopt this system and get some adequate medium term and long-term budgetary planning and prioritisation.

The fact that we have now come to a spot where we have to take a quantum leap in this borrowing is predicated by our failure in the past to do proper financial planning beginning with the absence of a medium term financial strategy, and the absence of any long-term planning. While it is not my intention to point fingers, and I will not resort to that because pointing fingers does no good—the fact is that it is incumbent upon us, who have inherited this situation, to make sure that when we get out of this predicament, we have the proper infrastructure in place to conduct a medium term financial strategy and adequate long-term planning.

This Government, of which I am one Minister, is capable of borrowing these funds, using them for the purported reasons and projects to set this country on a path to full financial recovery. There is no element of doubt in my mind. We expect that when these borrowings have been formalised that Government can get on with the business of running the country as it was elected to do.

What is good about this is that we were not taken by surprise. We knew when we inherited the mantles of power that we were going to have to resort to such an exercise; therefore, we are not at a complete disadvantage. We realised that the coffers we were going to inherit were not what they were touted to be.



Soon after being sworn into office, when we made the initial investments we calculated we were going to have to embark upon this precedent-setting borrowing.

We are prepared mentally and infrastructurally for that. We have set about establishing a committee to investigate into means of how we can raise money and diversify in the future. We have not gone into this without pondering and deep thought. We are the first persons to admit that we can no longer afford to conduct business as usual.

Let us face facts! We are sitting on a fragile-based economy. While it is true to say we should hit up the banks and the financial institutions, we have to be careful that we are not milking the same old cow year after year. We find it abhorrent to have to tax the people, but in the absence of any clearly thought out strategies to this point, we have to resort to that to tide us over the immediate future.

It is not our only plan and objective to continue to raise revenue by these traditional means. While I agree that banks, financial institutions, and other such organisations have to be prepared to bear their share of the responsibility, we cannot lull ourselves into thinking we are the only jurisdiction of choice. There is a limit to what we can extrapolate and in extrapolating this we have to go about it in a fair, reasonable and acceptable manner to all concerned. That takes some negotiation and diplomacy, and it may take some barking at times.

The predicament we find ourselves in is not unlike the great United States in the era of the depression, when Franklyn D. Roosevelt (FDR) introduced the "New Deal" of infusing into the government projects that set the country on a sound economic footing. The USA was suffering an economic morass depression. Roosevelt, through an infusion of projects stimulated by money collected from taxes, set out on a development programme that propelled the USA to the position where it is now.

If we handle these funds as wisely as we anticipate and plan to, the country can rebound well within the tenure of this Government. What we need to realise (and I say this as much as a reminder as well as for information for future aspirants) is that we have to take stock of the free lunches offered to the Cayman Islands, figuratively speaking. We cannot give away money to veterans who are foreign to the Cayman Islands like it was going out of style. This was the practice that brought us to this point.

For informational purposes, we have calculated that we have given away \$43 million, and that is inclusive of scholarships. We are going to give the scholarships, but a lot of the things which are given we have to cut back on. It would surprise many people to know who and the economic background of some of the people to whom we give financial assistance and veterans' assistance, who are not even Caymanian!

Lest anyone believes that the predicament we find ourselves in is one offered by the incumbent

Government, I want to set the records straight and emphasise that we in the Cayman Islands need to be careful how we issue instructions to people who come to partake of "free lunches" because the bill is being borne by the Caymanian taxpayers.

It is a challenge which the government is eminently equipped to rise to. We shall, with the help of the good Lord, rise to this challenge and we shall surmount it comfortably. I hope that when this Government's tenure of office is up we can leave this country on the sound financial footing it deserves.

This is a time for understanding and conscientiousness. I am satisfied that Honourable Members in here have a grasp and an appreciation of the problem that will allow them to understand, identify and help the Government that has embarked on a direction of fiscal responsibility, constraint, reorganisation and of setting the country on the economic path it should be built upon. To this extent there is a need to examine how we can diversify because we can no longer count on those areas that were almost exclusively tapped into, and we cannot continue to tax the people where an inordinate amount of the burden is borne by the proverbial "little man."

If I may say so myself; this Government reversed some moves that we said at the time were imprudent. We need to learn some lessons so that when we go to appease elements by removing duties and taxes, we need to weigh and carefully study to ensure there is a counter balance or else the equation will break down.

We cannot expect to remove volumes of duty off certain items without calculating the loss, first of all, and without offsetting such a loss by finding other areas where we can make up. This kind of practice is best described by the present Minister of Health when he called that "single entry bookkeeping."

I am in total support of this Bill to raise this money. The country needs it at this time. I am confident that it will be put to good use. I commend the Bill and ask all Members of this House to join persons who are prudent and sensible and give the Government a chance to get on with the business of running the country and managing the economy and setting the country on a renewed path to financial prudence.

**The Speaker:** Do Members wish to take a break, or continue for the next 45 minutes?

We shall continue.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, in regard to this Loan Bill for approximately \$56 million, I would like to go back to address what the last speaker said in regard to removing duties.

I seem to always hear people talking about removing duties as if that were the greatest crime committed by the last government. I do not like that because I know that I came in here in 1996 promising the people that I would fight to remove duties from imported foodstuff into this country. I am still very pas-

sionate about it and very insulted when I hear Members of the Government continue to ridicule that policy or idea.

When we look at the number of Customs concessions that presently exist, it is a shame that someone would get up and mention it without first of all reciting the concessions that now exist. So please, Government, do not come back and mention taking duties off of foodstuff again!

It is very important for me to vote against putting back duties on foodstuff in order for Government to make up what it needs to run the country. I could not in any good conscience support something as vile, as perverted, as taxes on food to the extent of what we now have it in this country. Of course, we are talking about the Loan Bill.

I am quite willing to go along with the Government regarding borrowing money in order to make up their shortfall. However, to talk about the fact that you cannot remove duties from foodstuff . . . it is so silly. Why not? The poor must also eat.

We are always talking about how we will get the investors upset, but we never talk about how we might upset the poor. I do not suppose anyone believes that the poor have any kind of organised power.

I went through the estimates in Finance Committee, and spent a lot of time here going through the tedious process of questioning items. Not that I was involved in all the detailed questioning. I felt that some of it was a little redundant, especially when persons knew they would come here and vote against what was necessary to make these estimates a reality. If there is not going to be any money voted for these estimates, what is the point of examining them? It seems like a real waste of time.

I know that there are people in here who look out for their districts, and after they have looked out for their districts, then they are going to vote against the means to fund these things. It seems like a giant contradiction. It is this system of convenience that I am a little upset about.

There are some people in here who really believe that the people out there are saying the Government is a failure because it needs to borrow. That is not true! The people out there who understand the situation better than a lot of us understand the situation. The people out there would like for the Government to get things under control so that the country can move forward away from a recession, and that full prosperity can be returned to their country.

People out there are also experienced borrowers. Perhaps some of us borrow too much. However, we also realise that society has developed to a point where all the things we can see to do we cannot necessarily pay today to do. So, we need to borrow and then we can have things paid for today.

The whole system of borrowing is not necessarily the most negative way of financing the needs of a country, in particular when you look at the kinds of investments the Cayman Islands has been able to

make as a result of borrowing. We are not a third world country that borrows to buy a limousine for politicians and pay bribes to relatives. Government has borrowed traditionally and spent that money very meaningfully. So, the investment is here and future generations will benefit from that investment as well; that needs to be taken into account.

Regarding the whole idea of borrowing to pay recurrent expenditure is an argument I heard 20 years ago. As soon as Government has to borrow to pay recurrent expenditure, somehow that would mean that there is a failure; that it is okay to borrow to fund capital, but you should not borrow to pay for recurrent expenditure. I do not know why not, if you find yourself in a crisis.

You would prefer to not borrow to pay recurrent expenditure, but because of a crisis you need to borrow, and not borrowing could create a greater crisis for yourself. So, if I believe that we will have a greater crisis if we did not borrow, how can I come here and say 'do not borrow'?

I could come here and say do not borrow because I have a principle about that and maybe the principle goes beyond what is rational. If I am going to say 'do not borrow' then I have to give the government an alternative to borrowing. I have to come with a suggestion.

I am saying, 'do not put duties back on foodstuff instead borrow the money.' I just cannot come and say 'do not put the duties back on the foodstuff and also do not borrow.' I am giving an alternative because if I do not, I am helping to create a crisis for the country, and that is not what I am here for.

I understand that I am a Member of the Backbench, which means I am responsible for the deliberations of financial issues in Finance Committee, and I have the possibility to discuss financial issues by discussing the Appropriation Bill and the Loan Bill. The Government itself is responsible for policy. They brought their Budget here.

Each one of us had weeks and weeks to go through that Budget and say '*that goes, that is too expensive, let us get rid of that*' and cut it by thousands of dollars, or millions of dollars. That exercise did not take place here. If that exercise did not take place here, then what is the exercise now to come at this particular point and say '*we're not going to finance you*' All we are doing is dividing ourselves, saying '*you're the Government, and we are something else.*'

We are all equally responsible to see that the country's Appropriation Bill passes so that there are funds to continue the business of the country. We can disagree with the business of the country, but it seems logical that we should also decide that there should be some way of paying and we should make that contribution to the Legislative Assembly regarding the Loan Bill.

I happen to believe what the Minister of Education says, that it is a time for reasonableness; that is one reason why I was a little upset after he did not go

back to the duties on the food, but there is a time for reasonableness, Mr. Speaker. I find that in the country as a whole there is a lot of hope, especially when one would not feel that is the case with the economics being the way it is. People are very hopeful and I do not want to spoil that for them.

I have also been able to experience in Finance Committee that there is a willingness for people to work together to get motions passed in Finance Committee that would not normally have made it through previously. Forgive me, therefore, if I happen to be a little bit too enthusiastic with regards to what we might be able to produce from this Assembly.

I am of the opinion that if we concentrate on solving problems we will be better off. The reasonableness exists at this time. I am not saying how long it will continue, but as long as it does I am quite willing to work with it to accomplish what can be accomplished by working along with the Members of Government.

I would say that I did not hear too many people vote against the Appropriation Bill when it was read. I think it is important for me to state that I did not stand up to vote against it. I would therefore take this opportunity to vote for the Loan Bill as a way of seeing that those requests examined over the weeks in Finance Committee can be brought to reality. I lend my support to this Bill and trust that the Government will see as much as possible that we do not find ourselves in this situation next year.

I believe we will be able to partially avoid this position next year if we were to review the amount of Custom concessions now being given to companies that could afford to pay their way in the Cayman Islands. I think we must stop giving favours to persons who can afford to pay their way. I think that members of our business community must accept that corporate responsibility means paying taxes and not just joining clubs to show that you want to help improve society.

I feel that if these Customs concessions were reviewed again, at the end of the day, it might still be possible to consider the removal of duties from foodstuff. I think that should be the ultimate objective of a country completely reliant on the importation of food—the main human necessity. There should be no obstacle put in the way of access to food.

Of course, a woman raising three or four kids, having to pay those duties would be looked at by some Members who think it is not really that much. Sometimes I see people asking for 5 cents, or 10 cents to get something. Just a few weeks ago, I was at Hurley's Supermarket and a lady asked me if I had 10 cents and I said to her "why?" She said she was short 10 cents so, I gave it to her and she went into the store to pay her bill.

So, if I sound moved by that whole point about duties on foodstuff, it is simply because I believe we create greater equality when taxes are placed where taxes should be, and not on what people consume, but what people acquire or have access to that other

people will never have access to. We should pay for the privilege of having control over certain things.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. As I rise to debate the Loan Bill currently before us, I would like to reflect back to the past month during which Finance Committee was in session and then come back to this morning when the Appropriation Bill got its third reading and was passed. Like the Third Elected Member for George Town, I did not hear too many "noes."

During Finance Committee we scrutinised almost every line item in the budget, so much so, that some Members said we were being parochial, and wanting things for our districts. My discipline was not accounting, it was engineering. Nevertheless, for the majority of my adult life I have dealt with budgets, not \$300 million budgets, but the concept applies whether it is \$10 or \$300.

I do not believe that anyone, under normal circumstances, should borrow to fund their recurrent expenditure. I believe that should be left to capital and long-term where generations to come will see it was prudent management. Certainly, in times like these we may have no alternative but to borrow for recurrent expenditure.

I just cannot understand how we can scrutinise the budget and ask for monies to be spent and then not support the funding of that expenditure. That escapes me! If someone can explain that to me in accounting terms, I will gladly accept that explanation because I know I would learn something from that.

I stood here during my debate on the Throne Speech and the Budget Address, and asked the people of this country for patience while giving the Government a chance to bring it back to sound footing. I also said to put Government on notice not to bring back anything that would further pressure the little man. I also made a statement that poor people were fed up. While we applied taxes on the poorer man, I also asked the financial industry to step forward and take their rightful role and assist the government and the country that made them what they are during these times.

In reply, the financial industry started writing letters in the paper about how expensive it is to do business in this country already. Well, what they did not mention was that even though it is more expensive than some jurisdictions around us, they make more money here. That is why the professionals in the financial industry can build these \$5 million to \$25 million homes!

I still say, regardless of how many letters they write to the papers, they must now step forward and help the country that made them. This is a time of need. When it was a time of need for them, they came to this country and fulfilled those needs. Now this

country needs them . . . step forward and pick up the bat and deliver a homerun for us!

When it was time for personal greed, they came to us and we welcomed them! Now we need—this country needs. Step up to the plate and assist the country they live in and call home. We call it home and we have to pay our dues. So, they can write as many letters as they like.

Having said that, I also agree Government must be prudent in its spending. In the Budget Address one of the policy decisions outlined was to curtail all new services except for the Bodden Town, Savannah, George Town, John A. Cumber, Red Bay Primary, Lighthouse School and staff for the protection unit and the Financial Reporting Unit. There are some rumours around that it is not being done. Whoever is responsible for that policy decision not being put in place had better start stepping up to the plate also.

The more new services, hiring or creating of new departments we do is more expenditure. So, Government, be that the political side or the public service side, must step up to the plate with some constraints. We have to ensure that we suppress expenditure.

The Third Elected Member for George Town spoke about duty concessions. That is another area Government needs to look into. A lot of these people who were squealing about a few taxes are the same millionaires that get duty concessions in this country. Government needs to take it back from them. They have been getting it for as long as they have been in business—10, 15, 20, 30 years! They must keep quiet.

When we have to borrow money for recurrent expenditure, and then give duty concessions to everyone . . . I do not have a problem with it being given to Cayman Brac, let us leave that in place because it helps the economy. However, everyone has gotten rich off the Cayman Islands and no one comes to step forward. It is time to stop that.

I trust that the medium term financial plan, which Government is planning for this country, includes removing some of these duty concessions so that this country can get more money instead of having to borrow for recurrent expenditure.

I find it difficult to comprehend how we are going to fund this over \$300 million if we need \$55 million in loan and we refuse that here today. I really find it difficult to understand how all the things government needs to do are going to be done, on the basis of what we approved this morning. I believe I heard one "No." Unfortunately there was no division and I think that was the biggest mistake we ever made. We should have had a division to find out exactly who voted for and who voted against.

It is every individual's responsibility in here, to vote his conscience. I will not try to take that away from anyone. No one is going to take it from me!

I understand the need, but I have some concern over the lack of sufficient information thus far on where this money is going to be borrowed from, the

terms and conditions. There comes a point when we have to trust that the Financial Secretary of this country, the Government, and in particular the Leader of Government Business are acting in the best interest of this country. I trust that we will all respect that. It does not make sense for the Leader of Government Business to take up that position and then try to destroy his own country. So I trust that everyone in this Honourable House will respect that we have to trust someone. Yes, I would have liked to have seen it earlier and I trust it will be forthcoming.

I understand the need for us to borrow. And I look forward to next year—if there is a need to borrow—that it will be for capital only. I hope the Government is prudent in expending this year's borrowing which I am going to support. I trust they will be very prudent in using this money for the interest of this country. I was entrusted with the responsibility to keep this country running and will do that to the best of my ability. I leave other Members of this House to do what they see as their responsibility.

I support the Loan Bill before us. Thank you.

**The Speaker:** I think this will be an appropriate time for the luncheon break. We will suspend until 2.15 PM.

#### PROCEEDINGS SUSPENDED AT 12.39 PM

#### PROCEEDINGS RESUMED AT 2.35 PM

**The Speaker:** Please be seated.

Debate continues on the Loan Bill 2001. Does any Member wish to speak?

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

We have listened to various contributions from Members with regards to this Loan Bill. While the Third Official Member will be addressing some of the issues raised, I think there are a few that the Government needs to address. Questions have been asked and comments have been made on various areas.

I want to set the stage with a clear understanding as to how Government arrived at this point with a Loan Bill constituted the way it is. The total amount being sought is just in excess of \$55 million, just over \$26 million of which is to fund recurrent expenditure, and just over \$28 million to fund capital works.

When the Government took office, as my colleague, the Minister of Education already said, it did not take us very long to understand that the financial position of the country was not as healthy as we would have liked to see. He also said it did not come as a great surprise to us. We just had to try to get the whole picture to see how we could best address it in the short, medium, and long-term.

The government did not have an opportunity before preparing the budget to effectively deal with the

many issues we know face us, some of which were alluded to today in the various debates. That is no signal that we do not intend to deal with these matters. Some Members who have spoken seem to take the position that the Government was elected with a mandate and has had as much time as it needed to make certain things happen. The Second Elected Member for Cayman Brac and Little Cayman spoke about not supporting the borrowing because the Government needs to be looking to the longer term in finding solutions, and he went in several directions. I do not want to take him on to disagree with some of the principles he spoke to. What he has not addressed is the fact that while we fully intend to bring about the changes in the way the country does business, he and everyone else simply have to give us the time in which to do it.

Government's machinery—the system that is complained about continuously, the same system I complained about when I was on the Backbench—is not one where you click your fingers and make changes in one day. That is not to say that the job of the Back Bench does not cause the Government to try to act in a manner considered expedient, but in so doing, I think everyone respects the fact that we have to be very careful to ensure that whatever moves are made bring about the right results.

I noticed the Member also spoke—and I firmly believe that he speaks out of both sides of his mouth—about this great borrowing the country is engaging in and how it is going to be saddling future generations. Mr. Speaker, the facts are that the borrowing we are talking about is not intended to be long-term borrowing at this point in time, especially the portion to fund recurrent expenditure, because that has to be looked at as short-term. In all of our plans, the Government certainly intends for that portion of borrowing engaged in this year to be separated and amortised over a short period of time.

Recurrent expenditure is not an expenditure that you want to fund over an extremely long period of time, ending up paying huge amounts of interest. Because you spend it as you get it, literally, it would be gone within a year. It is simply to enable Government to continue to provide the services. In effect, the Government readily understands and accepts that the portion needed to fund recurrent expenditure is not something the country benefits from down the line. We understand that! We simply cannot do any better at this point in time.

If this were even a year from now, I could quite understand the Member taking us on with the position he has taken. It is not that I do not understand that because I know how it is, I have been there. I want the Member and the public to clearly understand that while he takes that position, feeling it is how he best serves as a representative, it must still be clearly understood by the country that the position he takes is not exactly the position that obtains.

Some Members spoke to the negotiations that are presently ongoing. I think a Member also spoke to what he thought to be the fact that when the Loan Bill should come to this Honourable House it should come with a complete package already negotiated and agreed upon that exacts amount of interest could be made known to Members before they vote on the Bill.

Well, let me inform the Member that the procedure accepted by the local institutions is one whereby they do not wish to conclude any negotiations until the vote is taken in this Legislative Assembly, agreeing, by majority at least, if not by unanimity, to borrow whatever the funds are. So, if I have to apologise on behalf of the Government to that Member, then I sincerely apologise, but we have no other way of doing it. That is the procedure.

To clear the matter up, we are not waiting until the Loan Bill seeks and gets safe passage through this legislature to begin negotiations with the institutions. They have already begun and are ongoing as we speak. The fact of the matter is that when we spoke to the lending institutions about the borrowing, we did not speak to any one single institution at any time. We asked for all of the class A lending institutions—seven at present—to meet with us, and so they did.

The position we have taken, which is prudent . . . and I agree with the Second Elected Member for Bodden Town, but I wanted him to know that his thoughts about the way forward are exactly what we have put into practice already. We have spoken to the institutions as a group; we outlined our position and showed them our plans as to the way forward; and we have a meeting with them on Tuesday to hopefully be able to conclude the arrangements for the borrowing.

Mr. Speaker, I want the world to believe that this Government has nothing to hide. Perhaps that causes some grief sometimes, but better grief that is known than more grief to come that you have not planned for.

When we meet with them again, it is expected of them to come with a consortium position. Regarding interest rates, I do not want to pre-empt any negotiations but I like to take advantage of positions such as this in the event they are listening to us tonight. While I cannot speak for them I am very confident that they will continue the practice that has been in recent years and hope to be able to negotiate such loans at 1 percent above London InterBank Offered Rate (LIBOR)—not prime, but LIBOR which is almost always below what we know as prime. I have every confidence they will do the best they can to do the necessary on-lending for us so that we can get on with it.

Let me speak to some general situations that need to be clearly understood. The first one is, it is a fact—not a myth, not a belief, not one's conviction, but a simple fact—that the country and its Governments have not, to this point, paid anywhere near enough attention to the ever growing imbalance between recurrent expenditure and recurrent revenue.

For quite some time we have found ourselves in what we considered to be boom years. Somewhere along the line we figured this would go on, and on, and on, and on and never stop. We find the political arms of Government continually wanting to satisfy the desires of the constituents by providing capital works programmes that I do not contest the need for, but in doing so no one stopped and thought of the need to have a very clear picture of what the recurrent expenditure would be.

We built a hospital; that was needed, and the country and the citizens deserved it. We now need to man that hospital and provide the services. In just about three or four years, the recurrent expenditure of that institution has risen (and I am not giving exact figures, but close without being facetious) more than \$20 million additional expenditure on the recurrent side to operate it.

We can speak out of one side of our mouths to say that it is a sin to speak about how high the fees should be, and how the good people of this country deserve the service. Of course, I agree, but where is the money going to come from? If you do not have that question and answer in your equation, you are not doing it right.

I firmly hold the position by experience today, that that is where we have failed miserably when it comes to good governance and prudent fiscal policy. That is what our problem is today. That is why we face the position we have to live with exactly right now.

It is not something where you can go to the country and say *'Listen, we have a position where our expenditure is more than our income. We need to correct that, so we are going to add fees all over the place and strike a balance.'* The moment you do that, it is another sin because now you are taxing the people more than they can afford.

The Government is as conscious—more conscious at times—of that as are others who argue the case. We understand that. We do not want that to happen, but, Mr. Speaker, there is no overnight cure. We all know the principles we have to apply, but we have to get those set in place and we have to practice them to see the results. So let us not hear about the long wish list from everyone and when it comes to paying for it that is not my problem, it is yours. That will not work. One has to go hand-in-hand with the other.

In fact, one of the recent 16 policies we have adopted is that if there is any specific increase in expenditure over a certain amount of money, attached to that has to be the increase in revenue to serve that on an ongoing basis. This is what should have been done from day one, but was not.

During those boom years the position was almost always where the recurrent revenue almost always surpassed the projected amount. So, the position applied was *'Oh, do not worry about it. If we have a little bit of additional expenditure this year, the surplus will take care of it and we will be fine. No problem!'*

And there were those of us who preached for six to eight years, *'Listen, we hear what you are saying, but there are telltale signs that let us know it is not going to happen indefinitely. We should not wait until we find ourselves in that position before we begin to do something about it.'* However, no one listened at the time and that is how we find ourselves in this position.

I do not think I will keep chiming about certain things because I want to get on with it as much as anyone else. In fact, contrary to what some people think, I like what I do. I love the challenge! I want to be part of building the team by consensus to represent this country the way it should be represented to bring about the right results too. There are certain facts we must understand. I would be the last one to walk with bold chest and feel very happy about having to bring a Loan Bill of this nature to this legislature for the country to hear the position we are in. I am not going to lie about it! I am not going to pretend that it does not exist! It is as simple as that.

Others mentioned our plans to move forward with a total shift from the cash accounting system that currently exists to an accrual accounting system that gives the true picture, at any given time, regarding the finances of the country.

We have departments that millions of dollars are allocated to annually in order for them to function and provide the needed services. Yet, we do not have the ability to truly identify exactly what it costs to run those departments. That is the position we are in and that is not to say people did not know what we had to do. I daresay this will be the first opportunity we have where all of the ingredients are there and all of the bodies are there to allow us to get to that position.

I would have loved to bring a balanced budget and be able to say we projected a surplus. The truth is, that was not the case and we were not going to fix the books to make it look that way.

When we talk about borrowing \$26 million for recurrent expenditure because there is a shortfall between the projected revenue and expenditure of that amount, people have to get a clear prospective of what we walked into so that we will understand clearly why this is the position. In January 2001 with a deficit of nearly \$11 million, if we had not taken \$5.8 million out of the general reserves to put into the current account to help bring the deficit down we would have started with a deficit of almost \$17 million.

For those who have been listening to Finance Committee, you should be aware that we found a myriad of instances where portions of monies in the 2001 Budget under certain line items is to pay for bills of the last two months of the year 2000 which were not paid. There was no money to pay them.

While it would not be truthful to say that the 2001 Budget is for 14 months instead of 12 months on the recurrent side, the fact of the matter is, in several instances we will actually be taking care of debt for 14

months, not just 12 months. That is the picture we have to appreciate on the recurrent side.

I think we should view this as the “wake-up call” for us to get it right. There is no sense in crying over what has happened. We need to learn from those experiences so we can ensure that it does not happen again. That is the job at hand now.

When we look at the capital side, there are not that many new capital projects being engaged in. There are some classrooms that have to be built, because come September we do not want to find ourselves with no space for the children. There is also the geriatric and mental health ward at the hospital, which is long overdue. We also need to ensure that is done as quickly as possible because as it stands now nearly all of the hospital beds are taken up all the time, many being used by patients that would utilise the geriatric and mental health ward once completed.

In Cayman Brac we have the renovation of the Aston Ruddy Civic Centre to ensure that is at the level of a hurricane shelter. That is important! And there is also the West End Post Office that will soon be started.

By and large, out of the \$28 million being borrowed for capital, the larger portion is being borrowed for ongoing capital projects that were started and have to be completed. So, we did not have a lot of choices.

There are other needs, but when we looked at what we projected for revenue, we figured that was the most we could go for, and be able to organise ourselves with debt repayment, which did not cause us to be nervous about the country’s ability to service the debt.

The Government is confident that the people of this country will co-operate at all levels, and that is certainly an important factor in the equation, for us to get it right. I also believe, while it is fair to expect most people to be anxious for things to get better, people understand clearly that these are matters that one has to continually work at.

Mention was made by the Third Elected Member for George Town . . . and I think, it is fair comment and say that there was a slight misunderstanding when he thought the Minister of Education was referring to the reduction of duties when he spoke about “free lunches” having to stop. What he really was speaking about was the long list of duty concessions Members recently got a copy of.

**Hon. Roy Boddén:** True!

**Hon. D. Kurt Tibbetts:** The Minister of Education was not speaking about the reduction of duties on certain items.

I truly wish for everyone to understand that my game is not to make someone look bad. I do not have any time for that, Mr. Speaker. When I need to take someone on, or they need to take me on, the world knows about it. I do not hide it and I do not want anyone else to hide it. I do not have a problem with that!

I have spoken about these duty items and duty being taken off of these items a couple of times here before. I also spoke about making sure that when we look at the expenditure side we have the accompanying revenue to ensure that we can accommodate our expenditure. People have been saying that this Government has caused all the prices to go up, and I know the actions Government has taken—some were painful, but we did not have a choice.

How could we come to this legislature asking to borrow some \$40 million for recurrent expenditure? We could not do that. That was the kind of decision we were faced with in trying to strike the balance. We did not know until we were beginning to try to start the budget process exactly what had happened last year. It does not matter whose fault it was because I am not addressing that.

Last year, when duties were taken off on the eve of the Budget Address, the projected revenue that included the duty, which was taken off those items, was not adjusted. In the immediate term, it painted a false picture when comparing what we almost certainly knew the expenditure and revenue to be. From the beginning, by that single action, without addressing it on both sides of the coin, we started off with a \$10 million to \$12 million deficit.

What that meant for us, was that if we did not put some of the duties back on, we were going to be faced with a double whammy this year. We would have had two years in the same trap with a near \$17 million deficit, before the \$5.8 million came out of general reserves to bring it down to just under \$11 million. The country could not stand that deficit; that was my position, and I take full responsibility for it. We can all complain, but if we listen to reason we will understand that the country could not take that.

Other Members have said that we cannot look to beat dead horses. I have said that too, agreeing with it. I also agree that there are certain sectors in this society that need to wake up and understand that they have to bear their share of the burden. I expect that!

Because I am not one to go behind anyone’s back, let me say that the Government has been in ongoing talks with the same financial sector spoken about, and the financial sector understand that there has to be a better balance than what obtains at present. The difference with Government is that we are not going to arbitrarily impose certain fees because we are going to be up front with what the needs of the country are in the medium to long-term, and they are going to understand that this is how we plan over an ongoing period for them to contribute to the revenue. I think that is a fair way to do it. I am not afraid to speak to that publicly, but if it had been dealt with years ago we would not be in the mess we are in now. I mean, let us face it, if you have money in your pocket and no one comes to you for it, you are not going to throw it up in the air and say ‘see here, take this!’ It does not work like that, does it? That is what we are faced with now, and that is the way we are dealing with it. We

could not have simply brought a revenue package if we did not have to borrow for recurrent revenue. The revenue package we were going to have to bring would have been in excess of \$45 million; that would have been another hullabaloo. Unprecedented! That is what we were faced with, and we need to understand that very clearly.

We can disjoint ourselves and speak to any piece of the pie as we wish, and perhaps sound good doing so, but let us make sure we look at the whole picture and have a clear understanding.

This is the plan: We are going to engage in a medium-term financial strategy and public sector investment programme. By way of policy and in concert with all representatives the Government is going to develop what we believe in the medium-term to be the list of priority capital projects. We are going to make sure that we work in tandem with that by ensuring that the revenue streams in the years to come satisfy the need to be able to fund capital projects. In so doing that, we will always have the ability based on the resources at the time to prioritise what we are doing, and not just get up one morning and say we are going to do this, or that, not knowing how we are going to pay for it or sustain it. That is what we have been doing.

The Government's ultimate responsibility is to ensure that expenditure does not surpass revenue. That has to be one of the fundamental principles under which we operate.

Other Members spoke to the fact that the Government needs to ensure it has a more diverse revenue base; I totally agree with that. The Minister of Education who spoke to a fiscal advisory group and for everyone's information that group meets once per week and has a deadline of 1 September to present its recommendations to Government, with a view to enhancing the revenue streams and diversifying the revenue base. The group meets every week, so, we are not twiddling our thumbs. It is important at this point in time to take note of the fact that there is a lot of talent and willing commitment on the part of the private sector of this country because they want the country to work right too. I have to commend the private sector because it has certainly stepped up to the plate and is quite willing to participate in the process and offer what it has to offer—by and large, free of charge. They accept that they too have a responsibility; that is good to know. While not the cure-all, it makes life a lot easier.

While we have to engage in a loan of this nature, and that this is not what is desirable for us, I believe the position is fairly clear that it is something we have to do. I have every confidence that come November, while we may not have all the cures in place, there certainly should be a marked difference in the way we operate. It will not have been much time but it should be enough time to see a difference. This is not going to be cured overnight, but we are certainly going to get ourselves on track and employ the disciplines we

have to employ, both with government policy and in the public sector with the way we do business.

I think it is also fair to say that our Civil Service fully understands the Government's position and is also stepping up to the plate. We have to employ certain efficiencies to ensure that we get value for money spent straight across the board, top to bottom and from bottom to top. I think once we stick to our guns it will happen.

I am not going to be insulted by Members of the Back Bench keeping the Government on its toes. I practised that long enough to fully accept that this is how it should be. So, I am not offended. I only ask that in deliberations when points are made, let the points be balanced. Let me send a warning—from here on in, if they are not balanced, they will be answered. Thank you.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. I rise to support the Loan Bill. Having heard the contributions made by Members of the Back Bench, and that of the Minister of Education and the Leader of Government Business, there is really not a great deal left for me to say.

I am happy to be able to endorse almost all, which has been said in relation to this matter, with the notable exception of the startling contribution made by the Second Elected Member for Cayman Brac and Little Cayman.

We sat here in Finance Committee for eight days and went through the budget document and accompanying departmental plans in excruciating detail. I recall, in particular, one afternoon when the Third Elected Member for George Town and I felt compelled to beg all other Members of Finance Committee to put aside parochialism, to concentrate on what was in the national interest. That step taken by the Third Elected Member for George Town and I, was prompted largely by the debate which had ensued over what monies should be appropriated to the road programme in Cayman Brac.

We all know that all politics is parochial and that it is almost inevitable that Members will seek to fight for as much as they can possible achieve for their respective constituencies. Perhaps George Town is the one exception to that. It is a longstanding tradition. Nevertheless, one cannot stand on the Floor of this House during their contribution to the Budget address and Throne Speech, and denounce the Budget as impotent in one breath and then in Finance Committee try to ensure that one's constituency gets as much as it possibly can, fighting tooth and nail when there is the slightest perception that that amount might possibly be reduced.

Also one should not declare that the Budget is impotent because it does nothing to stimulate the economy, and then turn around and say on the Floor



of this House that one is not going to support the loan package that would give effect and fund the very projects for which one fought so hard.

There is nothing in my view that is more insidious and downright dangerous than hypocrisy. That is what I and other Members of this Honourable House have listened to this morning in the contribution of the Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** May I hear your point of order?

**Mr. Lyndon L. Martin:** The reference and the naming of my action as “hypocritical” is not becoming and unparliamentary by nature.

**The Speaker:** I understood the Member to say that you said one thing and meant another.

**Mr. Lyndon L. Martin:** The reference of my action being “insidious.”

**The Speaker:** Are you talking about “insidious” or “hypocritical”?

**Mr. Lyndon L. Martin:** Both.

**The Speaker:** *[Addressing the Second Elected Member for George Town].* We could take a break to study this more carefully, but I think the simplest thing would be to ask you to withdraw those two words.

**Mr. Alden M. McLaughlin, Jr.:** I do not wish to delay the proceedings, so I am willing to withdraw having termed the actions of the Second Elected Member for Cayman Brac and Little Cayman as “insidious” and “hypocritical.”

**The Speaker:** Please continue.

**Mr. Alden M. McLaughlin, Jr.:** I was heartened by the approach of all Members of the Back Bench in Finance Committee in their efforts to work together to implement what I believe, we all regard as essential policy decisions necessary to get this country back on the path to fiscal strength. Therefore, the aberration this morning took me by surprise.

I too would much rather we did not have before us a Bill requiring money to be borrowed for the purpose of funding recurrent expenditure but that is one of the harsh realities we must face. During my contribution to the debate on the Budget Address and Throne Speech, I spoke at considerable length about the need to restrain the continued growth of the civil

service, and the need to curtail the services government provides to the country.

The 16 policies that underlie the Budget will, if implemented, go a long way to reducing the continued growth in expenditure associated with the civil service. However, these 16 policies must be implemented.

I also agree with that part of the contribution by the Third Elected Member for George Town when he expressed his concern about taxes on food. I believe that we have all expressed our concern about that, indicating our unwillingness to go along with such measures in the future.

I was heartened again, to hear the Leader of Government Business advising us of the efforts being made to involve the private sector in the process, and to identify additional sources of revenue. I do not believe that it will be possible for us to simply tweak the current sources of revenue and come up over the long-term with the kind of revenue necessary to run this country. We must identify significant other sources if we are to succeed in the long-term.

With those few remarks, I give my support to the Loan Bill currently before this House and commend it to all Members. Thank you.

**The Speaker:** Do Members wish to continue, or take the afternoon break?

We shall continue. Does any other Member wish to speak? (Pause) If not, does the mover wish to exercise his right of reply?

The Honourable Temporary Third Official Member responsible for Finance and Economic Development

**Hon. A. Joel Walton:** Thank you, Mr. Speaker. I wish to thank all Members who participated in the debate, and for those who did not participate, I certainly appreciate their tacit support.

For me personally, while I have served as Deputy Financial Secretary now for probably eight years, this is my first opportunity to speak to a Bill of this nature. While it has certainly been made a lot easier by those who have come before me, I think I would just like to spend a couple of minutes talking a bit about some items (some you have heard already, some a bit new) so as not to make it completely a maiden voyage.

I would like to say that the contribution by the Second and Third Elected Members for George Town and the Honourable Minister of Planning, in particular, certainly helped to put the situation in vivid context. Therefore, my job is a lot easier in trying to wind up.

Perhaps we can look at the gap. There has been a lot of discussion over the last several months about the gap the country faces. After we examined the Budget and all the various options available to us, in bringing a budget to this House we were left with a situation of some \$51 million left to cover. So, after accepting the position of the capital side of the Budget, loan financing in that area is more easily understood than in the case of the recurrent side. There-

fore, my contribution really focuses on the recurrent side.

We had some \$51 million to close in order to bring a budget to this House. The first step we took was to remove \$5.8 million from the general reserve fund and transfer that sum into the general revenue fund. That then left us with \$46 million left to close.

The way we presented the Budget (that is, the Government) was to seek approximately \$20 million in new taxes, in taxes generally, and to borrow \$26 million in order to balance the recurrent side of the budget.

If we did not take that step, that is the dual step of \$20 million in taxes and \$26 million in recurrent expenditure, we would have to then look again at the recurrent expenditure. Perhaps it would be useful to look at the Budget to understand how recurrent expenditure is made up.

On table 2 of the Draft Budget 2001, as laid on the Table, we see that the recurrent expenditure for 2001 is projected at \$277 million. If you look further into the document, on page 14, entitled "Table 10", we see of the sum of \$277 million, \$152 million relates to personal emoluments.

Taking \$152 million from \$277 million leaves us with \$125 million in all other recurrent expenditure of Government, which ranges from subsidies to agencies to electricity and utility bills, scholarships et cetera. That is what makes up that additional \$125 million.

If we were to attempt to remove \$46 million from that \$277 million, I think we need to appreciate that it would be hard not to look at personal emoluments which comprise more than half of the total recurrent expenditure. However, to look at personal emoluments at this point in time would not be an option considering the state of the economy as it is now, and that all islands within the Cayman Islands rely heavily on government jobs to make a living.

There are a couple other points I would like to speak on, one being the customs concessions a couple of Members have referred to. The Government has undertaken to review these concessions as we did back in 1997. We will do that again this year with a view to making recommendations (as the Portfolio of Finance) to Government as to how to deal with some of those concessions. Some of those do go back to the 1950s and 1960s. So it is not something that just occurred last year, they have a long historical context.

In a lot of instances, when the concessions were put in place, they were put in place for a very good reason. However, situations change and it is important that we keep these concessions under review at least once every four or five years.

We heard a lot of discussion about the approach to the problem. I have tried to put all the various strategies within the context of economics, that is, short-term, medium-term and long-term. It helps to give structure to the various approaches the Government has taken to address this gap which has taken some time to develop.

In the short-term, the first thing Government did was to seek the support of the public service during the last six weeks of 2000 in restraining recurrent expenditure. That programme worked extremely well. It does not end there, and for the benefit of the Members and the Public Service I would like to say that this situation is not going to be corrected within the next year or so. It is taking some time to develop, but the key is that we do have a plan to address the situation.

The next thing Government did, being faced a \$17 million deficit was to withdraw \$5.8 million from the general reserve fund to help bring the deficit down to a much more manageable level, that is around \$11 million, at the end of 2000.

In addition, the 16 strategies were developed and promulgated and I would suggest that the three main ones relate to the offsetting policy, which I think is an excellent idea, in that, whenever we seek to add expenditure to the budget we simultaneously seek to add the financing for the expenditure. The way the finances of Cayman are organised, in good times we can wait. When there is a fall off in economic growth it becomes very difficult to sustain the expenditure level.

The second broadest area of restraint relates to staffing. From the figures I provided earlier, more than half of \$152 million out of \$277 million relates directly to staffing. Therefore, we are seeking to, as a Government and as a public service, to do our best to keep the growth and the levels down—basically hold the line. Rather than adding new people we are doing our best to do more with less people where we can.

When vacancies arise, we are seeking to not fill those vacancies where we can unless it is a serious detriment to public services.

In the second broadest area, mention was made over the last several months of how we need to be as a country, thinking of 2002-2003 expenditure levels on recurrent expenditure as very much the same as we expect to spend in 2001. Even with a major upsurge in economic growth, I would submit that is the way to go. Otherwise, I submit, we will repeat history.

Other short-term measures taken by government related to revenue measures. I explained earlier why government had to introduce revenue measures. Also, it is not a one-off situation, some of the revenue measures presented earlier this year also relate to next year, specifically those relating to financial services, which I think, in the meantime, those fees do not kick in until January 2002, so as not to make those fees retrospective. That is why they do not come in until January 2002. Some \$6 million or \$7 million relate to that year.

In addition, mention was made of the fiscal advisory group, another joint public/private sector effort to look at the revenue side, not just today but in the future. Part of the terms of reference of that group is to look at the expenditure side as well. There are areas which government provides services for now that in partnership we could provide the same services, I

suggest, at either the same cost or lower cost, in order to ease the burdens of the current revenue of the country.

The other area government looked at in the short-term was to focus on ongoing capital projects. The capital development budget for 2001 relates to completing ongoing capital projects. The Minister of Planning alluded to that earlier. In addition, there are some absolutely essential projects, mainly schools and healthcare, which government felt was absolutely needed and could not be put off a further nine months.

There has been a lot of discussion about the medium-term financial strategy and public sector investment programme. The council has been around since the early 1990s. Unfortunately, we have yet to put it in place. However, that is another strong medium term tool we can use to plan the finances over more than one year, that is, over a three year period, and at the same time look at areas where we can stimulate economic growth, be it new or existing. That process is very much ongoing. We expect that at the very next meeting of the Legislative Assembly the Government will be able to present to this House a draft document which will allow Members of this House to have direct input into the process.

The other broad medium term strategy the Government is actively pursuing is the implementation of the financial management initiative (FMI), which has been around for several years. The two main thrusts will be implementation of accrual accounting and our output budgeting. The whole idea here is to increase transparency of what we do, while at the same time increasing levels of accountability to pave the way for further development of civil service management.

In addition, the Government has had, and continues to have discussions with several private sector entities about trying to do things jointly. This is in areas of education, environmental health, and other areas including the Portfolio of Finance and our promotion efforts, seeking to do more, but do it together to ease the pressure on the recurrent revenue of the Island. At the same time stimulate further economic development in new as well as existing areas.

More on the long-term side, Members will note that throughout the D-Plans presented with this Budget, a lot of reference has been made to the Vision 2008 Document. This, I would suggest, is the way the whole budget process needs to go, that we just do not budget or build in a vacuum, but in the context of a broader term strategy which has the support of the people of these Islands.

As for a medium-term strategy, if the money continues into the future, it is hopeful that, by putting in place financial accounting information systems, the public service will be able to do things in a much more efficient and effective way. A lot of the problems are solved when you have the right information at the right time. Unfortunately, the system we have now, which has been around for decades, no longer cuts it. We need to change that system.

The other broad area of a long-term nature is that government is actively pursuing the development of a growth management plan, seeking to set the stage for further economic growth. It is true that these long term approaches, in addition to the medium and short-term correct the imbalances we now face. Finance and development is never easy, no matter what country you live in. In Cayman it is particularly more difficult because our revenue base is limited. For that very reason we need to be thinking of innovative ways of maintaining revenue, providing services, and keeping government small. Thank you.

**The Speaker:** The question is that a Bill entitled A Bill for a Law to authorise the borrowing of up to \$55,473,110 for the Financing of Specified Capital Projects, Capital Acquisition and General Revenue Fund Expenditure be given a second reading. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**Mr. Lyndon L. Martin:** May we have a division please?

**The Speaker:** Madam Clerk, please call a division.

**The Clerk Assistant:**

**DIVISION NO. 6/01**

**Ayes: 10**

Hon. James M. Ryan  
Hon. Samuel Bulgin  
Hon. A. Joel Walton  
Hon. D. Kurt Tibbetts  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr.:  
Mr. Alden M. McLaughlin, Jr.:  
Mr. V. Arden McLean

**Noes: 4**

Mr. Gilbert A. McLean  
Mr. Anthony S. Eden  
Mrs. J. Y. O'Connor-Connolly  
Mr. Lyndon L. Martin

**Absentees: 4**

Hon. W. McKeever Bush  
Hon. Linford A. Pierson  
Mr. Rolston M. Anglin  
Dr. Frank S. McField

**The Speaker:** The result of the division is 10 Ayes, 4 Noes, 4 absents.

**AGREED BY MAJORITY: THE LOAN BILL 2001 GIVEN A SECOND READING.**

**The Speaker:** The House will now go into Committee to consider a Bill entitled, A Bill For A Law To Authorise The Borrowing of up to \$55,473,110 for The Financing of Specified Capital Projects, Capital Acquisition And General Revenue Fund.

**HOUSE IN COMMITTEE**  
**COMMITTEE ON BILL**

**The Chairman:** Please be seated. The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Second Official Member to correct minor printing errors and such in these Bills?

Would the Clerk state each Bill and read its clauses?

**THE LOAN BILL 2001**

**The Clerk Assistant:** The Loan Bill, 2001.

- Clause 1. Short title.
- Clause 2. Power to borrow.
- Clause 3. Appropriation of loan to specified purposes.
- Clause 4. Principal and interest of loan.

**The Chairman:** The question is that clauses 1 through 4 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1, 2, 3, AND 4 PASSED.**

**The Clerk Assistant:** The Schedule.

**The Chairman:** The question is that the Schedule do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**SCHEDULE PASSED.**

**The Clerk Assistant:** A Bill For A Law To Authorise The Borrowing of up to \$55,473,110 for the financing of specified capital projects, capital acquisition and general revenue fund.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** That concludes proceedings in committee on a Bill entitled A Bill for a Law to authorise

the Borrowing of up to \$55,473,110 for the financing of specific capital projects, capital acquisition and general revenue fund. The question is that the Bill be reported to the House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: THE BILL TO BE REPORTED TO THE HOUSE.**

**HOUSE RESUMED**

**REPORT ON BILL**

**The Speaker:** Please be seated.

Bills, Reports. The Honourable Temporary Third Official Member responsible for Finance and Economic Development.

**THE LOAN BILL 2001**

**Hon. A. Joel Walton:** Thank you, Mr. Speaker. I am pleased to report that a Bill entitled, The Loan Bill, 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Bills, Third Reading.

**THIRD READING**

**THE LOAN BILL 2001**

**The Clerk Assistant:** The Loan Bill, 2001.

**The Speaker:** The Honourable Temporary Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I beg to move that a Bill entitled, The Loan Bill 2001, be given a Third Reading and passed.

**The Speaker:** The question is that a Bill entitled A Bill for a Law to authorise the borrowing of up to \$55,473,110 for the financing of specified capital projects, capital acquisition and general revenue fund be given a Third Reading and passed. Those in favour please say Aye. Those against, No.

**AYES and one audible No.**

**The Speaker:** The Ayes have it.

**Hon. Edna M. Moyle:** Can we have a division please?

**The Speaker:** Madam Clerk, please call a Division.

**The Clerk Assistant:**

**DIVISION NO. 7/01**

**Ayes: 10**

Hon. Samuel Bulgin  
Hon. A. Joel Walton  
Hon. D. Kurt Tibbetts  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden Jr.  
Mr. Alden M. McLaughlin, Jr.  
Mr. V. Arden McLean

**Noes: 2**

Mrs. J. Y. O'Connor-Connolly  
Mr. Lyndon L. Martin

**Absentees: 6**

Hon. James M. Ryan  
Hon. W. McKeever Bush  
Hon. Linford A. Pierson  
Dr. Frank S. McField  
Mr. Gilbert A. McLean  
Mr. Anthony S. Eden

**The Speaker:** The result of the division is 10 Ayes, 2 Noes, 6 absent. The Bill has accordingly been given a Third Reading and passed.

**AGREED BY MAJORITY: THE LOAN BILL 2001  
GIVEN A THIRD READING AND PASSED.**

**The Speaker:** I shall entertain a Motion for the adjournment of this House.

**ADJOURNMENT**

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until tomorrow at 10 am.

**The Speaker:** The question is that this Honourable House do now adjourn until tomorrow at 10 am. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.05 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM THURSDAY, 24 MAY 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**24 MAY 2001**  
**10.43 AM**  
*Twenty-fifth Sitting*

*[Prayers read by the Honourable Temporary Third Official Member responsible for Finance and Economic Development.]*

**The Speaker:** Please be seated.

Proceedings are resumed. Item number 2 on today's Order Paper. Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Second and Third Official Members, and also from the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport. They are all off the Island on business. Also, the Third Elected Member for George Town is off the Island.

Moving on to item number 3 on today's Order Paper- Presentation of Papers and Reports. Before calling upon the Honourable Minister of Planning, I would like to read briefly section 10(1) of the Governor (Vesting of Lands) Law (1998 Revision):

**SECTION 10(1) GOVERNOR (VESTING OF LANDS)  
LAW (1998 REVISION)**

**"10. (1) A disposition by the Governor under section 6, or by the Governor in Council under section 9 shall be void unless, prior to the completion of such disposition-**

**"(a) full details of the land of which it is proposed to dispose, and of the terms of the proposed disposition, have been advertised in a newspaper circulating in the Islands and in the *Gazette*;**

**"(b) a report, accompanied by the documents specified in subsection (2), and recommending the proposed disposition has been laid on the Table of the Legislative Assembly for 21 days by the Minister for the time being responsible for Lands; and**

**"(c) a motion to reject the report has not been made within the period that the report is on the Table of the Legislative Assembly; or**

**"(d) if a motion as is mentioned in paragraph (c) has been validly made, it has been voted on and negated by the Legislative Assembly."**

I would further like to read section 28 (3) (of the Interpretation Law (1995 Revision).

**SECTION 28 (3) (OF THE INTERPRETATION  
LAW (1995 REVISION)**

**"The expression "subject to negative resolution" when used in relation to any regulations shall mean that those regulations, as soon as may be after they are made, are to be laid before the Legislative Assembly, and if the Legislative Assembly, within the statutory period [which, I may add, is 21 days] next after any such regulations have been so laid resolves that the regulations be annulled, the regulations shall be void as from the date of the resolution, but without prejudice to the validity of anything done thereafter or to the making of new regulations."**

The Honourable Minister for Planning, Communications and Works.

**PRESENTATION OF  
PAPERS AND REPORTS**

**GOVERNOR (VESTING OF LANDS) LAW  
(1998 REVISION)**

**REPORT AND RECOMMENDATION ON THE  
REQUEST FOR A CROWN GRANT (UNCLAIMED)  
OF BLOCK 48E, PARCEL 26, TO  
MARY FRANCES WILLIAMSON;**

**GOVERNOR (VESTING OF LANDS) LAW  
(1998 REVISION)**

**REPORT AND RECOMMENDATION ON  
REQUEST FOR A CROWN GRANT (UNCLAIMED)  
OF BLOCK 14D, PARCEL 58, TO  
CEPHAS S. ROBINSON;**

*and*

**GOVERNOR (VESTING OF LANDS) LAW  
(1998 REVISION)**

**REPORT AND RECOMMENDATION ON THE  
TRANSFER OF BLOCK 4D, PARCEL 463, TO  
THE CAYMAN ISLANDS MISSION  
OF SEVENTH DAY ADVENTISTS**

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

I crave your indulgence to lay on the Table three reports that have been prepared in accordance with the requirements of the Governor (Vesting of Lands) Law (1998 Revision).

These reports detail three matters which have been in the works for some time, in fact, the former Minister of Agriculture, Communications, Environment and Natural Resources, had begun preparations to Table these reports during the September 2000 meeting of Parliament, but was ultimately not able to do so.

As required by law, the details of the transfers have been published in the *Cayman Islands Gazette* and the *Caymanian Compass* on 28 August, 2000, and 5 September 2000.

Also as required by law, three valuations were carried out on each property. Each valuation report forms part of the overall report and provide an indication of the value of land which the Government now proposes to transfer. One report deals with the transfer of a portion of Crown land in West Bay adjacent to the Cayman Islands Mission of Seventh Day Adventist Church on Batabano Road.

The site to be transferred is block 4D parcel 463, and is the result of a subdivision of Crown property, block 4D parcel 55. The Seventh Day Adventist Church had applied to the previous Government for permission to lease the site for youth activities, namely, to construct a youth hall and a basketball and volleyball court. After considering their request, Executive Council decided to grant the site to the church rather than lease it as requested.

This Government has honoured that prior commitment and therefore the report proposes to transfer block 4D parcel 463 to the Cayman Islands Mission of Seventh Day Adventists.

The valuations on this block and parcel estimate its open market value to be in the region of \$16,000 to \$18,000 (Cayman Islands Dollars).

In the other two reports, the Government proposes to transfer the title of land as a result of requests for Crown grants on claim. Such requests are for land which was unclaimed at the time of Cadastral and later registered in the name of the Crown as prescribed in the law. In accordance with the legal procedure for claiming such property, the requests were investigated by the Director of Lands and Survey and his report on the results of the investigation, along with evidence supplied by the claimants was then reviewed by the Legal Department and found to be in good order in each case. The requests were then submitted to Executive Council for consideration and were ultimately approved.

One request for Crown grant unclaimed is to Mary Frances Williamson for block 48E parcel 26. The valuation on this property estimate its value to range from \$14,000 to \$20,000 (Cayman Islands Dollars).

The other request for Crown grant unclaimed is to Cephias S. Robinson for block 14D parcel 58. The valuation on this property estimate its open market value to be in the region of somewhere between \$150,000 and \$200,000 (Cayman Islands Dollars).

Thank you.

**The Speaker:** So ordered.

Moving on to report number 4, Cayman Islands Government, 2000 Annual Report of the Central Planning Authority and Development Control Board by the Honourable Minister responsible for the Ministry of Planning, Communications and Works.

**CAYMAN ISLANDS GOVERNMENT  
2000 ANNUAL REPORT OF THE  
CENTRAL PLANNING AUTHORITY (CPA)  
AND DEVELOPMENT CONTROL BOARD (DCB)**

**Hon. D. Kurt Tibbetts:** I beg to lay on the Table of this Honourable House the Cayman Islands Government—2000 Annual Report of the Central Planning Authority and Development Control Board.

**The Speaker:** So ordered.

**Hon. D. Kurt Tibbetts:** I really do not have too much to say on the tabling of this report. The year 2000 was very productive for the Central Planning Authority and approximately 1173 applications were approved by the CPA and DCB in Cayman Brac and Little Cayman combined. This year the Authority addressed many important issues that have tremendous implications for the future wellbeing of these Islands—issues such as beachside setbacks and aesthetics were of considerable concern.

The CPA executive secretary and the department saw several changes in the year 2000. In December, the Director of Planning (of four years) left the Island and Mr. Kenneth Ebanks, formally the Assistant Director of long range planning was appointed as Acting Director of Planning.

Important initiatives were undertaken to review the Islands wetlands, conduct a study of the Islands fill and aggregate supply and to begin implementation of growth management strategies, all of which are ongoing as we speak.

The Department initiated several efforts to improve customer service including the following: hiring additional staff (an Enforcement Officer and Plans Examiner), drafting a land development guide, a new computer tracking system, and production of a web page.

Several positive results of these improvements were seen throughout the year and I think I can confidently say that many others are sure to follow. Applications continue to be processed efficiently throughout the year and additional efforts were made to provide additional staff training and knowledge through educational courses, conferences, and seminars.

**The Speaker:** Department of Environmental Health (DOE) Alternative Systems Analysis Solid Waste Feasibility Study for Grand Cayman – 31 March 2001, to be laid on the Table by the Honourable Minister responsible for Planning, Communications and Works.

**DEPARTMENT OF ENVIRONMENTAL HEALTH  
ALTERNATIVE SYSTEMS ANALYSIS SOLID  
WASTE FEASIBILITY STUDY FOR  
GRAND CAYMAN 31 MARCH 2001**

**Hon. D. Kurt Tibbetts:** I beg to lay on the Table of this Honourable House the report of the Department of Environmental Health Alternative Systems Analysis Solid Waste Feasibility Study for Grand Cayman – 31 March 2001.

**The Speaker:** So ordered.

**Hon. D. Kurt Tibbetts:** For over 20 years the George Town landfill has served as the repository for the waste of Grand Cayman. With growth and prosperity in Grand Cayman, the amount of waste generated by residents, business and institutions has grown tremendously—far beyond the expectations of those who placed the first load of garbage in what was then fondly referred to as “the dump.”

Gradually, the landfill has reached the point where full capacity is a looming prospect. Assuming the disposal activity remains within the current active landfill area, and is filled to a maximum height of 50 feet, an estimated two years’ capacity remains.

In preparation for this eventuality, the DOE has prepared an alternative systems analysis for Grand Cayman, which I am tabling at this point in time. This 190-page study is a comprehensive report on the current solid waste situation today, and it speaks to reasonable alternatives for tomorrow.

In the spirit of transparency, I am tabling this report for the benefit of Members of the Legislative Assembly and the country at large in order to promote meaningful dialogue about the future of solid waste management in Grand Cayman.

Many factors must be taken into account in selecting a replacement system. What is the cost of our current waste management system? What will it cost to move towards more environmentally sound disposal methods? Who will provide these services? What level of processing do we advocate prior to disposal? Does a particular technology make more sense for our country? These are but some of the questions we have to ask ourselves and to find solutions for.

This alternative systems analysis presents four systems for our consideration:

- Land filling alone,
- Land filling with windrow composting of yard waste;
- Land filling with in-vessel composting of yard waste and organic waste; and
- Land filling with waste to energy.

You may have noticed along the four systems a common element, that is, the need for a landfill. Regardless of the type or design of any processing technology that we prefer, we are left with a basic fact

that there are always going to be materials that cannot be processed or recycled.

Residual waste will always remain at the end of the processing line. Facility downtime due to scheduled maintenance and unscheduled repairs will require also the use of a landfill. The question is not whether a new landfill is required, but how long the new landfill will last.

To site a landfill will not be an easy task. But certainly, it is critical. George Town has hosted the landfill for decades. It is time, I believe, for another district to take its turn. Unlike George Town, however, the new host community will benefit from advances in landfill technology and operation designed to minimise environmental and aesthetic impact. Traffic will be minimised by the transfer of waste from a transfer station, which obviously would remain in George Town, to be constructed at the site of the existing landfill.

The alternative systems analysis is a comprehensive summary of solid waste management systems for present and future. It does not select the system, but gives us the information we need in order to make that decision. It does not include draft legislation, but it identifies the important elements to be included in future solid waste laws and regulations.

New legislation will no doubt have to be adopted in order to promote the selected system and protect any private investment in the provision of solid waste services if private sector providers are utilised.

Time is short. In order to meet the deadline imposed upon us by necessity we must move away from disparaging the current system as a means to justify the need for a better one. That activity, in my opinion, is simply a waste of precious time. We must take the information contained in this study and meet the challenge of deciding how we are going to address this need for future disposal capacity in Grand Cayman.

I am confident that together we can develop a new system—one that takes us to the next level of environmental protection and one that is uniquely suitable to the needs of the Cayman Islands. Thank you.

**The Speaker:** Traffic (Radar Speedometer) Regulations 2001, to be laid on the Table by the Honourable First Official Member responsible for Internal and External Affairs.

**TRAFFIC (RADAR SPEEDOMETER)  
REGULATIONS 2001**

**Hon. James M. Ryan:** I beg to lay on the Table of this Honourable House the Traffic (Radar Speedometer) Regulations 2001.

**The Speaker:** So ordered.



**Hon. James M. Ryan:** The Traffic Law (Law 24 1991), (1999 Revision) empowers the use of radar devices for checking speed on vehicles. The Traffic (Radar Equipment) Regulations (1999 Revision) names two speed-measuring devices for determining the speed of vehicles.

From time to time equipment becomes obsolete. These devices are no exception. The Traffic (Radar Speedometer) Regulations 2001 will simply allow for the purposes of section 92 of the Traffic Law (1999 Revision) a device designed or adapted for recording the speed of a motor vehicle activated by means of a microwave beam(s) and approved from time to time by the Commissioner for detecting speed of vehicles.

All this small amending regulation will do is allow the Commissioner to change or use a particular type of radar when one becomes obsolete and a new one comes on the market so that each time this happens we do not have to change the regulations. Thank you.

**The Speaker:** First Report of the Standing House Committee to be laid on the Table by the Chairman the Second Elected Member for Bodden Town.

### FIRST REPORT OF THE STANDING HOUSE COMMITTEE

**Mr. Gilbert A. McLean:** I beg to lay on the Table of this Honourable House the First Report of the Standing House Committee.

**The Speaker:** So ordered. The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** As the matters in the Report affect various activities relating to the House and Members of the House, I think it might be best if I read the Report as it has been laid.

[Reading]

#### 1. INTRODUCTION

*The Legislative Assembly appointed the Standing House Committee with the passing on 15 November 2000 of Government Motion No. 2 and resolved that—*

*“in accordance with provisions of Standing Order 79, this House appoints a Standing House Committee charged with the duty to make recommendations to the House in respect of —*

- a) *matters affecting the working conditions comfort and facilities for Members during Meetings of the House;*
- b) *matters affecting the working conditions, comfort and facilities for the staff of the House;*

c) *The operation and maintenance of the library of the House and the provision of research facilities;*

d) *The maintenance, upkeep, furnishing and equipment of the Legislative Assembly building;*

*AND BE IT FURTHER RESOLVED THAT the Standing House Committee shall comprise five Elected Members, one of whom will be elected by the Members of the Committee as Chairman, one as Deputy Chairman;*

*AND BE IT FURTHER RESOLVED THAT the quorum of the Committee shall be three Members of the Committee including the Chairman and Deputy Chairman.”*

The Motion was moved by the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs.

#### 2. MEMBERSHIP OF COMMITTEE

In accordance with the provision of the Motion, the following Members were nominated and appointed by the Legislative Assembly to be the Members of the Committee—

Mr. Gilbert A. McLean  
Captain A. Eugene Ebanks  
Mr. Lyndon L. Martin  
Dr. Frank S. McField  
Mrs. Julianna Y. O'Connor Connolly J.P.

At the Committee's first meeting, Mr. Gilbert McLean was elected Chairman and Captain Eugene Ebanks, Deputy Chairman of the Committee.

#### 3. MEETINGS

The Committee has thus far held four meetings, viz —

- (i) 24 January 2001
- (ii) 26 January 2001
- (iii) 6 March 2001; and
- (iv) 10 April 2001, when the Committee considered this Report.

#### 4. RECOMMENDATIONS

The Committee wishes to note and recommend the following —

##### (a) Chamber microphones.

The Committee notes that various microphones in the Chamber are malfunctioning and recommends that they be repaired as expeditiously as possible.

The Committee further recommends:

- (i) that quotations be sought for the installation of a wireless microphone system for use on special occasions, such as presentations;
  - (ii) that a second microphone be installed on the Clerk's dais to improve efficiency during Committee Stage proceedings.
- (b) Speakers**  
The Committee recommends that speakers with volume control adjustments be replaced in all rooms and that the quality output of the speakers in the Chamber be examined.
- (c) Smoking**  
The Committee notes that it has been a long-standing policy that all Government buildings, including the Legislative Assembly, are non-smoking environments. The Committee therefore recommends that smoking in the Legislative Assembly Building be prohibited.
- (d) Building structure**  
The Committee notes that the outside footing of the Legislative Assembly Building is in a state of dilapidation and strongly recommends that the Public Works Department be requested to submit a report to this Committee on the structural condition of the footing and undertake repair work as soon as possible.
- (e) Use of Committee and Common Rooms**  
For security purposes, the Committee recommends that the doors of both the Committee and Common Rooms remain closed at all times and that the lights in these rooms remain off when not in use.
- (f) Bathroom fixtures.**  
The Committee recommends that the Public Works Department be requested to examine and repair fixtures in all bathroom facilities.
- (g) Members' Lockers.**  
The Committee recommends that the locks on Members' lockers be changed to enable Members to utilize them.
- (h) Telephone lines**  
The Committee recommends that an installation technician repair all telephone lines in the building that are in need of attention.
- (i) District Offices for Members of the Legislative Assembly**  
The Committee recommends that all matters affecting District Offices for Members of the Legislative Assembly be included under the Terms of Reference of the House Committee.
- (j) Housekeeping**  
The Committee is aware of noxious odours permeating the building when cooking takes place and recommends that the Clerk of the House requests an examination of the exhaust system in the kitchen.
- (k) New Recording Equipment for the Legislative Department**  
After comprehensive consultation with the Director and Deputy Director of Computer Services, the Director of Broadcasting, Radio Cayman, and the Legislative Assembly's audio technician the Committee recommends that the recording and audio equipment, be replaced and that the Clerk of the Legislative Assembly seek technical advice from the above named persons in determining the most suitable equipment.
- (l) Parking of Strangers' vehicles**  
The Committee is aware of the lack of security around the precincts of the building as well as the lack of parking accommodation for the Legislative Assembly and recommends that vehicles, other than those of Members of the Legislative Assembly and prescribed Officers of the Department, should park outside of the precincts of the Legislative Assembly building. As parking space is also limited in town, the Committee recommends that vehicles used by the media be allowed to park in designated places along the sidewalk which passes in front of the Legislative Assembly building during House meetings. Each authorised vehicle should be required to display on the windshield a Pass prescribed by the Department for this purpose.
- (m) Security Unit**  
The Committee recommends that a proper security section, under the Office of the Serjeant-at-Arm, be established for the purpose of:
- monitoring security cameras;
  - monitoring the precincts, both inside and outside the Building at all times – and, more specifically when Parliament and Committees sit; and
  - inspection of cameras, telephones and other technology being brought into the Building; and that security cameras be placed strategically to cover the building and precincts.
- (n) Security Cameras**  
In regard to security cameras for the building and its precincts, the Committee recommends that quotations be sought and submitted for the Committee's consideration in regard to cameras being installed –

- in the Chamber above the entrance door
- to monitor the stairwell
- in the parking lot; and
- other strategic places as deemed necessary.

This should be done in conjunction with recommendation (r) below.

**(o) Development of a Web Site**

The Committee held consultations with the Director and Deputy Director of Computer Services concerning the possibility of developing a website for the Legislative Assembly. Consequently, the Committee recommends that Computer Services be requested to develop the first stage of a website for the Legislative Assembly and recommends that the Clerk of the House report on the development of same to the Committee. The Committee notes that this is a no-cost item that Computer Services will provide.

**(p) Use of electronic notepads in the Press boxes**

Further to the Director of Computer Services providing the Committee with information on electronic notepads the Committee considered the possibility of the Department procuring three portable computers for rent to the Press, the benefit being that the laptops would contain only Government approved software and hardware options to ensure that the privacy and security concerns of the Legislature are addressed. The Director indicated that a 'break even' may not be possible and, further, that Press personnel may be more familiar with their own equipment.

The Committee expressed the view that laptops are being continually updated and that, if Government could place laptops in the Press boxes, keeping them current with new technology could be an ongoing expense.

The Committee agreed that it would meet at a convenient date and time in the future with representatives of the Press to take input from them on this matter.

In the meantime, the Committee recommends the use of electronic notepads by media representatives in the Press Boxes but that the notepads be restricted to

- no capability of recording voice or video
- no connection to the Internet
- no capability of wireless transmission,

and subject to the Honourable Speaker in the House putting in place appropriate guidelines for any infringement of the above restrictions.

**(q) Purchase of computer monitor and Printer for use by Members of the Legislative Assembly.**

The Committee has been made to understand the computer provided in the Common room for use by Members is on loan from the Computer Services Department and one of its purposes is to allow Members access to the Internet. The Committee recommends that a quotation for a monitor, computer and printer be obtained from Computer Services and purchased this year. The Committee also notes that it will be necessary for Computer Services to create user names for Members to allow them access to the system and Internet.

**(r) Installation of permanent wiring and robotic television cameras for the Chamber**

Further to an inquiry from Cayman 27 (CITN) about the possibility of installing permanent camera connections for live coverage of the Legislative proceedings, the Committee met Messrs Alpert and Whitley of CITN together with other interested technical parties, that is, Mr. Loxley Banks, Director of Broadcasting, Mr. Loxley Gould, recording technician for the Department, Mr Gilbert McLaughlin, Director of Computer Services and Wesley Howell, Deputy Director of Computer Services. Further to in-depth discussion with all parties the Committee recommends:

- That three modern remote TV cameras be installed in the Chamber. One on the East and West walls and one above the entrance to the Chamber.
- That permanent wiring and outlets on the outside of the building be installed to provide TV connection hook-ups for any TV providers as approved and recommended to this Honourable House by the House Committee.

The Committee has been provided with a costing for equipment and labour from CITN for the project and recommends that the Government, in consultation with the House Committee and with the advice of computer Services and Government's other relevant technical advisors seek other costings for this project as soon as possible. Ultimately, the Legislative Department will need the services of a part-time technician to control the cameras and lines in the building during meetings of the Legislative Assembly.

**(s) Medium term financial strategy 2001-2003**

The Committee considered the needs of the LA over the ensuing years 2001-2003. (I may add here, Mr Speaker that this was a request which came from Government that information should be provided for the plan which was being looked at by Government over a three year period.)

The Committee first considered-

**The Major issues currently facing the sector, that is-**

- lack of a modern library/ research facility
- lack of security
- lack of civic knowledge concerning the Legislative Assembly, its functions and its Members
- lack of communications to local and international communities
- lack of space in the Legislative Assembly building

**The Committee recommends the following Goals for the sector for the next 3 years -**

- Implementation of a Library/Research unit within the Department and electronic storage of all records to be centralised under this Unit.
- Implementation of a comprehensive internal security unit for the Legislative Assembly.
- Implementation of an educational programme in the schools' system and a public relations programme catered to educating the general public.
- Creation of a web-site for the Legislative Assembly.
- Computerisation of District Offices for Members of the Legislative Assembly.

**The Committee recommends the following Medium Term objectives, strategies and plans for the period 2001- 2003.**

**Year 2001:**

- (i) Determine cost/, manpower /, space for new Library/ Research unit.
- (ii) Determine design and cost of website (the Committee has been advised that this project can be undertaken at no cost).
- (iii) Determine cost for computerising District Offices for Members of the Legislative Assembly and implement.
- (iv) Review computerised technology for recording and transcribing proceedings of Parliament and determine costs.
- (v) Prepare needs' assessment for space for the Legislative Assembly Building and its precincts.

**Year 2002:**

- Subject to findings in (i) above, advertise post of Chief Librarian / Hansard Editor.
- Commence scanning/ storage/ cataloguing for old Hansard electronically.
- Commence re-conditioning and cataloguing of audiotapes.
- Commence cataloguing of vellum and repeal legislation and secure safe storage.

- Subject to e-commerce being instituted formally by the Government, implement sale of laws online.
- Prepare the necessary input for establishment of a web site.
- Implement item (iv) above.

**Year 2003**

Achieve and review objectives

**Possible impacts on other sectors**

The Committee is of the view that the purchase of Parliamentary documents –laws on-line will create a positive impact for both the public and private sectors. The sale of laws to overseas clients will have a direct, positive impact on the economy of the Cayman Islands by enhancing our services on-line as an international financial centre.

**The constraints/risks in realizing the medium term plan are -**

- ❖ Office space

The Committee is greatly concerned in with regard to the inadequate office space for the current operations of Parliament. The work of Parliament has increased significantly since 1972. The Department is clearly in need of space to facilitate the increased demand for its services. Some areas in need of space are -

- A modern, high-tech library / research Hansard unit.
- Space to service the procedural operations of Parliament
- Facilities for a proper security unit.
- Parking space
- Facilities for the working operations of Members.

It is the view of the Committee that the design of the existing building is severely limited for any significant extension. The Committee recommends that the Government seriously considers the acquisition of additional land upon which to extend the facilities of Parliament. The Committee also recommends that, in addition to the acquisition of land for the Legislature, and, as a possible alternative, it is time to consider the pros and cons of a new multi-storey building being constructed over the existing one – designed, ultimately, to encompass the present.

Other areas of constraint risks are –

- ❖ Manpower
- ❖ Time-table for the implementation of E-commerce
- ❖ Costs

**(t) Seating Arrangement in the Chamber**

At the recent Local Commonwealth Parliamentary Association Seminar on Parliamentary Pro-

cedure and Practice held 19 through 21 February 2001, resource speaker Mr. George Brancker CBE, LL.B. and others spoke of many practices and procedures of the British Parliament and of Parliaments and Legislatures throughout the Commonwealth in respect of seating arrangements for Members in Parliament.

There is, it was explained, a seating convention observed in parliaments throughout the Commonwealth for the Government, the Back Bench, and the Opposition Members, as well as the significance of the placement of the Mace in the Chamber in relation to seating. The Committee recommends that the Legislative Assembly should move to conform to the historical and long-standing Parliamentary convention in this regard. The basic change would be to a seating arrangement by Legislative function rather than by district seating arrangement. The Committee recommends that discussion on this arrangement be held with Honourable the Ministers and Elected Members at the earliest possible date.

## 5. REPORT TO THE HOUSE

The Committee agrees that the Report be the Report of the Standing House Committee to this Honourable House and, in accordance with the provisions of Standing Order 74(5), I, the Chairman, do move that this the Honourable House adopt the recommendations of the Committee contained in this Report.

*[End of reading of Report]*

**Mr. Gilbert A. McLean:** It is signed by all five members of the Committee.

**The Speaker:** Is it your intention to move a motion for the acceptance of this report?

### MOTION TO ADOPT RECOMMENDATIONS

**Mr. Gilbert A. McLean:** Yes, Mr Speaker.

In accordance with the provisions of Standing Order 74(5), I move that the recommendations contained in the Report be adopted by this Honourable House.

**The Speaker:** I shall now put the question that the recommendations contained in the Report be adopted by this Honourable House.

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, may I ask for a short suspension to consult the Chairman of the Committee on an item in the Report?

**The Speaker:** We shall suspend proceedings for five minutes, but I ask members to please remain in their seats in order to not lose too much time.

*[At the wish of the House, the Honourable Speaker suspended proceedings until 1.45 pm].*

### PROCEEDINGS SUSPENDED AT 11.32 AM

### PROCEEDINGS RESUMED AT 2.13 PM

**The Speaker:** Please be seated.

Continuation of the Report of the Standing House Committee.

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you.

As Members are aware, you allowed a suspension for certain consultation on this report. I am to report to you that, further to consultation with Honourable Members it has been agreed that paragraph 4(i) of the First Report of the Standing House Committee be deleted.

I, therefore, wish to lay on the Table of this Honourable House the Report with exclusion of Paragraph 4(i) and now move in accordance with Standing Order 74(5)

that the recommendations contained in the Report be adopted.

**The Speaker:** Do you have a seconder?

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I beg to second that motion.

**The Speaker:** The Report of the Standing House Committee has been duly moved and seconded. I shall now put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

### AGREED: RECOMMENDATIONS CONTAINED IN THE FIRST REPORT OF THE STANDING HOUSE COMMITTEE ADOPTED.

**The Speaker:** Moving on to Government Business, Motions. Government Motion No. 1/01, Establishment of National Youth Commission and Committee of Inquiry into the Causes of Social Breakdown and Violence among Youth in the Cayman Islands.

The Second Elected Member for West Bay.

## GOVERNMENT BUSINESS

### MOTIONS

#### GOVERNMENT MOTION NO. 1

##### ESTABLISHMENT OF NATIONAL YOUTH COMMISSION AND COMMITTEE OF INQUIRY INTO THE CAUSES OF SOCIAL BREAKDOWN AND VIOLENCE AMONG YOUTH IN THE CAYMAN ISLANDS

*(Continuation of debate thereon)*

**Mr. Rolston M. Anglin:** Thank you.

The debate on this Motion started some two months ago, so we have had a considerable break since that time. However, there were a couple of pressing points that I wanted to share.

As the Team of Better Balance campaigned, we did so on the basis that we would be efficient in the use of our time here in this Legislative Assembly.

**The Speaker:** I thank you!

**Mr. Rolston M. Anglin:** The Deputy Clerk informed me that I had gone for one hour so far. So, I will be brief in my comments as I traditionally am—

*[Members' interjections]*

**Mr. Rolston M. Anglin:** And "brief", of course, is relatively speaking!

*[Members' interjections]*

**Mr. Rolston M. Anglin:** We believe in efficiency on the Back Bench, and a number of members have passed on to me a couple of points they wished to raise, however, they did not feel it was necessary to actually get up and contribute because they supported the substantive motion, including Members of the Opposition.

I want to bring a couple of matters to the attention of Honourable Members and the wider community simply because I think they are of grave importance when looking at the matter of youth violence in our community.

One only needs to go to recent editions of the *Caymanian Compass*, namely, Friday, 18 May and Wednesday, 23 May, to see that this issue is on everyone's mind.

There is an article on page 6 of the 18 May *Caymanian Compass* entitled, "Call for National Response to Youth Crisis." The article outlines an address by the Hon. Chief Justice, Mr. Anthony Smellie, to members and guests of the Justices of the Peace Association's Annual General Meeting ( AGM ). If you

will indulge me, I would like to read one short area of his address, under the section of parental control. I quote:

**"Certainly, a primary influence must be the changes in family structures and family life and their most direct result—the breakdown in parental control. This cause itself has many causes: the increasing number of broken marriages, the lack of parental skills and insufficient attention to the care, control and discipline of children, the change in domestic priorities from the focus on the family to the focus on material wellbeing and occupational advancement, the increasing distance and indifference of our neighbors who were once encouraged to, and did assume a much more caring and supportive avuncular role and perhaps most lamentable of all, the increasing pressures upon single parents, especially single mothers which keep them away from their children simply in order to earn a living."**

I am of the firm view that as a community we must address this issue at the root cause so that we can try to apply preventative measures. Of course, our approach will have to be holistic. There will inevitably be young persons who fall through the proverbial cracks. As we look around today we have many young people in dire need of assistance. So, I am not saying that we do not need to approach things from that level, that is, in terms of having a youth remand centre and other things outlined over the last few weeks in the Throne Speech and Budget Address.

However, I have long felt that in our Island as outlined by the Hon. Chief Justice, there have been certain matters that we have known about but, for whatever reason, people do not address them in their own lives. To complicate the matter, I go back to the comments made by the Hon. Chief Justice where he spoke about the "increasing distance and indifference of our neighbours . . ." That can be taken to not just mean physical neighbours. This indifference has caused us to not hold each other in our community accountable. We almost seem content to talk about someone else's child without being man or woman enough to talk to the adult themselves. I would submit that this not only happens among neighbours but among families.

I find it rather ironic that we just had an election where accountability was such an important matter- it was high on everyone's agenda. But accountability has to be the order of the day within all sectors of this community. We are a small community, yet, socially we have fallen so far so fast. We are now scrambling to try to come up with solutions, social policies and ideals as to how we will interact with each other in an acceptable fashion.

As I look at the comments of the Honourable Chief Justice, I also see a matter that I firmly believe is at the very core of this issue and, that is, the control and discipline of our children. Let me state categorically for the record that when I speak of discipline I

am not necessarily advocating physical punishment. I am not saying there is anything wrong with physical punishment. I certainly was physically punished when I was growing up, and it helped to mould and shape me. However, as soon as the word "discipline" is mentioned in today's world, all of a sudden you are in trouble because the next claim is "physical abuse", "child abuse" and all that sort of nonsense.

If we are going to continue as an undisciplined, anything-goes-society, then we must accept that the current social state will inevitably be a byproduct. If we do not have parental control and discipline within our homes, I respectfully submit that we will forever be throwing millions and millions of dollars on youth programmes and youth remand centres simply because the children coming out of those homes will be undisciplined and will cause a lot of trouble within our community.

Just to update everyone, I came into possession of the rough estimates of juvenile crime – not broken down, just raw juvenile crime figures. Between 1999 and 2000, there was a 29% increase in male juvenile crime, and a 54% increase in female juvenile crime. These are offences for which juveniles have been arrested and charged.

I then looked at the *Caymanian Compass*, dated 23 May 2001, on a continuation of the coverage of the AGM of the Justices of the Peace. I looked at some of the comments made by the outgoing president of the Association, and I quote: "**Cayman is in a state of crisis because the future men and women of our country are in crisis.**"

From discussions I have had with the Backbench and the Government Bench we all accept and recognise that we are indeed in the midst of the crisis. No one is under any false illusions that the crisis is "coming"—the crisis is here and we must act now!

We have bragged over the years of being a God-fearing people here in Cayman. I would just like to remind us that when the Chief Justice said that control and discipline of children was a contributory factor to the breakdown in parental control, I draw reference to the Bible, for this is where our source of belief as a Christian community comes from. There are numerous places throughout that great Book that tell us that discipline must be a part of our lives.

In Proverbs 19:18 "**Discipline your children while there is hope; do not set your heart or their heart on destruction.**"

Hebrews 12:5-7 says, ". . . **My child, do not regard lightly the discipline of the Lord or lose your heart when you are punished by Him, for the Lord disciplines those he loves, and chastises every child whom he accepts. Endure trials for the sake of discipline. God is treating you as children. For what child is there whom a parent does not discipline?**"

So, when I advocate discipline, I do not merely advocate it because someone told me so; I advocate it because it is a principle enshrined within the Holy

Bible. If there is any message on this issue that I wish to send out to my colleagues in this House and my fellow citizens in this community, it is to live a disciplined life. We cannot expect to live an 'undisciplined, anything-goes', life and expect to have positive results. That is not feasible. There is no one easier to fool than one's self.

A lot of times parents find it hard to identify with their children. However, it is every parent's duty to keep up with and monitor the activities of their children, including what they watch on television, and listen to on radio. I am certain that a lot of parents in this country would be shocked if they took the time to see what their children were watching and heard what they were listening to. If you were to listen to some of the lyrics of the rap songs that are part of pop culture and which are readily available . . . in fact it came to my attention that an establishment holding itself out as a teen disco, plays such music.

Of course, I am treading on dangerous ground because those who promote an "anything-goes" society quickly castigate people like me by saying, "it is the child's right to listen to what he wants to". Well, I respectfully submit that we need to do some serious soul-searching in this community; we need to be willing to admit to ourselves that sometimes what is not popular is the right thing to do. The Bible tells us to discipline our children. We as adults must hold each other accountable; we must go down the road of living a disciplined life.

In the Friday *Caymanian Compass*, page A16, you will see a group of teenagers performing at a local beauty pageant. You will see a group called "Ghettofabulous." I wonder if people realise what the word "ghetto" means. I wonder if people really think about what their children are glorifying.

We want everything in Cayman. We want to live life as we see fit; but then have perfect children too. That is craziness! Unless the adults in this community are willing to say enough is enough, then God be with us.

Issues have been bandied around for many years, such as curfews and censorship. But that is all that happens—they get bandied around. It is time for this community to do some soul-searching and decide what it is we want out of life. What do we collectively want at the end of the day?

We can look back over the last 10 to 15 years and see the results—juvenile crime on the rise; single parenthood on the rise; domestic abuse on the rise. If that is what we want, then we do not need to change a thing. We can take this motion, reject it and just live on as we have been living but if it is something more wholesome that we want out of life, then we must change our ways; we must change the way we all live and I include myself in that. There was only one perfect one to grace the face of this earth, so we are all included.

Do we want censorship in teen nightclubs? Do we want censorship in record shops? Are we willing

to accept foul, degrading music played on the radio, in teen discos, and sold in the record shops? Do we want curfews? What do we want?

As a people, our attention span seems to be so short. An issue will arise; a teen will kill another teen and everybody is all impassioned about it for about six to seven days. Memories fade and everybody goes back to business as usual and nothing is heard again until it happens again.

I am very disappointed when I hear people so quickly stop talking about the crisis we have with our young people. What are we going to do about it? People should be phoning their legislators and representatives. The people should be calling neighbourhood meetings and coming up with common ground positions and submitting them in writing but we do not want to work. We want everything to be spoon-fed to us. We also want all these problems to quickly disappear. They are not going to disappear. They are only going to get worse unless adults in this community take stock of their own lives. We also like to blame our little community, so it is much easier to say it is all Government's fault and not anyone else's.

We must look at ourselves in the mirror and be truthful and honest. We must acknowledge that unless you are being a part of the solution, unless you are being in some way active, then you must be a part of the problem.

I call on the church community in this Island . . . you know, going to church on prayer meeting night, and going to church on Sunday morning, getting up, reading a scripture and feeling good, listening to an impassioned sermon . . . that is not the role of the church according to the Bible. I am no biblical scholar. but one just needs to read the book of Acts and read about the life that Paul lived, and see what God has ordained for anyone who dares to call himself a Christian.

I think, per capita, we have more churches in this Island than probably anywhere else in the world. Yet, look at the moral state. Look at the moral fabric of this Island. We must be willing to put some effort and not simply throw our hands in the air and say *'Well, you're the MLAs we sent you there to fix all of our problems.'* My God, if it were only that easy, what a beautiful Island we would have!

My colleague, the Elected Member for East End, also shared some very insightful information with me. It was taken from the website of the American Psychological Association (APA). I myself have often been a critic of psychologists simply because they seem to not want to talk about discipline. Since discipline is such a heavy part of the Bible, I find it difficult to support a lot of their positions. However, there is some insightful and critical information to be gleaned from this Association.

They start off by asking the question **"Are some children prone to violence?"**

And they answer it by saying, **"There is no gene for violence. Violence is a learned behaviour and**

**is often learned in the home or the community from parents, family members or friends."**

Let us start looking at ourselves in the mirror. Let us stop blaming others and Government for all life's problems.

They then go on to talk about gang violence in the American setting. They say that **"only a small percentage of youth join delinquent gangs and relatively few gang members engage in violence."** That is in the American setting. **"Nonetheless, in three out of four cases of murder and assault committed by youth, the perpetrators are likely to be gang members."**

They then go on to talk about TV. "Does TV really intensify violent behaviour?"

**"After review of hundreds of research findings, three major national studies have concluded that heavy exposure to televised violence is one of the significant causes of violence in society."**

I think it is fair to say that we receive the same TV that the Americans receive. So this is very relevant to the Cayman context. And the three reports were the Surgeon General's Commissioned Report 1972, the National Institute of Mental Health (Ten year follow-up 1982), and the Report of the American Psychological Association's Task Force on Television in Society in 1992. So this gleans some 20 years of research for them to come to this position.

They then go on to say that **"viewing violence on the screen has the following negative effects: it increases the viewer's fear of becoming a victim of violence with the resulted increase in self-protective behaviours and increased mistrust of others."** What a way to live your life.

**"It desensitises the view to violence resulting in a callous attitude toward violence directed at others and a decreased likelihood of taking action to help a victim of violence."**

Point 3, **"It increases the viewer's appetite for becoming involved with violence. It often demonstrates how desirable commodities can be obtained through the act of aggression and violence."**

And finally, they say, **"Sexual violence in X and R rated video tapes widely available to teenagers have also been shown to cause an increase in male aggression against females."**

And it is fair to say that domestic violence is one of the biggest problems in our society. And, since violence is a learned behaviour, if a child sees his mother or father, more predominately his father hitting on his mother, what else are we to expect but to produce violent children. It is a vicious cycle.

They then go on to ask, **"Where do we go from here?"**

**"The process by which violence is taught is circular: it begins in the family, expanding through culture of the larger society in which a child grows and matures; and then again is reinforced or discouraged in the family."**



**“When parents demean and strike each other, or their children, then children are encouraged to be bullies or fight back on the playground. And when they have easy access to real or toy guns and other weapons, violence is being taught.**

**“When violence and sexual aggression is combined in the media in song lyrics, in multimedia video computer games, and in vernacular, the message of violence, including sexual assault, is reinforced.”**

They then have a quote from their organisation, **“Rather than waiting until violence has been learned and practised, and then devoting increased resources to hiring policemen, building more prisons and sentencing three time offenders to life imprisonment, it would be more effective to redirect the resources to early violence prevention programmes, particularly for young children and adolescents.”**

That has to be part and parcel of our approach.

They say that the following matters need to be taught to children, **“problem-solving, stress management, assertiveness, anger control and impulse control.”**

**“Parent training and support through school based programmes parent mentoring and support programmes, individual and family counselling and therapy and community based programmes appear to work best.”**

This reinforces my call to the people of this community to get involved in the lives of young people. We cannot sit idly by and say ‘*Oh, look at this one child, he bad, eh?*’ Are we going to wait until one night he climbs through our bedroom window and does something bad to us or a family member? Or are we going to stand up and be a part of the solution? We must be involved in the lives of our young people if we expect to reverse and stop this trend and start producing wholesome, well-adjusted young people.

I end by quoting from the APA, **“Youth violence prevention and intervention programmes must: 1) start as early as possible; 2) educate parents and other caregivers in prevention strategies, teaching parents effective non-violent coping skills is critical to any intervention programme.”** And I stress non-violent coping skills because the discipline that the Bible speaks of and demands of us is non-violent.

For parents to have a disciplined environment in their household there must be no violence. However, that does not mean that parents should not chastise their child for behaviour they wish to correct. I certainly had it in my time, and it taught me valuable lessons in life that I hold fast to this very day.

It is encouraging that every Member of this Honourable House is in full support of this Motion and in full support of Government looking for ways and means. However, I call on all members of this com-

munity, particularly of the church community, to recognise that being truly involved in the lives of young people within our families, and our communities is critical—critical!—if we are going to get ourselves out of this crisis and reverse the trend.

I am frightened of what these Islands are rapidly becoming. I would like to respectfully submit to this Honourable House and the entire Caymanian community that if we do not stand up now; if we do not decide to have a zero tolerance approach to crime and violence; if we are not going to embrace our young people, trust them, incorporate them in the decision-making process within the family and teach them to be responsible adults, then we might as well not sit here and talk about this issue. It takes every single person in this community to work hand-in-hand with this problem.

No Government can legislate morality or go into the homes where children are reared and raise the child for the parent. I encourage every citizen to go to child-raising classes, parenting classes, buy parenting video and audio tapes. There are numerous Christian psychologists who make a living out of this and teach valuable lessons. I can think of Dr. James Dobbson and his focus on the family ministry. I commend it to every parent-to-be, to listen and watch these videos. He has videos on the strong-willed child, child discipline.

My wife and I started watching these some three years ago because we wanted to prepare ourselves as much as humanly possible for the lifetime that awaited us, if God so permitted us, of parenthood. We cannot simply say we will be able to adequately raise our children. We all need help. If it were so simple, we would not be having the problems we have today.

Might I also add that these problems are not limited to any socio-economic group, race or religion; it is widespread. It is endemic. It all comes from the fact that we as a community have become an undisciplined, anything-goes society. Unless we are willing to change it within ourselves, we cannot expect it to change within the children we produce.

Discipline needs to pervade all areas of this society. It was very disheartening during an official visit to Northward by the entire House, the place that is supposed to be rehabilitating those who have committed some anti-social behaviour and locked away by the powers vested in the court by the community, and yet it is so undisciplined there! In fact, some prisoners have their pants cut off. Some have hair so high they cannot put a cap on. Some have earrings. It is a loose, undisciplined environment—the very mirror of the society that locked them away. It is no wonder we have such a high rate of recidivism. We must have discipline throughout our society. We must have it in our schools, our homes, our prisons, and any youth remand centre we build. Building a centre will not solve any problem. People seem to think that.

I hear so many people say that we need a remand centre. The centre is but a building. We need

more discipline within all of our lives, within our society, and we need to get away from this loose, anything-goes approach if we are to effect positive change.

I would like to thank all Honourable Members who voiced their support, because I am going to be a member of this committee. It is going to be formed legally once we have taken the vote, and I might also add that the Committee did not just sit idly by since March until now. We met informally doing some research and groundwork, and a lot of work has been put in. We have met biweekly for the last four weeks.

I thank you, Mr. Speaker and all Honourable Members and I reiterate that if you are not being a part of the solution, I respectfully submit you are part of the problem.

**The Speaker:** Does any other Member wish to speak? (Pause) Last call. If no other Member wishes to speak, does the Mover wish to exercise her right of reply?

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Thank you.

I will be very brief. I just want to thank all Honourable Members of this Legislative Assembly for giving support to this most important Motion.

I am extremely pleased that all Members of the Legislative Assembly are committed to us finding reasons and solutions to youth violence in these Islands. I have every confidence that the members appointed to this Commission of Inquiry committee will achieve what they are being charged to do, that is,

1. to investigate the incidents of youth violence and the social breakdown among Caymanian youth;
2. to inquire into the causes of youth violence in the Cayman Islands;
3. to identify those issues and concerns which affect what appears to be disenchantment and alienation among some young persons; and
4. to make recommendations as to ways and means of combating or countering youth violence in the Cayman Islands.

I look forward to the report of this committee with recommendations for us to deal with the problem and for Government and Members of this Legislative Assembly to put into action so that we as responsible people can change the future for the youth of the Cayman Islands.

I join hands with the Second Elected Member for West Bay when he appeals to all members of the community to come on board and be counted so that we can deal with this issue of youth violence. As he said, youth violence affects no particular race, group, religion, or social standing; it affects us all. Maybe we have children and were able to raise them without incident. But it is our responsibility to do for every youth in these Islands whatever Government can do.

With those few words, I thank all Honourable Members, even though this Motion came here on 20 March and is only coming to completion today, for their support. I look forward to the committee's report.

**The Speaker:** I shall now put the question on Government Motion No. 1/01, Establishment of National Youth Commission and Committee of Inquiry into the Causes of Social Breakdown and Violence among Youth in the Cayman Islands. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 1 PASSED.**

**The Speaker:** Is it the wish of Honourable Members that we move on?

**Hon. D. Kurt Tibbetts:** I think that all Honourable Members have agreed to withdraw the Private Members' Motions so they can be put on the Order Paper for the June meeting. But I think that procedurally they each have to be withdrawn.

**The Speaker:** That is correct.

**Hon. D. Kurt Tibbetts:** Perhaps if that could be done now, then we could take the adjournment and resume tomorrow. If that is okay with you, Sir.

**The Speaker:** That is fine with me.

Moving on to item 5, Other Business, Private Members' Motions. Private Member's Motion No. 3/01 Review of the Labour Law.

The Second Elected Member for West Bay.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 3/01

##### REVIEW OF THE LABOUR LAW

*Withdrawn*

**Mr. Rolston M. Anglin:** In accordance with the provisions of Standing Order 24(14) I wish to withdraw the Private Member's Motion standing in my name to be set down in the June meeting of this Legislative Assembly.

**Mr. Cline A. Glidden, Jr.:** I second the motion.

**The Speaker:** I shall put the question that Private Member's Motion No. 3/01 be withdrawn to be placed

on the Order Paper of the next meeting in June, 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 3/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**The Speaker:** Moving on to Private Member's Motion No. 5/01. The Fourth Elected Member for West Bay.

**PRIVATE MEMBER'S MOTION NO. 5/01**

**REVIEW OF GOVERNMENT GUARANTEED HOME MORTGAGE SCHEME**

*Withdrawn*

**Mr. Cline A. Glidden, Jr.:** In accordance with the provisions of Standing Order 24(14) I wish to withdraw the Private Member's Motion standing in my name to be set down in the June meeting of this Legislative Assembly.

**Mr. Lyndon L. Martin:** I second the motion.

**The Speaker:** I shall put the question that Private Member's Motion No. 5/01 be withdrawn and placed on the Order Paper of the next meeting in June, 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 5/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**The Speaker:** Moving on to Private Member's Motion No. 9/01.

**PRIVATE MEMBER'S MOTION NO. 9/01**

**SELECT COMMITTEE TO REVIEW THE HEALTH INSURANCE LAW**

*Withdrawn*

**Mr. Gilbert A. McLean:** In accordance with the provisions of Standing Order 24(14) I wish to withdraw the Private Member's Motion standing in my name to be set down in the June meeting of this Legislative Assembly.

**Mr. Lyndon L. Martin:** I second the motion.

**The Speaker:** I shall put the question that Private Member's Motion No. 9/01 be withdrawn and placed

on the Order Paper of the next meeting in June, 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 9/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**The Speaker:** Private Member's Motion No. 12/01.

**PRIVATE MEMBER'S MOTION NO. 12/01**

**PUBLIC DECENCY LEGISLATION**

*Withdrawn*

**Mr. Alden M. McLaughlin, Jr.:** In accordance with the provisions of Standing Order 24(14) I wish to withdraw the Private Member's Motion standing in my name to be set down in the June meeting of this Legislative Assembly.

**Mr. V. Arden McLean:** I second the motion.

**The Speaker:** I shall put the question that Private Member's Motion No. 12/01 be withdrawn and placed on the Order Paper of the next meeting in June, 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 12/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**PRIVATE MEMBER'S MOTION NO. 15/01**

**PROTECTION OF CONSUMERS**

*Withdrawn*

*[Written notice received: In accordance with the provisions of Standing Order 24(14) Private Member's Motion No. 15/01 was withdrawn to be placed on the Order Paper of the next meeting in June 2001.]*

**The Speaker:** Private Member's Motion No. 16/01.

**PRIVATE MEMBER'S  
MOTION NO. 16/01**

**AMENDMENTS TO THE PENAL CODE  
(1995 REVISION)  
*Withdrawn***

**Capt. A. Eugene Ebanks:** In accordance with the provisions of Standing Order 24(14) I move that the Motion be withdrawn and put on the June meeting.

**Mr. Cline A. Glidden, Jr.:** I beg to second that.

**The Speaker:** I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 16/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**PRIVATE MEMBER'S MOTION NO. 17/01**

**PENSION DEDUCTIONS  
*Withdrawn***

**Mr. V. Arden McLean:** In accordance with the provisions of Standing Order 24(14) I move that the Motion be withdrawn and set down for the June meeting.

**Mr. Lyndon L. Martin:** I beg to second that.

**The Speaker:** I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 17/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**PRIVATE MEMBER'S MOTION NO. 4/01**

**SPECIAL RELATIONSHIP PRIVILEGE  
*Withdrawn***

**Mrs. Julianna O'Connor-Connolly:** In accordance with the provisions of Standing Order 24(14) I wish to withdraw the Private Member's Motion standing in my name to be set down for the June meeting of this Legislative Assembly.

**Mr. Gilbert A. McLean:** I second the motion.

**The Speaker:** I shall put the question that Private Member's Motion No. 3/01 be withdrawn and placed on the Order Paper of the next meeting in June, 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 4/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**The Speaker:** We had a Motion moved by the Third Elected Member for George Town, but he is not present for the Sitting, therefore it falls away. Unless provisions are specifically made it will not return again.  
The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I just want to draw your attention . . . I think we may have skipped over Private Member's Motion No. 14/01.

**The Speaker:** I think you are correct.  
The Third Elected Member for West Bay.

**PRIVATE MEMBER'S MOTION NO. 14/01**

**FAIR COMPETITION ACT  
*Withdrawn***

**Capt. A. Eugene Ebanks:** In accordance with the provisions of Standing Order 24(14) I move that the Motion be withdrawn and set down for the June Meeting.

**Mr. V. Arden McLean:** I beg to second the motion.

**The Speaker:** Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 14/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

**The Speaker:** Returning to the Motion moved by the Third Elected Member for George Town, the Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do not think the idea would be to deprive the Third Elected Member for George

Town of the opportunity to bring the Motion in the June meeting.

**The Speaker:** That is exactly why I called it to the attention of the House.

**Hon. D. Kurt Tibbetts:** However, understanding that unavoidably he is off the Island, the fact that we are going to be resuming in the morning to try to finish up all that we have to deal with, if you would, Sir, leave it as it is and let it come on the Order Paper tomorrow. If we are able to contact him, perhaps we can have some communication that will be acceptable allowing it to be withdrawn and brought back in June.

**The Speaker:** It is perfectly in order for you to move that it be brought back in June if you so wish.

### **PRIVATE MEMBER'S MOTION NO. 13/01**

#### **AMENDMENTS TO THE IMMIGRATION LAW**

*Withdrawn*

**Hon. D. Kurt Tibbetts:** If that is acceptable to you, then I ask that it be withdrawn in accordance with Standing Order 24(14) with the understanding that the said Motion be put on the Order Paper for the June meeting.

**The Speaker:** The motion is that Private Member's Motion No. 13/01 be withdrawn.

**AGREED: PRIVATE MEMBER'S MOTION NO. 13/01 WITHDRAWN TO BE PLACED ON THE ORDER PAPER OF THE NEXT MEETING IN JUNE 2001.**

### **ADJOURNMENT**

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until tomorrow at 10 am.

**The Speaker:** The question is that this Honourable House do now adjourn until tomorrow, 25 May at 10 am. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 3.17 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 25 MAY 2001.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**25 MAY 2001**  
**10.43 AM**

*Twenty-sixth sitting*

*[Prayers read by the Third Elected Member for Bodden Town.]*

**The Speaker:** Please be seated. Proceedings are resumed.

Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable Second and Third Official Members, the Second Elected Member for George Town and from the Third Elected Member for George Town.

Item number 3, Presentation of Papers and Reports.

Report 1: The Traffic (Amendment) (Variation of Fees) Regulations, 2001.

The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**PRESENTATION OF  
PAPERS AND REPORTS**

**THE TRAFFIC (AMENDMENT) (VARIATION OF  
FEES) REGULATIONS, 2001**

**Hon. A. Joel Walton:** I beg to lay on the Table of this Honourable House The Traffic (Amendment) (Variation of Fees) Regulations, 2001.

**The Speaker:** So ordered.

**Hon. A. Joel Walton:** When the Honourable Third Official Member delivered the Budget Address on 21 March 2001 he outlined a number of proposed revenue measures. Permit me to mention a couple of points the Honourable Third Official Member said in his address to put into context what we are trying to do this morning.

There were approximately 16 revenue measures proposed, and this change now being laid this morning was part of that list of 16. In terms of the proposed changes, I will just read where the changes are expected to occur.

We currently charge \$20 for vehicle inspection; cars, trucks under 1 ton, vans under 10 seats, and trailers. The proposed regulation being raised is that it

be moved to \$25. In the case of trucks 1 to 5 tons, vans 10 to 40 seats, public transport vehicles and buses 10 to 40 seats, rental vehicles, taxis, limousines, and special vehicles under 5 tons, the proposal is to move the inspection fee from \$20 to \$30.

The third category is public transport vehicles and buses over 40 seats, trucks over 5 tons and special vehicles 5 tons or over. The current fee is \$20, the proposal is to move it to \$40.

The other change is a new item. The category is transferred from overseas driving licences to driving licences of the Islands. Currently there is no fee for this particular transfer. The proposal is to charge \$25 to cover the administrative cost of doing that.

Provisional licences now cost \$25 for six months. The proposal is to simply issue a one-year permit and charge \$50. In the case of trailers, a roll-on trailer is currently no charge for that item. The proposal is to charge \$15. In the case of trailers other than roll-on trailers, there is no change other than to separate it into three categories, under 1 ton, 1-2 tons, and over 2 tons. That is the substance of this regulation.

**The Speaker:** This is a regulation under the Traffic Law 2001, and in accordance with section 119 of the Traffic Law it must lay on the Table of the Legislative Assembly.

Moving on to Report 2, The Insurance (Variation of Fees) Regulations 2001, the Honourable Acting Third Official Member responsible for Finance and Economic Development.

**THE INSURANCE  
(VARIATION OF FEES) REGULATIONS 2001**

**Hon. A. Joel Walton:** I beg to lay on the Table of this Honourable House, The Insurance (Variation of Fees) Regulations 2001.

**The Speaker:** So ordered.

**Hon. A. Joel Walton:** As there is a required Motion that comes later on in the morning, I could wait until that time to speak to the Motion and the regulations at the same time, if that is approved by you.

**The Speaker:** Moving on to Government Business, Bills. Before moving on to the Bills, I would ask for the suspension of Standing Orders 45(1), and 46(1), (2) and (4).

**SUSPENSION OF STANDING ORDERS 45(1)  
AND 46(1), (2) AND (4)**

**Hon. A Joel Walton:** In accordance with Standing Order 86, I rise to move the suspension of Standing Orders 45(1), and 46(1), (2) and (4) to allow the Bill to be read a first time.

**The Speaker:** The question is the suspension of Standing Orders 45(1), and 46(1), (2) and (4) to allow the Bill to be read a first time. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 45(1) AND 46(1),  
(2) AND (4) SUSPENDED.**

**GOVERNMENT BUSINESS**

**BILLS**

**FIRST READINGS**

**THE COMPANIES  
(AMENDMENT) (FEES) BILL, 2001**

**The Deputy Clerk:** The Companies (Amendment) (Fees) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

**THE DEVELOPMENT AND PLANNING (AMEND-  
MENT) (INFRASTRUCTURE FUND) BILL, 2001**

**The Deputy Clerk:** The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

**THE GOVERNMENT FEES  
(AMENDMENT) (INCREASED FEES) BILL, 2001**

**The Deputy Clerk:** The Government Fees (Amendment) (Increased Fees) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

**THE STAMP DUTY (AMENDMENT) BILL, 2001**

**The Deputy Clerk:** The Stamp Duty (Amendment) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for a second reading.

**THE TRAVEL (DEPARTURE TAX AND  
ENVIRONMENTAL PROTECTION FEE)  
(AMENDMENT) (VARIATION OF FEES) BILL, 2001**

**The Deputy Clerk:** The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

**THE LAND HOLDING COMPANIES SHARE  
TRANSFER TAX (AMENDMENT)  
(VARIATION OF TAX) BILL, 2001**

**The Deputy Clerk:** The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

A suggestion has been made that we take all the Bills and debate them as one. Would Members prefer to take them individually?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I think the suggestion which has been made is a wise one because there are a number of pieces of legislation being amended and they all relate to taxes.

I am aware that there is such a thing as an Omnibus Bill which includes where Government may bring a various number of amendments to legislation dealing with taxes or changes of fees. I think this is one such case. Each amendment could be referred to individually in one's debate, but it could be taken that all of these are before the House and thus open for debate.

**The Speaker:** The question would be posed separately on each Bill?

**Mr. Gilbert A. McLean:** Yes. I think that would offer Members the opportunity to vote in the way in which they wish.

**The Speaker:** Would the Government wish to consider that?

**Hon. A. Joel Walton:** Yes, we would be happy to.

**The Speaker:** I would like a motion moved for that please.

The Second Elected Member for Bodden Town, would you move the motion please?

**Mr. Gilbert A McLean:** Perhaps it would be best if it came from the Government Bench, in that, they would not need a seconder.

**The Speaker:** I thank you for that.

The Honourable Minister for Health and Information Technology.

**MOTION THAT  
ALL SIX BILLS BE DEBATED AS ONE  
AND THAT THE QUESTION BE PUT  
ON EACH BILL SEPARATELY**

**Hon. Linford A. Pierson:** I move that the Second Reading on the six Bills before us be taken as one in the Debate, and that the question be put on each one separately.

**The Speaker:** I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THAT ALL SIX BILLS BE DEBATED AS ONE AND THAT THE QUESTION ON EACH BILL BE PUT SEPARATELY.**

**The Speaker:** I will now ask the Clerk to give the Second Reading of all six Bills.

**SECOND READINGS**

**THE COMPANIES  
(AMENDMENT)(FEES) BILL, 2001**

**THE DEVELOPMENT AND PLANNING  
(AMENDMENT) (INFRASTRUCTURE FUND)  
BILL, 2001**

**THE GOVERNMENT FEES  
(AMENDMENT) (INCREASED FEES) BILL, 2001**

**THE STAMP DUTY  
(AMENDMENT) BILL, 2001**

**THE TRAVEL (DEPARTURE TAX AND  
ENVIRONMENTAL PROTECTION FEE)  
(AMENDMENT) (VARIATION OF FEES) BILL, 2001**

**THE LAND HOLDING COMPANIES SHARE  
TRANSFER TAX (AMENDMENT)  
(VARIATION OF TAX) BILL, 2001**

**The Speaker:** The Honourable Acting Third Official Member.

**The Hon. A. Joel Walton:** Mr. Speaker, I beg to move the Second Reading of the following Bills:

- The Companies (Amendment) (Fees) Bill 2001;
- The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001;
- The Government Fees (Amendment) (Increased Fees) Bill 2001;
- The Stamp Duty (Amendment) Bill 2001;
- The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill 2001; and
- The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill 2001.

**The Speaker:** Do you wish to speak to it?  
The Honourable Acting Third Official Member.

**Hon. A. Joel Walton:** Yes, Mr. Speaker.

There has been much discussion and debate on the revenue measures presented by the Government on 21 March 2001. It was explained that over the last decade in particular there has been a noticeable divergence in what the Government collects; that is the growth in what the Government collects as compared to the growth in what the Government spends.

There are various reasons for this divergence, with much debate. What we are seeking to do is simply correct that divergence. This requires several different approaches. The Government, in presenting the Budget Address and Budget document in March, laid out 16 strategies that focused heavily on the expenditure side of government. Medium term initiatives like the Medium Term Financial Strategy and the Financial Management Initiative were discussed and those are the reforms under way. There are other areas Government intends to engage in. It will make the effort to control expenditure, creating new opportunities for economic development.

The second broad area we are discussing this morning is the 'revenue' side. These measures presented in March were the first attempt to correct the shortfalls in growth on the revenue side. This morning I am only seeking to move six Bills and two Regulations through the House. If Members will recall, earlier when I spoke I made reference to some 16 broad areas which were outlined in the Budget Address. Permit me, Sir, to go through those broad items and provide information as to why I am only seeking to move six Bills and two Regulations.

The first item presented by the Honourable Third Official Member was the Customs duty, Warehouse fees and Package tax. You will recall that the larger portion of this item related to customs duty and that Bill was passed some time back; I think in late April.

The second area, Postal fees, unfortunately, does not synchronise with what was presented in the Budget Address. The postal fees required Postal Regulations to be changed and approved via Executive Council. That particular regulation has been con-



sidered and approved already. Unlike the two that I am seeking to deal with this morning, the Traffic and Insurance Fee, the postal business did not require a Government Motion or to be laid on the Table to allow it to go ahead.

The third broad category related to financial services fees. All of those requiring the approval of the House to be effected are presented this morning. Members will recall that the bulk of the fees in this area would not take effect until the date they are passed and gazetted. There are no retrospective fees in this area.

Again, when the Honourable Third Official Member laid the budget document on 21 March, he provided details of the various fees we were looking at in all of these areas, particularly the financial services area, to make it absolutely clear from then what Government intended to do, and what we are trying to do today. Having explained it back in March, we are now seeking to formalise those items by bringing in the necessary legislation this morning.

The fourth body deals with professional licensing. These areas both in the legal practitioners and the Trade and Business licence area are not here because they were prior regulations and will be dealt with via Executive Council.

The Vehicle Licensing Unit Fees is area 5. They are here via the Traffic Regulations.

The Environmental Health Fees is area 6. This will be brought in at the June meeting of this Legislative Assembly.

Items 7 - 9, Spear Gun Licenses, Law School fees and MRCU fees can all be dealt with via regulations via Executive Council.

Area 10 is Time Share Fees. This will be brought at the June meeting.

Area 11 is Infrastructure Fees. There is a Bill to deal with that item. It is not a change in the fee; it is a change in the methodology which the fee is calculated on. As opposed to construction cost, the proposal is to calculate the fee based on gross floor area.

Area 12, the Health Insurance Fund, this regulation requires a government motion and will be dealt with in June. As a precursor to that, there is no change in the rate at which contribution to the fund is made. What the regulations will seek to do is amend the way in which the funds from this fund are paid to the hospital, the Health Services Department, for services provided to indigents and the like.

Area 13—Hotel, condominium and guestroom tax is a small item (\$79,000 to \$80,000) and will be dealt with via regulations.

Various administrative fees collected by the Chief Secretary's Office, there is a Bill here entitled The Government Fees (Amendment) (Increased Fees), Bill 2001, which is now set down for second reading.

The Stamp Duty on Debit Transactions is also here in the form of a Bill, item 4, The Stamp Duty (Amendment) Bill 2001.

The last broad area (area 16) is the Land Holding Companies Share Stamp Duty, which is dealt with via item 6, the Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill 2001.

In addition to these 16 areas, I did my best to explain why there are no Bills in some situations, and why some regulations come here and some do not. There is a new area that the Honourable Third Official Member did not mention in the Budget Address and that has to do with the travel tax.

Funds collected from this item do not enter the government's revenue side. The funds go directly to the Civil Aviation Authority. I can just go through the six Bills quickly and read into the record the Memorandum of Objects and Reasons.

### **THE COMPANIES (AMENDMENT) (FEES) BILL, 2001**

**Hon. A. Joel Walton:** Mr. Speaker, this Bill would amend the Companies Law (2000 Revision) to increase the fees charged under section 218. Section 218 specifies the fees which are payable for the filing of any document, notice or return with the Registrar, the issue of any certificate or the provision by the Registrar of a copy of any document in respect of which no fee is elsewhere specifically provided.

As mentioned, in the Objects and Reasons, it is a mixture of change in existing fee and addition of some new ones.

### **THE DEVELOPMENT AND PLANNING (AMENDMENT) (INFRASTRUCTURE FUND) BILL, 2001**

**Hon. A. Joel Walton:** This Bill would amend the Development and Planning Law (1999 Revision) in order to change the method of calculating the contribution which should be made to the infrastructure fund. The Planning Department had indicated that it was difficult to assess the amount a person is required to contribute because of the difficulty in assessing construction costs. Section 41(4) of the Law is amended by deleting the reference to such costs and the new subsection (4) provides that the costs will be calculated according to the gross floor area of the development to which a building permit relates. This new method of calculation will take effect on 15<sup>th</sup> June, 2001, the same one that receives safe passage this morning or sometime today.

The Bill also repeals the definition of "construction costs" in section 41(5) and inserts a new subsection (6) in section 41. This new subsection provides that interest earned on the moneys of the fund will be retained for the purposes of the fund.

Moving on to the Development and Planning (Amendment) (Infrastructure Fund) Bill, 2001.

### THE GOVERNMENT FEES (AMENDMENT) (INCREASED FEES) BILL, 2001

**Hon. A. Joel Walton:** This Bill would amend the Government Fees Law (1995 Revision) in order to increase fees for, among other things, naturalisation under the British Nationality Act 1981 and tax undertakings to exempted companies, exempted trusts and exempted limited partnerships.

I would like to mention that some of these fees have not been changed for quite some time. In the case of exempt companies, it had not been changed since 1979; exempted limited partnerships, 1991; and exempted trusts, 1979.

### THE STAMP DUTY (AMENDMENT) BILL, 2001

**Hon. A. Joel Walton:** This Bill would amend the Stamp Duty Law (2001 Revision) in order to provide for the imposition of stamp duty on bank receipts for withdrawal from funds on deposit and on documents dealing with time shares.

The Bill amends the Stamp Duty Law providing a new head of duty called "Receipts" and under that head it is provided that a bank receipt for withdrawal from funds on deposit will attract a duty of 10 cents.

Time shares are defined in this Bill as any living accommodation in the Cayman Islands, used or intended to be used, wholly or partly, for leisure purposes by a class of persons. All of whom have rights to use, or participate in arrangements under which they may use, that accommodation, or accommodation within a pool of accommodation to which that accommodation belongs, for intermittent periods of short duration.

The Bill provides that the charge to duty on a grant, assignment or transfer of a timeshare or an interest in timeshare—if the timeshare is in an area specified in paragraph (1) of the head "CONVEYANCE OR TRANSFER of any immovable property" – 9 percent of the value of the consideration or the market value of the time share whichever is the greater;

Members will recall that we do currently have two levels of stamp duty levied, that is 9 percent in specified areas and 7.5 percent for the rest of the Island.

- (a) if the property is in an area not specified in paragraph (1) of the head "CONVEYANCE OR TRANSFER of any immovable property" – 7.5 percent of the value of the consideration or the market value of the time share whichever is the greater.

This is a new item. Members will recall that we discussed this over the last several years and this finally brings it into force if the Bill receives safe passage.

### THE TRAVEL (DEPARTURE TAX AND ENVIRONMENTAL PROTECTION FEE) (AMENDMENT) (VARIATION OF FEES) BILL, 2001

**Hon. A. Joel Walton:** On this particular Bill, I wish to give notice of a committee stage amendment.

**The Speaker:** You may or you may wait and raise it in Committee.

**Hon. A. Joel Walton:** As I mentioned earlier when I spoke about the 16 broad areas, plus one, this is a new one that had not been presented at the time of the budget and it does not enter into Government's coffers directly, but instead will be paid into the Civil Aviation Authority.

The Bill seeks to amend the Travel and Departure Tax (Environmental Protection Fee) Law (2001 R) for the purpose of varying existing fees prescribed in the principal Law.

In a nutshell, the proposal is to increase the travel tax from CI\$8.00 (\$6.00 for travel tax, and \$2.00 for the EPF), to CI\$16.00, increasing the contribution to the EPF (which enters the government's coffers) to \$4.00 and the balance of \$12.00 goes to the Civil Aviation Authority.

Members will be aware that while this is a new item, the travel tax we pay in the Cayman Islands, in relation to other similar tourist jurisdictions in the region, is still, even with this change, within the norm. Most other Islands have about \$20 to \$25 (US).

### THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (VARIATION OF TAX) BILL, 2001

**Hon. A. Joel Walton:** This Bill would amend the Land Holding Companies Share Transfer Tax Law (1995 Revision) in order to change the tax payable on the transfer of any equity capital of a land holding corporation.

Members will recall that some time back there was a change to separate properties in the following areas:

West Bay 5C water frontage only, but including any parcels subsequently divided from another parcel with water frontage existing at 9 June 1997, parcels 5D 10A, 10E, 11B, 11C, 11D, 12C, 12D, 12 E and 17A..

In the George Town registration section, 13B, 13C, 13E, 13EH, and parcels of road frontage on West Bay Road, Eastern Avenue and North Church Street, 13D, parcels with road frontage on Eastern Avenue, 14BG, 14BH, 14BJ, 14CJ OPY, and 18A.

When we amended the Stamp Duty Law some time back to distinguish these parcels from all other parcels in the Islands, and implement a 9 percent stamp duty for these parcels as opposed to 7.5 percent for all other parcels, we did not change the Land Holding Law to give the Government power to also

implement that change for land holding companies. This was a tidying up exercise.

Thank you.

**The Speaker:** The question is that Bills entitled, The Companies (Amendment) (Fees) Bill 2001; The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001; The Government Fees (Amendment) (Increased Fees) Bill 2001; The Stamp Duty (Amendment) Bill 2001; The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill 2001; and The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill 2001 be given a second reading. I may add that the question will be taken on each Bill separately. The Floor is open for debate.

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, this is a time when everyone sits and rolls their eyes, waiting to see who might speak—as I believe it is a general belief that no one should on this matter of taxes. Well, I cannot fall within that lot. Although these have fallen upon us suddenly, in that, they have not been circulated in time, thus the reason why Standing Orders had to be suspended.

I have been trying to sort through and follow as the Honourable Acting Third Official Member was reading. I seem to have some, while I do not have others.

**The Speaker:** Would you wish copies to be provided to you?

**Mr. Gilbert A. McLean:** Mr. Speaker, I think my remarks will be general, so I am not going to belabour details in any particular one.

When this session started almost three months ago, I said it was not good for the country to be saddled with \$19 million in taxes, and on top of that have to revert to borrowing \$56 million. I have not changed my position. As I take fleeting note of some of the changes, where the fees are changed, for example for British Dependent Territories Citizenship, already some people have argued that when a person is found to be fit to receive Caymanian status or BDT citizenship, it should not be something they pay for. A filing fee, I can see. There is an increase in that area too.

I have also heard the point that when you buy your citizenship you have the right to do what you wish to do. I know that is farfetched, but it has given me cause to observe how people think about these particular fees.

The travel tax is an increase of 100 percent. It seems like that almost missed the boat getting here to the floor of this House. Whether or not the money goes to the Civil Aviation Authority, we know that the funds from the CAA come into central government every time a budget is presented, and will also hap-

pen at the time of the next budget. I think everyone will understand that instead of paying \$8 travel tax, we will be required to pay \$16. I think that is a drastic leap.

The other part that I find disagreeable is the fact that for the traffic inspection, the fee is going up again. Prior to this I said that we have to stop picking at—the little man, the average citizen—the poor citizen at things like motorcar taxes. This country has to reach the point of charging substantial fees for creating the environment in which the wealthy come to make large profits and pay minimal fees compared to the profits they earn. So, I disagree with the increases in this area as well.

Another item within this particular area that I think will have a direct effect on tourists is the little piece of paper that we issue here, calling it a license, whereas some of these people drive in New York City, along the superhighways of the world, like we have to re-license them to drive in Cayman. That is going to move from \$25 to \$50. I am sure that will draw a response from the tourists who go to buy that. I think it would be remiss of me not to notice that or speak about it.

I really cannot offer any in depth contribution on these various pieces of amending legislation, not having had the time to get the Law and really look at it. However, I do have the recourse to not vote for it, and that is the position I will be taking when you put the question.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I want to join with the Second Elected Member for Bodden Town in expressing disappointment that these very important pieces of legislation were only provided with a day's notice for Members to review, consider and evaluate to formulate arguments for either side.

I know from the history of this Parliament that many of the Members comprising this legislative body share the view that there must be proper notice so Members can prepare themselves. However, the people of Cayman Brac and Little Cayman elected me to represent this nation and in so doing when anything comes before this House that, in my view, is not in the best interest of the country my position must be to vote against it. It is the only way I can show my disapproval. To simply talk about the Motion and support it would not in any way show disagreement with the position.

I truly appreciate the need to put all of these Bills under one debate, but I truly appreciate that we will have the ability to vote on each particular amendment individually.

Another disappointment I would like to express is that, in this Honourable House we have 15 elected individuals with individual capabilities, positions, and philosophies. Inevitably, these will differ. However, the

position so far has been that when an individual stands up to take a different position, he is subjected to what can only be termed as “political terrorism.”

*[Members' laughter and interjections]*

**Mr. Lyndon L. Martin:** Mr. Speaker, I would first like to address the Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001.

*[Members' laughter and interjections]*

**Mr. Lyndon L. Martin:** Mr. Speaker, I have to say that this particular amendment gives me great concern.

In March when the Budget was presented, we were given a revenue package stated at \$19.882 million. I would like to take the position that in reality this is \$27.4 million, when you apply it over a full calendar year. So, next year, every citizen of this country will be paying \$27.4 million more than they paid last year. So, the true revenue package is \$27 million.

**The Speaker:** If I may interject. . . I think you said that “each citizen” would be paying that amount. Do you mean it will be part of their expenses?

**Mr. Lyndon L. Martin:** Mr. Speaker, I take your point. The nation as a whole will have an excess tax burden of \$27.4 million.

I also would like to amend that figure, because we just learned that there is another tax being placed on the people of the Cayman Islands, including tourists, by a new travel tax increased by 100 percent. Unfortunately, we were not in a position to quantify that number today, but in a rough estimate I came up with another \$3 million. I say that is my personal rough estimate, and I stand to be corrected.

We must put this in context. Not only have we seen the approval of the single largest Loan Bill in the history of this country, we are also about to witness and vote on the highest tax package to be placed on this country.

I am cognisant of the Government's financial position. I am reminded that it is the Government's body, the Executive Council's responsibility, to come up with appropriate solutions. Those solutions will have to be vetted by the full Legislative Assembly. The responsibility lies on Executive Council to propose appropriate solutions to the economic and financial problems of the country. I deliberately broadened the scope from financial problems to include the economic problems of the country. When Executive Council put forward the tax package, the loan requirement, and the Appropriation Bill, it must be remembered that in this great country there is no central bank facility offering some form of monetary mechanism of controlling the economy. The single tool the Government has at its disposal to effect the economy is through the budget document and the tax regime.

It is imperative that when we tax we do it with a philosophy, a plan, a policy. This document that we call the Budget is the quantification of government's policies. It is the tool we have to shape and mould behaviour in the economy to bring about desired results. I am not prepared today or any other day in this House to support taxes that have no direction, no policy behind them, the only goal being to raise money and the victims being the same poor Caymanian citizens.

I would like to see aggressive and deliberate policies and tax packages that shape the “green tax package”; an environmental tax package. Let us tax problems that we have trouble disposing of. Let us give favourable consideration to those products that are recyclable. Let us have a policy, let's have a philosophy behind our tax package rather than simply haphazardly putting together taxes because they are easy to quantify and determine that if you tax eggs you are certain to collect because people always buy eggs. That is not an acceptable position for the 21<sup>st</sup> century.

We are in the 21<sup>st</sup> century. We are in a competitive environment in both of our major industries—tourism and financial services. We are not in a position to simply add fees without having appropriate intelligence, without researching and seeing what other jurisdictions are doing. When we apply a departure tax, we must look at the fact that we are in a period of slowdown in our tourism. We are in a period of time where other jurisdictions are becoming more competitive. We must look at what effect this departure tax will have on the total picture. I do not believe we can simply add \$8 on to the departure tax and assume that the volume—because revenue is the result of the tax rate times the volume—will continue. I am not saying it will not but I am not saying that we can assume it. We need to research it. We need to have the studies to show that effect.

My position from day one when dealing with this Budget was that it was time that we not only examined budgets based on expenditure items, but we must also examine the soundness of the Budget based on its revenue and its financing package. I take this opportunity to clarify my position as outlined during my debate on the Loan Bill.

We fund the Government's Budget through recurrent revenue, borrowing or tax enhancement measures. The three items are interrelated—if you change one, you have to change the others to balance out.

My position stated that when we look at borrowing, the cost associated to it must be reflected. I stated in my contribution that I was concerned that the Government body—the entire legislative body—that advocates openness and transparency would come to this House and state that there is a change in the debt service ratio, the ceiling under which repayments of loans is governed; to state that 10 percent of recurrent revenue will be changed, but for the new figure not to be given to this House. We cannot simply vote for

things because they sound good, we must examine to see if the country can truly afford it.

Can the Government tell me if the new debt service ratio is within the ceiling determined as affordable? If not, we need to re-examine it. At that time I was not in a position to vote for it because that information was not available.

I would like to go over the review measures because the listening public needs to understand that we have just embarked on a new set of revenue measures that we are not going to see reduced.

This new tax system includes taxes on household items that each citizen uses. The Government placed high weight on these in the consumer price index basket, which represents the typical goods purchased by a household. It is those items that this tax package has increased duty on.

Also, the residents of this country must understand that as a result of today's vote, when they go to the bank to withdraw money from their own accounts, they will have to pay government ten cents per withdrawal. The public must know that when they travel they will be paying an extra 100 percent on departure tax. There are numerous increases outlined in this package. I would like to restate the total, \$27.4 million.

I would like to take this opportunity to recognise the fact that my good friend, the Honourable Minister for Health and Information Technology, was off the Island for health reasons during the preparation of these taxes.

I could stand here all day expressing how concerned I am over the level of these taxes and the lack of direction and policy behind them; and the total effect this could have on the same economy that we recognise is not in a healthy state at the moment. However, I have spoken on this several times and my position is quite clear.

I want to make a clear challenge to all Members of this Honourable House. Many Members criticised the taxes and the borrowing, but felt compelled to vote for it because of the great need of the country; a great need that overcame common sense and what they know is best for the country. Today we provide an opportunity to demonstrate that one particular item that was not listed in March, the travel tax, is not part of the revenue we need to continue to fund this budget. It is not part of the \$19.88m given on our revenue measures sheet.

For Members who state that they strongly agree that we need to come up with new ways of taxing to stop taxing the same individuals, this is a good opportunity to demonstrate that commitment and join with me in voting against this particular head. I agree you might not be able to vote against the others, because you voted for them before, but this particular one has not been voted on yet. This is the first opportunity.

I conclude with that challenge.

**The Speaker:** Would Members prefer to take the morning break or continue?

We shall suspend for 15 minutes, and I beg you for 15 minutes!

## PROCEEDINGS SUSPENDED AT 11.53 PM

## PROCEEDINGS RESUMED AT 12.11 PM

**The Speaker:** Please be seated.

Debate continues on the Second Reading of The Companies (Amendment) (Fees) Bill 2001; The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001; The Government Fees (Amendment) (Increased Fees) Bill 2001; The Stamp Duty (Amendment) Bill 2001; The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill 2001; and The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill 2001. Does any other Member wish to speak? The Floor is opened to debate.

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I rise to make my contribution on the Second Reading debate of the six Bills you just mentioned: The Companies (Amendment) (Fees) Bill 2001; The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001; The Government Fees (Amendment) (Increased Fees) Bill 2001; The Stamp Duty (Amendment) Bill 2001; The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill 2001; and The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill 2001.

It is not my intention to go into details on what previous Members have said, but to give a general overview of the position as I see it and to basically state why it was important that Government take the position it took with this Budget. I think it was the right position to take, and I am still to hear any constructive suggestion from the Opposition as to how this could have been better dealt with. I have heard a lot of political rhetoric, but I am yet to hear any constructive suggestions as to how they could have bettered the situation that the Government found when it took over power.

I want to thank the Second Elected Member for Cayman Brac and Little Cayman for his kindness in trying to exempt me from the budgetary process, due to my illness at the time. I wish to remind my Honourable friend that I have always been a team player and will continue to be. I am very much a part of this Government with their successes, as well as with any problems we may encounter. Through thick and thin, I am here. I will continue to be a team player. When a matter affects the Government it affects me equally. I believe in collective responsibility and will stand here and defend any matters to do with my Government whether I am present or away from the Islands.

I believe what caused my ears to prick was when I heard the term "political terrorism" or something to

that effect. I think in my number of years here since 1984, I have not heard that term before. I am sure the Member did not use it in a derogatory manner, because I know the gentleman. However, just to say to him and other Members who may share his view, he could not have possibly been referring to any of the Honourable Members on this side of the House. If he was referring to his own colleagues, then I excuse him.

Regarding the suggestion that we should tax with a philosophy, that we should have policies in place, I wonder if when Members get up to debate they realise the very short period this Government had to plan this Budget. I would point out the situation as we found it so that the listening public can understand that we did precisely what we had to do, otherwise the country would not have been able to run as smoothly as we felt it should. We would not have been able to provide good governance to this country.

Until such time as I can hear from the Opposition—the self-proclaimed Opposition, that is—more constructive views of how they could have done it better, then I am very happy to say this is perhaps the best position that could have been taken under the circumstances. I am not going to point fingers at former members, because I respect them all. Facts are facts! When we got in we found a serious situation. Government had to take action. We had no choice.

What I find strange is that some Members will get up and support the Appropriation Bill, which is really the way that funds are allocated under expenditure heads. That is what it really is. The question, if we are not going to fall into the trap of single-entry bookkeeping, there has to be another side. There are two sides to it. Where is the money coming from for the appropriation of those funds?

With a broke Treasury, as it was at the time, we had no choice but to decide where this money was coming from. I find it difficult to rationalise how any member of this House could support the Appropriation Bill, or even have the temerity to come to Government and say *'I want to have this road fixed; I want to have that building done'* yet get up in this House and say he is not going to support the revenue measures to make this possible.

Where is the money coming from? Unless he has some money tree that I do not know about. We have to be realistic. The country has to continue to move along with the development growth we have planned for the country. That money had to come from somewhere.

I want to make reference to certain information I have available to me. With your permission, I would like to read from a script that will give the full facts of the case.

Criticism has been made of the \$55 million that Government had to borrow. We have criticism of the revenue package government had to enter into: Yet, those economic wizards have not come up with one single suggestion as to where these funds should

come from. No one on the Opposition has come up with any constructive suggestions. I want to make that abundantly clear! Talk is cheap! You get a lot of political rhetoric and I am used to it so it does not frighten me. I have been in these Halls since 1984, so nothing the Opposition says will frighten me. I am asking them to be rational. Talk sense. Be constructive.

How can they expect to get bread out of stone? They want the Appropriation Bill. The country has to continue running. They cannot shut the country down. But they get up and make the public believe that the Government is doing something that is so bad because we are trying to put together the necessary revenue. I hope that when they go outside that their own supporters will ask why they didn't make some constructive suggestions.

I hear things about taxing the little man. I am not a party to taxing the little man; but why did those Members not say exactly where the revenue could come from rather than making the public believe that we are squeezing the little man? Come on gentlemen, let us try to be more constructive. If we are going to be representatives, let us represent the true position we are faced with.

We took over the government in November 2000, but we did not get started until the 1<sup>st</sup> of this year. Then we had a budget to look after. No time to really articulate or formulate the position ahead. Yet, you will note as I move on, we did in that short time come up with 16 policies, three of which were applied. Yet, the Opposition would say that Government did not look into matters as thoroughly as it should have. Again, I say talk is cheap!

At the end of 2000 financing arrangements had to be considered for three main items. When the last government left the accumulated deficit of this country was \$10.7 million—after \$5.8 million was taken out of general reserves. Its associated overdraft was \$14 million. That is the situation we inherited.

In addition, there was some \$5.6 million in outstanding payments to suppliers that had to be paid. They were knocking on the doors. Some of them are now in the Budget. The \$5.6 million outstanding bills at the end of 2000 could not be paid because the Treasury was near its authorised overdraft limit of \$15 million. It could not be paid. That is the position we inherited.

It was considered by this Government to be improper and unethical to attempt to breach its overdraft limit. We decided not to go above that. In addition to that, the third area had to do with the payment of \$6 million in respect of the remaining ten months of cost of living adjustment, which had to be made in 2001.

When we look at these three items, we are looking right away at \$22.3 million without taking into account an additional \$3 million that was found at the end of 2000 to be paid to suppliers, with a total amount of some \$25.3 million. It was these items that formed the basis for Government's very difficult decision—the proposed borrowing of \$26.2 million to fi-

nance recurrent expenditure. That is why we had to finance recurrent expenditure. Of course, that is unusual, but we found a very unusual position when we got into government. That is why these unusual measures had to be applied.

The general revenue fund unaudited deficit on the year 2000 was equal to \$19.1 million. Just to show you how we arrive at the \$10.7 million, with an accumulated surplus coming forward from 1999 of \$8.4 million, thus leaving a net deficit position on 31 December 2000 of \$10.7 million. This was after we transferred \$5.8 million from general reserves. That is the situation we found.

When Members over there criticise Government for revenue measures and for borrowing, they are only giving one side of the story. What they should have told the country is why this was necessary and imperative. Government had no choice but to clear up the mess it inherited.

Why did we find such a bad position? What caused it? Bad policy decisions prior to our taking over in November! There were four main areas that caused this problem. It needs to be said again since there is so much rhetoric and so much playing of politics on this issue.

The four issues were: The impact of the rollback of import duties during 2000. The revenue loss is estimated to be from \$10 million to \$12 million. If duty was going to be taken off, why was not something done to adjust the accounts accordingly? It was just left. Is that good management?

There was also a failure to revise the health services fees during 2000 and the estimated revenue lost on that was between \$3.5 million to \$5 million. No proper increase was made to adjust these figures. But they had increased the projected revenue.

A third item was the impact of the seamen's gratia payment in 2000, an additional expenditure of some \$1.2 million.

The fourth major issue was the impact of payment of two months of the 1999 cost of living allowance to civil servants in 2000, which was \$1.3 million. We do not have a problem with that because civil servants earned that. It should have been properly allocated.

What were our options inheriting such a situation? We had four options. We decided to take the option that we felt was the wisest most balanced option for the country.

The four options open to government were as follows:-

- o We could have drawn down on the remainder of the general reserves, which was only \$10.1 million then, leaving no general reserves;
- o We could have cut back on the services we are providing the "little man" so often mentioned in this House, by a further \$16.1 million. That would have given us \$26.2 million. Would either one of those be the proper way to go? Should we have taken out all the re-

serves and left a nil balance? Should we have cut back services by another \$16.1 million? No! That was not the way to go.

There would have been a second option, continuing to use overdraft financing of up to \$15 million, but leave the bills unpaid. Is that good governance? I think not.

A third option was to raise an additional \$26.2 million in taxes. Now, that would have been something for everybody to talk about! Instead we decided to seek to borrow over the medium term to pay down the overdraft of approximately \$14 million at the end of 2000; outstanding bills of \$5.6 million to suppliers, and another \$3 million not entered into the Treasury accounts until the end of the year 2000, making it \$8.6 million; and other commitments that existed at year end 2000 of \$6 million that had to be paid to civil servants.

This was the option Government selected. It was decided to borrow the \$26.2 million over the medium term, in the tax package. We can tie this back into the tax package of the \$19 million that I referred to earlier.

It is important to note that while intended to use in 2001, the proposed \$26.2 million of borrowing to pay for recurrent expenditure items and let me repeat, those items arose from the 2000 year end position and nothing to do with the 2001 budget. They were debts and positions this Government inherited.

In the short time we have been here, we have put in place what we feel are remedial measures to minimise the need for future recurrent expenditure borrowing in future years. We were caught unaware in 2001. We have put in place policies that should avoid that situation happening again.

The proposed revenue measures are expected to yield \$19.9 million in 2001. As the Second Elected Member for Cayman Brac and Little Cayman rightly stated, this will be \$27.4 million when we spread it over a full year, so I give him credit for that. For the short time available to us . . . and I want to pay homage and congratulation to the Financial Secretary, Deputy Financial Secretary and their staff for their assistance to the Leader of Government Business and Members of Executive Council in attempting to put together a budget under such difficult circumstances.

Within the short period available to us, we were able to put into effect 16 expenditure control policies. These were outlined in the Honourable Financial Secretary's Budget Address. Of the 16 policies, we decided to settle for three major policies at this stage. To refresh Members' minds those three are:

1. An offsetting policy. This meant the implementation of an offsetting policy that requires an attachment of a specific revenue measure to any new proposed revenue expenditure item that exceeds \$1 million in a year. I think that is good governance. If that was done a long time ago, we would not have a deficit. Yet, they criticise us for not being able to do in

three months what the previous Government had the opportunity to do in eight years. That is irrational!

We are also aiming to have the 2001, 2002, and 2003 recurrent expenditure and capital acquisition equals the 2000 actual levels. That is good government and good policies. Yet, we hear that no policies were put in place. Perhaps the Members who said that did not understand the Budget Address.

2. The second policy was generally holding the 2001 recurrent and capital acquisition expenditures to their global 2000 actual levels, and whenever possible holding the 2002 and 2003 recurrent expenditure and capital acquisition expenditure at or near their 2000 actual levels.

3. The third policy position is under-staffing restrictions: Restrictions on staffing levels that entail implementing a moratorium on recruitment for the remainder of 2001, except for absolutely essential services. That is, the recruitment for non-essential services should proceed only when direct revenue measures are introduced to match or exceed cost or expenditure blocking offsets are found. Staffing for new capital projects that come on stream in 2001 and when the creation of the post is supported by direct revenue measures or expenditure offsets, and removing the dollar amounts from vacant posts in the 2001 draft budget except where recruitment is actively underway.

I believe that people will agree that these are sound policies that have been laid down by the present Government. We heard a lot about the impact of the \$55.4 million that had to be borrowed. I hear terms like "it is unprecedented." Of course! We found an unprecedented situation. That is why the equal measure had to be taken.

I would like to make it abundantly clear that Government's ability to service its debt is what is important about borrowing and is more important than the absolute or total value of the debt. We have remained within the ceiling of 10 percent placed on our borrowings; that is the servicing as a percentage of your total revenue.

An indication of this ability is provided by the debt service ratio, which expressed debt servicing costs as a percentage of revenue income or recurrent revenue. Government's debt servicing cost calculations includes repayment of both principal and interest relating to Central Government debt and self-financing loans.

At the end of 2000, the following position existed: The debt service ratio was 7.6 percent; the unaudited public debt figure was \$92.5 million; the unaudited self-financing loans were \$15.3 million. The effect of borrowing the \$55.47 million is therefore not expected to breach the Islands' conventional threshold of 10 percent for 2001 and 2002 and thereafter.

People have asked why Government has not already sealed up a deal with the private banks. The Government envisages repaying the recurrent and capital acquisition expenditure portion of the \$55.47

million over a period of five years. It could not be done better than that. Most governments have their borrowings over 25 to 30 years. I am not advocating that that is the best system because I would personally like to see all of our public debts reassessed and amortised over a much longer period.

I would like to see perhaps 25 to 30 years given to government. Then you would see that the servicing of the debts would be much less than what it is now. The five years that I refer to and the capital development portion of the loan would therefore be over 10 to 12 years. Just so that Members can understand my point, Government envisages repaying the recurrent and capital acquisition expenditure portion of the loan over five years, and the capital development portion over 10 to 12 years.

Just for information, a preliminary meeting with local clearing banks was held on 16 May to gauge their interest. The follow-up meeting is Tuesday coming. I would have thought that Members would be out there encouraging the banks to assist in the circumstances and not say anything in this House that could give the impression that Members are not supportive of what we are trying to do at this time. I think it is irresponsible to say the least.

I think it is true to say that the interest shown by the bank was very encouraging. They indicated that they are very pleased with the policies this Government has instituted. They have indicated that there was no sign of these policies in the past. So, there is no question that we have a good, solid Government. All we need is the opportunity to prove ourselves. We have been here just a matter of months, yet we have come up with 16 solid policies, three of which have already been put into effect.

**The Speaker:** Lunch has arrived. Would it be convenient to take the break now?

**Hon. Linford A. Pierson:** I am winding up right now.

**The Speaker:** Please continue.

**Hon. Linford A. Pierson:** Just to say that our deficit position that we found in 2000, if the accounts of the Government had been properly prepared and done as indicated in the Auditor General's Report, the position would have been much worse. That is, the amount of overseas expenses for medical still on an advance account should have been properly put through the surplus and deficit account of this country, and the deficit position would have been much worse.

Members will remember that I stood on that side of the House and debated the Auditor General's Report each year saying that this adjustment should be done. I just want to let the House know that I am now, as the Minister of Health, in the process of having all of these debts properly analysed to determine what are bad debts, what is uncollectable, what are doubt-



ful, and undergo full blast at those receivables we have a good chance at collecting.

I give my full support to these amending Bills and say that I believe we have a very solid Government. I want the country to know that we will do our best to represent this country and continue to provide the best government possible under the circumstances.

**The Speaker:** We shall suspend until 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.48 PM

#### PROCEEDINGS RESUMED AT 2.35 PM

**The Speaker:** Please be seated.

Debate continues on the Second Reading of The Companies (Amendment) (Fees) Bill, 2001; The Development and Planning (Amendment) (Infrastructure Fund) Bill, 2001; The Government Fees (Amendment) (Increased Fees) Bill, 2001; The Stamp Duty (Amendment) Bill, 2001; The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001; and The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill, 2001.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

As you and all Members of this Honourable House know, and as all within the precincts of this Assembly know, and indeed our constituents who are hearing this on the radio, or who will come to read the *Hansard* will know, this Honourable House can most often accurately be described as a House of politics. There is usually an expectation gap, that is, the general public sends us here to do a job and often say "keep the politics out of it," however, that is a road that is very often not taken.

As I listened to the contributions, I had to refer back to the Order Paper to see exactly what we were discussing here, and supposed to be debating. I would like to start by reminding Members and the public that we have something called Standing Orders. Under Standing Order 35, we have guidance on the content of our speeches. However, very often when Members get up, I think it is safe to say that the moment gets the better of them. If we look at Standing Order 35 (3) and (4), we will see that it is out of order to use offensive or insulting language about other Members and we will also see that no Member shall impute improper motives to another Member.

I will certainly do my best during my term here to ensure that I abide by the rules under which I am supposed to act. Until these Standing Orders are amended, that is what all Members are supposed to comply with.

I would like to remind all of us, including the general public, but especially the general public, because when the public hears us talk about the Budget

they listen and are not necessarily looking at the document and getting the entire picture. Now, I could easily get up and make insinuations and unsupportable recommendations that sound good to those listening on the radio but not necessarily following along in detail to see the entire picture and indeed exactly how we do finance services within the Cayman Islands.

I would like to draw Members' attention—particularly the Second Elected Member for Cayman Brac and Little Cayman—to pages 3 and 4 of the Budget document; then tie those in to page 105, 117, and 143.

If we look at line item 40602, School Fees; we see an estimate for some \$300,000. Yet, if we look at the Education Department itself, we see recurrent expenditure of some \$31,032,005. If we go to line item 40605, Garbage Fees; we see estimated receipts of \$3,205,689. However, if we go down to page 117 and look at just the recurrent expenditure for Environmental Health, we see \$6,260,958. The last example I will use is Health Service Fees, an estimate of \$8.5 million. Go to page 104, recurrent expenditure is estimated at \$42,630,547. In other words, as in most places, as in most budgets whether private or public sector, we do not see any form of direct linkage between what government collects and what government pays out on a line-by-line basis.

**Mr. Lyndon L. Martin:** On a point of order, Mr. Speaker.

#### POINT OF ORDER

**The Speaker:** May I hear your point of order?

**Mr. Lyndon L. Martin:** Under Standing Order 34 (b), I would like if the Second Elected Member for West Bay would tell this House if what he is suggesting is that Government needs to increase its taxes in order to cover these services at below cost?

**The Speaker:** That is not a point of order, but elucidation.

*[Addressing the Second Elected Member for West Bay]* Do you wish to give way?

**Mr. Rolston M. Anglin:** Mr. Speaker, you know, I pointed this item directly to that particular Member. Hopefully the listening public will have heard that Member's contribution or lack thereof! He rises on another impotent point of order, just as his contribution was! I am not surprised.

I will continue, Mr. Speaker. One can then look at Companies Registry and look at the fees collected and the cost to the department. One can look at Customs, the fees collected and the cost of running the department. The way in which we derive a budget within the Cayman context, certain areas and departments of government subsidise other areas. Whenever a government—and particularly the last govern-

ment—chooses to amend the revenue stream and there is no easy way to look at a corollary expenditure to see how expenditure is going to be cut back. One can often say that that is a game that can be potentially dangerous. All of a sudden, you see that areas of the budget subsidise other areas.

As a society, we have accepted that we are going to try to provide education free of charge. Anyone who is truthful with his constituents will tell them that is impossible. There is no way that Government can provide anything truly free of charge. The money has to come from somewhere. Even when we look at what Government collects in areas like Education or the Health Services and the cost of providing those services, you will see a significant shortfall. Other areas like Customs, where we actually collect a significant portion of our duties and the Company Registry where we collect a significant portion of our fees, those particular departments obviously do not come near incurring that kind of cost simply because we need the monies to provide education, garbage collecting, environmental health services and the hospital, health services.

It is safe to say that within the Budget that has been approved and within the pieces of legislation before us, we as an Honourable House must recognise that one seemingly, but crucial fact.

The record will show my position on this Budget. The record will show that I certainly told the Government of the day in no uncertain terms that I have the utmost confidence in their ability to rise to the challenge I issued—this was that by the time we come to the next budget session in November that the budget would have to look considerably different than it does today to get my support. Those were my words in my contribution to the Throne Speech and Budget Address recorded in the *Hansard*—forever etched in the history of this Honourable House.

I find it laughable that I would hear on 25 May 2001 the notion of no clear tax policies. Of course, the Honourable Minister of Health outlined that there are certain strategies and policies spelled out in the Throne Speech and budget document. Be that as it may, I think that it is expecting blood out of stone to think that we could go through the election we all did (and maybe some of us slept through portions of it) . . . we had no group emerge with a tax policy or an economic position. We did not have a group of eight or more who could conceivably form a government to come to the public of this country with a tax policy and an economic policy.

In fact, certainly in the Island of Grand Cayman, I do not even know of any candidate or politician who ventured into any other district to campaign along with anyone else. So, we had six distinct districts being individually fought for and 15 people won. Then we had the infamous week and at the end of that week on 15 November, we formed a government.

The individuals of that Government were themselves disjointed. We had a group of four from West

Bay of which I am a part, we had two from George Town, one from Bodden Town, one from North Side and then an independent from George Town.

So now, the Second Elected Member for Cayman Brac and Little Cayman had the audacity to stand here and tell the public that we do not have a tax policy. What world is that Member living in? Of course we do not have a tax policy! We do not have an organised political system, so how are we going to have a tax policy founded on fact and information that once the Government takes power they can implement?

We sent the group that formed the Government into that Glass House—three of whom had never been Ministers before—and told them to form a budget. Then we came here in March and said that we were surprised that we did not have an economic policy; we were surprised we did not have a medium term financial strategy in place; we were surprised that we did not have an economic policy.

Mr. Speaker, really, the politics that pervade this place is quite saddening. However, to further demonstrate how absurd it is to say that we would have a clear-cut economic policy, taxation philosophy, when we are bringing together groups to form a government; West Bay could have had the West Bay Four, and MLAs could have had one taxation ideology; the two Members for George Town could have had another taxation ideology; the Member for North Side could have had another; the Members for Bodden Town could have had another and then the independent Member for George Town could have had another. So to say we are surprised and to cast blame, knowing the system we have in the country—or lack thereof—in my opinion I do not find that to be responsible.

Further to that, the Minister from Bodden Town, the First Elected Member, ran with the Second Elected Member for Bodden Town as a team. One winds up on the Government bench and the other winds up as the Opposition—supposedly Leader of the Opposition!

I mean, come on . . . let us present the facts to our constituents. Let us stop insulting the people of the Cayman Islands. I said in my debate on the Throne Speech and Budget Address that—

**Mr. Gilbert A. McLean:** Mr. Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** May I hear your point of order?

**Mr. Gilbert A. McLean:** The question of relevance to the six Bills before the House.

**The Speaker:** I have been listening very carefully and I have given everyone a wide scope of debate during this entire meeting. Therefore, I would ask the Sec-

ond Elected Member for West Bay to stick as near to the Bills as possible. That is a valid point of order.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I guess there is political terrorism in this House after all!

*[Members' laughter]*

**The Speaker:** Would you please repeat that?

**Mr. Rolston M. Anglin:** I said I guess there is political terrorism in this House after all, because I hear point of order after point of order, trying to shut me up!

**The Speaker:** I do not particularly like that word and ask that you not use it again. I cannot say it is unparliamentary, but it is unbecoming to us as Members of this Honourable House.

**Mr. Rolston M. Anglin:** Mr. Speaker, I agree entirely. I was simply referring to a comment made by the Second Elected Member for Cayman Brac and Little Cayman who brought that expression to this House. I agree! In fact, we should have a list of unparliamentary words, and that would be on the top of the list!

Let us get straight to the point.

**The Speaker:** Thank you!

**Mr. Rolston M. Anglin:** Let us get straight to the point. Bill number 5: The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001.

We heard The Honourable Acting Third Official Member tell this House that that fee was being increased from \$8 to \$16, the ratio of sharing between the Civil Aviation and the green fund was going to remain static 3:1, \$12 for CAA and \$4 for the green fund.

This item is a new item. I certainly can agree with the Second Elected Member for Cayman Brac and Little Cayman on that point. However, just to refresh our memories I would refer to page 6 of the Draft Report of the Standing Finance Committee, in relation to the meeting we had here on 6, 7, 8 and 11 December 2000, item 10.2.

We here authorised a government guarantee on behalf of the Civil Aviation Authority, and I quote, "**In accordance with the provisions of section 29(1) of the Public Finance and Audit Law (Law 23 1985)(1997R), the committee [that is all of us] authorised the issuing of a government guarantee in the amount of \$4,550,749 to a bank or financial institution on behalf of the Civil Aviation to rehabilitate the Cayman Brac runway.**"

I await the Honourable Acting Third Official Member's winding up on this debate. I certainly see this as a measure coming forward to aid and defray

these costs that have been incurred by the Civil Aviation Authority to rehabilitate the runway in Cayman Brac. So, the Second Elected Member for Cayman Brac and Little Cayman issued a challenge. He challenged all Members to not support this item because it was not part of the original budget. Again, I agree; it was not there.

However, as I try to keep up with everything that is going on with this whole budgetary process and recognise that it is never going to be encapsulated into a finite document. The Government grows, ideas come up at different times and ideas will be brought to this House at varying times. If he wants to flog the Government for not bringing it earlier, that is up to him. I can tell that Member that I certainly see some correlation within the document that I have been provided and in the debate that has gone on over the last two months, so I will support this item.

It would be quite funny if after the runway project has been completed that the Member would not support this as well. I guess that is parochial politics, Mr. Speaker, and '*once my district gets*' we do not care about anyone else. I am here to represent every citizen in these Islands, whether from West Bay, George Town, Bodden Town, North Side, East End, Cayman Brac and Little Cayman. Yes, we are sent here as district representatives and indeed every one of us wants to make sure that our district keeps up with the rest of the Island. However, over the last few weeks some of it is has been blatantly obvious.

Item 5 on this Order Paper is the item that caught my eye because I had not seen it before. I listened intently. I have looked back and seen where there is potential for monies to be made. In fact, I also understand that there are comparable countries, territories, to the Cayman Islands that do charge amounts significantly higher than our fees. My information is that those fees need to be adjusted. I know that The Honourable Acting Third Official Member also stated that fact as he was going through his presentation.

I certainly do not appreciate nonsensical behaviour and unwarranted attacks on behaviour. I have no problems with anyone calling themselves "Opposition." I have no problems with healthy opposition. However, I do have problems with phrases like "political terrorism" and all this sort of nonsense.

I support the Motion before us, and I thank you for your indulgence as I take my seat.

**The Speaker:** Does any other Member wish to speak? The Floor is open for debate; does any other Member wish to speak?

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I was hesitating there for a while since we had gone through this Budget process in such detailed critique. Only a few days ago today's process would have been a pretty straightforward process. It seems hypocritical to me to have sat here and agreed on a budget document and then come

back and vote against the means and ways required to fund that Budget.

Seeing that we are all purporting to be reasonable and understanding Members and representatives of the people, I did not expect to have that sort of unreasonable situation.

There has been a sad trend from the very beginning of this Budget process, of voting expenditure then—it appears for the sake of opposing—not supporting the required legislation to accomplish the required expenditure that we all agreed upon. As a new Member of this Parliament, I find it very hard to consider that as responsible leadership. First to get up here and agree on expenditure that is required for the country and then not only was there criticism concerning revenue measures, the increased taxes, but there was also criticism regarding the required borrowing of funds to fund the Budget. If we are living in a realistic world—which I sometimes wonder if we all are—it is unbelievable that we can have a budget with a shortfall between revenue and expenditure and agree for that budget and then not agree on ways of finding the funding to make up that shortfall.

Again, that leads me to believe that we have some Members here who are strictly opposing for the sake of opposition, bogging down the entire operation of the country instead of making a genuine contribution as they were elected to do.

I can remember some discussion about a utopia being built a few miles away. If we lived in that utopia, we could spend as much money as we wanted and not have to worry about where it came from. Since we are not in a utopia, but in the real Cayman Islands, I am happy to see that we have a government willing to come forward and on short notice and through difficult times, come up with a sustainable plan that will allow the country to continue on the path of success that it has been on without any major hiccups along the way.

The Government was able to accomplish a budget required, and then an attempt to make up the shortfall with a “better balance” (a term very near and dear to my heart!) of new revenue measures as well as some required borrowing. There were no unbearable tax burdens and there was no unbearable amount of money necessary to be borrowed. I commend the Government on the balance they achieved which required funding to carry the country forward for another year.

When the revenue packages were introduced, other Members of this House and I made it very clear that we were not elated with the existing situation. We also made it very clear to the Government that we would support this current Budget, but that we would not support any future budgets with the same makeup. The reason is that we consider it unreasonable to expect a new government to come into power, finding the country in the situation it was in—some \$25 million shortfall—and expect them to turn that around without any borrowing or new tax package. That would be expecting far too much!

So, we were supportive and explained that we would support and assist the Government in trying to find new revenue measures after getting over this hurdle with which we were all faced. The increases we referred to, when they were voted on them had very little debate because the Government of the day searched hard and long and found some areas they felt would have the least impact on the beloved people of the Cayman Islands.

We can hear that the general public has not been up in arms, as they have in previous times with public meetings and everything else. They have accepted that this is the way that is necessary as a temporary fix, even though painful to all involved. Reasonable people who elected us to be their leaders have accepted this as being necessary. Yet, we have responsible individuals who were elected by the people to represent them who come in here playing party politics, parochial or whatever other type of politics, opposing strictly for the sake of opposition, holding up the running of the country. That has to be seen as nothing less than irresponsible.

There have been many discussions and talk about the injustice of the current increased revenue measures. There has been much discussion about the borrowing. Today we now have Bills before us required to implement the funding of the Budget. Even though we are close to the stage where our Government can get started with the business of running the country with a budget to operate with, we still seem to have one stumbling block here.

When I looked at the Bills this morning I was sure we would have a straightforward operation. There was only one Bill, the Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001, that I had any question on. As a responsible Member of the Legislative Assembly, I decided to ask the powers that be, namely, the Acting Third Official Member, what was the purpose behind that Bill and why that was necessary to come before us. I could have gotten up opposing, screaming and shouting and making all sorts of remarks which I will not bother to make, as some other Members did instead of trying to get the facts before speaking.

There is an increase in the \$8 fee currently charged to \$16. Right now, \$6 goes to the Civil Aviation Authority (CAA), and \$2 goes to the Environmental Protection Fund (EPF). We propose to increase that to \$16. I heard the Second Elected Member for Cayman Brac and Little Cayman criticising this increase. In his promise to vote against this increase, he said we should encourage an environmental tax policy. Now, I find it utterly ridiculous that on one hand he is criticising a tax and on the other hand suggesting that we should have such a tax for the same purpose!

It is really beyond me that a responsible Member would spend his time in debate to hold up the operation of the country on an issue that is doing exactly

what he is suggesting the Government should be doing. The Government has placed an importance on the environment and feels that we should be collecting more. One method of doing that is through the departure tax. That money can now be used to help save our environment. Yet, the Second Elected Member for Cayman Brac and Little Cayman is criticising that fee. Opposition for the sake of opposition—a huge waste of our time!

Currently, there is a \$6 tax going to CAA. The proposal is to double that to \$12. As my learned friend, the Second Elected Member for West Bay, mentioned, we sat here in December and gave a guarantee for the CAA to borrow money for the repaving of the runway in Cayman Brac. It could have been thought that since there was a change in government and since there was much discussion—

**The Speaker:** If I could just interrupt you for one moment, we are having quite a bit of repetition. The previous speaker spoke on this in detail. Let us move on and try to complete this.

**Mr. Cline A. Glidden, Jr.:** Okay, Mr. Speaker.

Not only did the CAA need additional funding for the runway in Cayman Brac, there is also a proposal to improve for safety reasons and build a new airport on Little Cayman with a new runway.

Even if the Member was to forget the fact that Cayman Brac has a new runway, at least as responsible representatives they should be supporting and encouraging a new runway for the other district he represents, Little Cayman. Again, should we believe that a responsible Member would expect his district of Cayman Brac to get a new runway, and then Little Cayman get a new airport without his support of a Bill that will give the CAA money to achieve those goals? That is evidence of how unreasonable that Member really is.

Not that I would expect him to understand, but it is also interesting that the CAA has upgrades to the airport in Grand Cayman as well. The Owen Roberts Airport is in need of expansion for safety reasons. It is hard for him to understand that since he might not see that as relating directly to his district.

There was a challenge issued earlier, that certain Members of the Legislative Assembly would vote against this new Bill. I myself am issuing a challenge as well: Any Member of this Legislative Assembly who is here to represent his or her people, elected by the people, knowing that this fee will give an increase to the EPF and that this fee will give the CAA the money required to continue the ongoing works in all three of our beloved Cayman Islands, I issue a challenge for any of those Members to vote against this Bill.

Besides that justification as to why it is necessary, again, in trying to be a responsible representative, I did some research as to what the departure taxes are around the Region and compared that to the Cayman Islands to see if what was being presented

was unreasonable. I do not believe in just opposing for the sake of opposition. I believe in opposing when there is reason to oppose, but my reasons have to be based on fact, not folly.

The Bill proposes that the tax will become \$20. We are known as the Gem of the Caribbean. I have spoken to cruise ship operators who say that Cayman is their premier port of call. I have noted that the cruise ships have pulled out of some locations preferring to come to the Cayman Islands.

When I look at the proposed \$20 tax, in Trinidad there is a US\$50 departure tax. In Jamaica, there is a US\$27 departure tax. Cuba also has a \$20 departure tax. Aruba and Antigua ... one is \$20 and the other is \$25. In the UK, it is actually \$30.

My research shows me—and any other Member who would research before getting up and making statements based on folly instead of fact—that this is not an unreasonable Bill. There is no reason why we should not be able to request a \$20 departure tax if that will help us keep our environment in the shape we would like it to be in with all the additional stresses and strains that are there. We should be encouraging more if we are expected to do more to save our environment.

As we all know, there are no free lunches. That mentality has to stop. Someone has to pay the piper. I am happy to see that Government has decided to make some difficult decisions. The support shown proves that when those decisions are deemed reasonable the general populace will accept them as necessary decisions to be made. The Government has taken the position that when it is necessary to make hard decisions they will make those hard decisions and not back away or look for an easy way out, or look for what is politically correct or popular. That is the attitude that got us in the position we are now.

We all campaigned about how bad things were and how things needed to change. Now, we are here and we realise how badly things need to change. I am happy to be a part of that change process I campaigned on. I say again, when these Bills are for the betterment of the country, I will support them as long as I can justify that they are necessary and in the best interest of the country. My only hope is that we will get beyond the pettiness that has been shown during this first sitting. Yesterday was a good example of the cooperation, when all Members agreed to allow the Private Members' Motions to come at the next meeting so we could finish up. Here we are on one small issue . . . we might as well have been debating the Private Members' Motions. Hopefully this was a learning experience for us all and we will do better in the future.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you.

I was a little reluctant to get up because it appears that whatever had to be said has been said. However, let me take it to a different level and make some suggestions and comments on some of these Bills.

First of all, during the campaign that was hotly contested for six months out of last year, one thing that every candidate campaigned on was that it was time to take tough decisions in order to get this country back on track. Well, 15 of those 57 got elected. Now it is time to make those tough decisions.

When the Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001 was presented this morning, my first reaction was to say that I would also vote against it because it was not part of the original tax package. Having consulted with the Acting Third Official Member just before lunch, I was assured that the monies coming from the increase would be used to fund the improvements of airports and build a new one.

While I understand that, I still have some concern with this commonly termed "green fund" because this has been in place for quite some time. As of today, we still do not know what it is going to be earmarked for. No one knows where this money is going to be spent, whether it is to protect the North Sound, or to protect mosquitoes, the birds, or the bees. Then we transfer some here and we transfer some there to be used otherwise.

The Minister of Health and Information Technology spoke about good policy decisions. I support his position on that. There is much policy decisions to be completed. One happens to be deciding what is going to be done with the green fund. That needs to be addressed and soon if we are expected to vote to increase taxes that will go towards that fund. The Government now has the challenge to tell the country what that green fund is going to be used for.

The Honourable Acting Third Official Member mentioned that some of these increases had not been increased since 1979, particularly government fees. That is another challenge the Government has because expenditure does not decrease. The time has come and is long overdue, to have a review of all fees and extrapolate how much you will need over the next 10, 15, 20 years and put that out for the world to see. I understand the Leader of Government Business is going to make some contribution here this evening and I trust he will address that.

It has been some 22 years since 1979. That is not what prudent management and planning is all about. The Portfolio of Finance and Development has a big job in front of it because we as new Members will be demanding that. I trust that will come in the medium term and long term strategic planning presented to this honourable House. The people of the country need to know with some degree of projection, what they are going to be charged in years to come. You cannot just leave it for 22 years and then increase it 200 percent. That is unfair.

It would be digested much easier if we applied three dollars each year, or one year five and the next two and such like. They are the accountants and economists who talk about one thing and then the other, who can figure these things out and give the country a clear indication as to what to expect in future fees. They have to increase, they never decrease. We cannot wait 22 years and then double it.

In the Stamp Duty (Amendment) Bill, 2001, the new area called receipts with the ten cents and then on the conveyance of property with the 9 percent and the 7.5 percent, we know over the years this country may have been taken advantage of when it comes to these fees. There are many examples where the onus is left upon the business to report these things to government in an honest manner. There are many instances where they do not.

We talked about instances such as hotel room tax. We see where government has to write that off many times. This is what I am talking about. It is time that government put provisions in place to ensure that it receives every nickel, every dime owed and if not, that someone faces the judicial system. The time has come for the office of the Attorney General to collect government's money through the courts.

Businesses are mandated to provide proper accounting of fees that they have to pay government. I would venture to say there are many who submit false information to government. Or, they become bankrupt and say that they now owe and send Government IOUs, while at the same time they have already collected these fees. These people need to serve some time. I do not mean outside, I mean punishable time.

Too much of this has gone on and as a result we have a shortfall. Due to someone's crookedness we have to tax the little man to make up. So, I look forward to the reply of the Honourable Acting Third Official Member and his addressing that issue.

During Finance Committee I questioned the Leader of Government Business, the Minister for Planning, about what was being done concerning the development impact fee. His reply was that there would soon be a Bill to address that. Instead of charging by the expected cost it will be based on the square footage. I support that and I support the change being brought here today with the exception that I do not know how realistic these fees are.

We are talking about \$2.50 in area A, \$1.50 in area B and \$.50 in area C. That sounds good for homes and apartments, but when a hotel and a commercial building and an industrial building, places a bigger impact on the infrastructure than a 4,000 square foot house. So, while these fees may seem reasonable per square foot, I think there needs to be another schedule of fees for the commercial and industrial buildings. I am sure the Leader of Government Business will address that. With his experience in planning he understands the impact that it has on the environment, on the infrastructure and roads, schools, et cetera. We just saw the amount of money

being spent on roads and we have to tax someone to pay for those roads and for our schools. Therefore, when developers put more stress on the infrastructure, they must pay accordingly.

I understand the importance of applying taxes. On at least two occasions during my short tenure I called for the assistance of the people of this country straight across the board.

We heard how one of our schools may have been damaged by a little fire. The financial industry has a perfect opportunity to step up to the plate. If all those computers were damaged, they could replace those by Monday morning because our kids are right in the middle of exams and doing their IT exams within the week. They need those for the practical exams. Now, if they cannot step up to the plate with an increase in taxes, they can do a one-off cost and assist us in replacing any damaged computers. I send out that challenge to every corporate entity in this country to do that. That will then be assisting the country, if they cannot do it on a long-term basis with an increase in taxes.

I would like to press that that is properly noted so the corporate community can get the message. If the press wants to, I would like to see them contribute a few computers to our schools as well.

I am not crying to the community, I am merely appealing to the community. We recognise that if those computers are damaged that becomes another stress on the Government.

I do not want to get into this thing about "political terrorism." I think enough has been said. I would ask the Honourable Acting Third Official Member to let us know what impact the travel tax increase is going to have on the bottom line of the total tax package. I know part goes to the CAA and part goes to the EPF. It would be interesting to hear what is projected to be placed in the EPF at the end of the day as a result of the 100 percent increase.

I ask Members to think about the tough decisions that we must make and like I said, my first reaction was to maintain consistency and to vote for the package with the exception of the departure tax. Having understood the reasoning, it is a different matter. I respectfully ask Members of this House to think of the reason for taxes. We just approved the Appropriation Bill and now it is time to fund the Budget.

**The Speaker:** Before calling on another speaker, we have approximately 33 minutes before the hour of interruption. If it is our intention to complete the business this afternoon, I would like an indication in order for the department to be prepared.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do believe it was our intention to do everything possible to complete the business of the House today. I think that we should continue that attempt, unless there is very serious objec-

tion. It seems that the majority wish to continue on. If it is possible and the staff can accommodate, perhaps we can see how long we can go on to finish.

*[The Speaker suspended proceedings for a few minutes while determining if the staff would be able to accommodate the request to continue]*

**The Speaker:** The department is prepared to go on until 6 pm. Let us hope that it will not require that much time. We shall continue and we shall certainly waive the afternoon break.

Does any other Member wish to speak? Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

**Hon. A. Joel Walton:** Thank you.

This first meeting of the 2001 Session has been quite a long one; therefore I will do my best to keep my comments to a minimum.

**The Speaker:** Thank you.

**Hon. A. Joel Walton:** A couple of points were raised, and I hope that Members will forgive me if I am not able to respond to all in an attempt to try to keep it brief.

Before getting into my reply, I wish to thank all members who participated in the debate. It certainly has been an opportunity to hear, again in some cases, the views of Members on the various measures and some new ideas. On that note, I wish to pick up on a couple of points that the Elected Member for East End raised.

The Member asked what the approximate increase in contribution to the EPF (the green fund) would be. The expected additional contribution will be somewhere in the region of \$.8 million in this year alone. Therefore, next year it will be in the region of \$1.6 million

To further comment on this particular fund, the Government has had an opportunity to look it and understand the need to develop a policy to deal with how it is to be used in the future, which was decided in this 2001 Budget not to seek to remove any money from that fund to be used for any purpose. That would give the Government an opportunity to really look at this fund, its origins and to develop a policy which the Government intends to present in the next Finance Committee meeting in June that will set out the various parameters of the fund and the method by which monies would be removed from the fund and set aside for specific projects.

A second point was to do with the need to have a systematic review of government fees. That particular recommendation is well received. It makes a lot of sense. I know that over the years the Honourable Financial Secretary has spoken about the need to do this. I would suggest that this particular tax package, which I agree is far-reaching because it attempts to

not only introduce new ideas at this point, but to bring some fees that have not been changed since 1979 up to date.

We should see this first package as an attempt to go down that road of systematically looking at these fees. We will notice that some of the things we brought today, for example, the infrastructure development fund fee was not to increase the fee, but to simply change the way by which it is calculated to make it an easier fee to administer for the Government and for persons paying this fee. It makes the whole planning process much more certain.

The second set along this review of fees would be the fiscal advisory group, which you have heard a lot about in this meeting. It is looking beyond this particular package to see what other new areas we can seek to introduce here, in an attempt to address the long term need to reverse the trend of the greater gulf in the recurrent expenditure as opposed to growth in revenue. It is not a one-way street. The policies are a mixture.

Throughout the meeting we heard a lot about the 16 expenditure control policies. I take your advice and will not debate those again this afternoon, except to say that in presenting this Budget the Government did a lot of different things. It looked at the expenditure side and it looked at the revenue side in order to do something about closing the gap. Recognising that the gap of \$46 million could not be closed at one time, even after cutting the Civil Service as far back as we could without severely hampering the delivery of those much-needed services, we were still left with a \$46 million gap on the recurrent side.

With that to deal with, we had already exhausted our options of cutting expenditure; we were then left with how much should we tax as a Government. To bring a tax package of \$46 million would not have been the thing to do at this point in time with the way things are now with the economy. So, Government had to look at splitting it between borrowing some \$26 million and taxing some \$20 million, recognising the Government's contribution. I mean, the Government does not tax the people and simply hold the money, it passes that back out in the form of salaries, purchases from the domestic economy that contributes to growth and pay for services to the public. We also buy locally. Therefore, the Government does not tax just for the sake of taxation and people recognise that. It also contributes to economic activity by using those monies to generate economic activity and further employment.

The other area also raised by the Elected Member for East End had to do with abuse. This is an area we have heard a lot about, certainly in the area of health. I know that the Honourable Minister of Health has been looking very closely at a number of outstanding advances, or loans in that area. We also have a very active debt collection operation, well managed and supported by the Legal Department.

That does not mean that we cannot continue to increase that activity and that we intend to do.

As the Member for East End highlighted, in today's package of six Bills and two Regulations, we looked at two loopholes in one particular Bill. One was the time-share and currently, there is no fee in that area. This Bill seeks to put a fee in because it captures that activity that was not so dominant ten years ago.

The second broad area was the whole debit transaction side. We had the 10 cents stamp duty on cheques. There are other forms of debit transactions, withdrawals, standing orders, money transfers, simple cash removals that were not being captured, only cheques were being captured.

We are seeking to capture the broader remit of debit transactions and require banks to submit on a monthly basis a statement with a cheque attached to it. It is not simply a fee Bill: it is an enforcement attempt to try to close that loophole.

The Member for East End also made an excellent recommendation: When it comes to looking at ways to get additional funds I am always happy to consider and that is in the area of the infrastructure fee. The fee seemed somewhat on the low side at this point. The Government undertakes to look at that. All the Government was seeking to do at this point in time is change the method of levying that fee. However, it does not mean the Government cannot, again via the fiscal advisory group, have that group look at that fee and see if there is a need to adjust the rates for various categories as well.

I think I will pick up on a comment I made earlier about the gap. If the Government and I (acting on behalf of the Third Official Member), did not introduce this combination package of borrowing \$26 million and taxing \$20 million as we had a \$46 million gap. That means that at the end of the year another deficit, but instead of it being \$10.7 million plus \$5.8 million, or \$16.5 million, which is what we effectively started the year with on the books, not taking into consideration other outstanding matters that we had to deal with in the first quarter, we end up with a \$46 million deficit.

Clearly, we all recognise right off the bat that that is just not on. It is not sustainable; it is not sensible financial management and certainly not the road we want to see this country go down. This was a difficult year for the Government. I know that I have alluded to the fact that this difficulty will continue. However, I would like to impress that the Government feels strongly that it has made the first correct step toward addressing this difficulty.

Now, things can be difficult and get worse without the proper action. However, what the Government has put forward is an attempt to correct this difficult situation through sensible and sound action which range from expenditure controls through taxation to borrowing.

Having a \$46 million gap that needed to be filled, if Government could not get through the Loan



Bill and the tax package we would end the year with a \$46 million deficit. That situation is just not on.

In closing, I would like to thank all Members who contributed to the debate and gave recommendations and ideas. I have been making note of those ideas throughout the day and Government is committed to, wherever possible, taking those ideas on board. Thank you.

**The Speaker:** The question is that a Bill entitled, The Companies (Amendment) (Fees) Bill, 2001 given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES, one audible NO.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: THE COMPANIES (AMENDMENT) (FEES) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The question is that a Bill entitled, The Development and Planning (Amendment) (Infrastructure Fund) Bill, 2001 be given a second reading. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: THE DEVELOPMENT AND PLANNING (AMENDMENT) (INFRASTRUCTURE FUND) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The question is that a Bill entitled, The Government Fees (Amendment) (Increased Fees) Bill, 2001 given a second reading. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: THE GOVERNMENT FEES (AMENDMENT) (INCREASED FEES) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The question is that a Bill entitled, The Stamp Duty (Amendment) Bill, 2001 given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: THE STAMP DUTY (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The question is that a Bill entitled, The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001 be given a second reading. Those in favour please say Aye. Those against, No.

**Mr. Gilbert A. McLean:** Mr. Speaker, can we have a division?

**The Speaker:** Certainly.  
Madam Clerk, please call a division.

**The Clerk:**

**Division No. 8/01**

**Ayes: 8**

Hon. James M. Ryan  
Hon. A. Joel Walton  
Hon. D. Kurt Tibbetts  
Hon. Linford A. Pierson  
Hon. Edna M. Moyle  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr.  
Mr. V. Arden McLean

**Noes: 4**

Mr. Gilbert A. McLean  
Mr. Anthony S. Eden  
Mrs. J. O'Connor-Connolly  
Mr. Lyndon L. Martin

**Absent: 6**

Hon. Samuel Bulgin  
Hon. W. McKeeva Bush  
Hon. Roy Bodden  
Mr. Rolston M. Anglin  
Mr. Alden M. McLaughlin, Jr.  
Dr. Frank S. McField

**The Speaker:** The result of the Division is 8 Ayes, 4 Noes, 6 Absent.

**AYES.**

**The Speaker:** The Ayes have it.

**AYES and NOES**

**AGREED BY MAJORITY: THE TRAVEL (DEPARTURE TAX AND ENVIRONMENTAL PROTECTION FEE) (AMENDMENT) (VARIATION OF FEES) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The question is that the Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill, 2001 given a second reading. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMEND-**

**MENT) (VARIATION OF TAX) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The House will now go into committee to consider a Bill entitled, the Companies (Amendment) (Fees) Bill, 2001 and five other Bills.

**HOUSE IN COMMITTEE AT 4.22 PM****COMMITTEE ON BILLS**

**The Chairman:** The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk state each Bill and read its clauses?

**THE COMPANIES (AMENDMENT)(FEES) BILL, 2001**

**The Clerk:** The Companies (Amendment) (Fees) Bill, 2001.

- |           |                                                                                              |
|-----------|----------------------------------------------------------------------------------------------|
| Clause 1. | Short title.                                                                                 |
| Clause 2. | Amendment of section 218 (1) of the Companies Law (2000R)— Fees in lieu of other provisions. |

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:** A Bill for a Law to amend the Companies Law (2000R) to increase fees under section 218, and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.****THE DEVELOPMENT AND PLANNING (AMENDMENT) (INFRASTRUCTURE FUND) BILL, 2001**

**The Clerk:** The Development and Planning (Amendment) (Infrastructure Fund) Bill, 2001.

- |           |              |
|-----------|--------------|
| Clause 1. | Short title. |
|-----------|--------------|

- |           |                                                                                          |
|-----------|------------------------------------------------------------------------------------------|
| Clause 2. | Amendment of section 41 of the Development and Planning Law (1999R)—Infrastructure Fund. |
|-----------|------------------------------------------------------------------------------------------|

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:** A Bill for a Law to amend the Development and Planning Law (1999R) to change the method of calculating the amount of the contribution to the Infrastructure Fund, and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.  
**TITLE PASSED.**

**THE GOVERNMENT FEES (AMENDMENT) (INCREASED FEES) BILL, 2001**

**The Clerk:** The Government Fees (Amendment) (Increased Fees) Bill, 2001.

- |           |                                                               |
|-----------|---------------------------------------------------------------|
| Clause 1. | Short title.                                                  |
| Clause 2. | Amendment of the Schedule to the Government Fees Law (1995R). |

**The Chairman:** It is open to debate, if there is no debate, the question is that Clauses 1 and 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:** A Bill for a Law to amend the Government Fees Law to increase certain fees and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE STAMP DUTY  
(AMENDMENT) BILL, 2001**

**The Clerk:** The Stamp Duty (Amendment) Bill, 2001.  
 Clause 1. Short title.  
 Clause 2. Amendment of the Schedule to the Stamp Duty Law (2001R)—Time Shares.

**The Chairman:** The question is that clauses 1 and 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:** A Bill for a Law to amend the Stamp Duty Law (2001R) to provide for stamp duty on bank withdrawal receipts and on documents relating to the grant, assignment, or transfer of timeshares, and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. If no debate I will put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE TRAVEL (DEPARTURE TAX AND  
ENVIRONMENTAL PROTECTION FEE)  
(AMENDMENT) (VARIATION OF FEES) BILL, 2001**

**The Clerk:** The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001.  
 Clause 1. Short title.  
 Clause 2. Amendment of section 4 of the Travel (Departure Tax and Environmental Protection Fee) Law (2000R)—Duty of Agents.

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:** Clause 3. Amendment of section 6 of the Travel (Departure Tax and Environmental Protection Fee) Law (2000R)—Environmental protection fees.

**The Chairman:** There is an amendment to Clause 3. I have waived the required two day notice.  
 The Honourable Acting Third Official Member.

**Hon. A. Joel Walton:** In accordance with the provision of Standing Order 52(1) and (2) I wish to move the following amendment to the Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001.

Can I speak briefly to the reasons for this amendment?

**The Chairman:** Please go ahead.

**Hon. A. Joel Walton:** Clause 3 as it now stands, will have the effect of not only increasing the existing contribution from the airport travel tax to the EPF from \$2 to \$4 but will also have the effect of doing the same thing for ships. That was not the intention of the Bill initially. Therefore, what this amendment seeks to do is remove that clause completely and substitute a new Clause 3(1)(a) and (b). It makes it clear that the current contribution to the Environmental Protection Fee for persons on sea borne vessels remains at \$2; but in the case of persons for leaving on aircraft that fee goes from \$2 to \$4 in line with the increase in contribution to the CAA from \$6 to \$12. So, this clause makes it absolutely clear that the change only applies to passengers leaving on aircraft and not to passengers leaving on cruise ships.

Thank you.

**The Chairman:** The amendment to the Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001 has been duly moved. The Floor is open for debate.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you.

By virtue of section 6(2) the proviso contained there says: "provided that the Governor-in-Council may from time to time waive or reduce any or all fees and duties prescribed in subsection (1) and (2) in relation to any person or group of persons in Cayman Brac and Little Cayman." I wonder if Mr. Walton is in a position to say whether or not Council has considered it and more particularly how these new proposals now affect this proviso "existing waivers."

**The Chairman:** Does the Honourable Acting Third Official Member wish to reply?

**Hon. A. Joel Walton:** I did not get the full content of her question, I will just paraphrase it and you can tell me if I am right. I think she asked whether or not in this particular case the increase in travel tax from \$8 to \$16 would also apply in the Brac and if the Government would seek not to apply that same rate in Cayman Brac and Little Cayman. Is that the question?

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I was merely bringing the proviso to his attention asking if this would extend completely or if there would be a move to extend this provision.

**The Chairman:** The Honourable Acting Third Official Member.

**Hon. A. Joel Walton:** Would the Member point out the section she is referring to?

**Mrs. Julianna Y. O'Connor-Connolly:** Section 6(2), the proviso, last paragraph, which actually relates to section 6(1), hence the relevance.

**Hon. A. Joel Walton:** Thank you.

This is a matter that Government will look into. If I understand it clearly, the Member wishes to know whether or not the Government would make some exception to this increase for Cayman Brac and Little Cayman. Is that what the Member is asking?

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** What I was trying to ascertain was whether or not the Government, in deciding this new fee, had taken this section into consideration. If so, can I correctly assume that the decision was made that this section would not be invoked?

**The Chairman:** The Honourable Acting Third Official Member.

**Hon. A. Joel Walton:** The Government undertakes to look into that request.

**The Chairman:** Any further debate? If not, I shall put the question on the amendment to clause 3 [by deleting clause 3 and substituting the following: "Amendment of section 6 of the Travel (Departure Tax and "Environmental Protection Fee) Law (2000 Revision) – Environmental protection fees 3. The Travel (Departure Tax and Environmental Protection Fee) Law (2000 Revision) is amended in section 6 by repealing subsection (1) and substituting the following subsection –

"(1) Every agent shall collect –  
'(a) from every passenger in every outward bound vessel, an environmental fee of two dollars; and  
'(b) from every passenger in every outward bound aircraft, an environmental protection fee of four dollars,

or such sum as may be prescribed by the Governor-in-Council in regulations made under subsection (4)."]

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

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 3 PASSED.**

**The Chairman:** The question is that clause 3, as amended, do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 3, AS AMENDED, PASSED.**

**The Clerk:** A Bill for a Law to vary fees under The Travel (Departure Tax and Environmental Protection Fee) Law (2000R).

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE LAND HOLDING COMPANIES SHARE  
TRANSFER TAX (AMENDMENT)  
(VARIATION OF TAX) BILL, 2001**

**The Clerk:** The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill, 2001.

- |           |                                                                                                                                                          |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clause 1. | Short title.                                                                                                                                             |
| Clause 2. | Amendment of section 2 of The Land Holding Companies Share Transfer Tax Law (1995R)—<br>Definitions.                                                     |
| Clause 3. | Amendment of section 3 of The Land Holding Companies Share Transfer Tax Law (1995R)—<br>Returns, et cetera of transfers to be delivered and tax payable. |

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. It is open to debate. If there is no debate I will put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 3 PASSED.**

**The Clerk:** A Bill for a Law to amend The Land Holding Companies Share Transfer Tax Law (1995R) to vary the tax payable under section 3 of the Law and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** That concludes proceedings in committee on these six Bills. The question is that the Committee report to the House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED THAT THE BILLS BE REPORTED TO THE HOUSE.**

**HOUSE RESUMED AT 4.26 PM**

**The Speaker:** Please be seated.

Reports.

The Honourable Acting Third Official Member responsible for Finance and Economic Development.

## **REPORTS ON BILLS**

### **THE COMPANIES (AMENDMENT) (FEES) BILL, 2001**

**Hon. A. Joel Walton:** In accordance with Standing Order section 86, I rise to move the suspension of the Standing Order 47 to allow the Bills to be given a third reading.

I have to report that a Bill entitled, the Companies (Amendment) (Fees) Bill 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is set down for a third reading.  
Bills, Reports.

The Acting Third Official Member.

### **THE DEVELOPMENT AND PLANNING (AMENDMENT) (INFRASTRUCTURE FUND) BILL, 2001**

**Hon. A. Joel Walton:** I have to report that a Bill entitled, The Development and Planning (Amendment) (Infrastructure Fund) Bill, 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is set down for Third Reading.  
Bills, Reports.  
The Acting Third Official Member.

### **THE GOVERNMENT FEES (AMENDMENT) (INCREASED FEES) BILL, 2001**

**Hon. A. Joel Walton:** I beg to report that a Bill entitled, The Government Fees (Amendment) (Increased Fees) Bill, 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is set down for Third Reading.  
Bills, Reports.  
The Acting Third Official Member.

### **THE STAMP DUTY (AMENDMENT) BILL, 2001**

**Hon. A. Joel Walton:** I am to report that a Bill entitled, The Stamp Duty (Amendment) Bill, 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is set down for Third Reading.  
Bills, Reports.  
The Acting Third Official Member.

### **THE TRAVEL (DEPARTURE TAX AND ENVIRONMENTAL PROTECTION FEE) (AMENDMENT) VARIATION OF FEES) BILL, 2001**

**Hon. A. Joel Walton:** I am to report that a Bill entitled, The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill, 2001 was considered by a committee of the whole House and passed with one amendment.

**The Speaker:** The Bill is set down for Third Reading.  
Bills, Reports.  
The Acting Third Official Member.

### **THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (VARIATION OF TAX) BILL 2001**

**Hon. A. Joel Walton:** I am to report that a Bill entitled, The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill, 2001 was

Bills, Third Reading. I have to ask for the suspension of Standing Order 47 in order to take the Third Readings on the same day.

#### **SUSPENSION OF STANDING ORDER 47**

**Hon. A. Joel Walton:** Mr. Speaker, in accordance with Standing Order 86, I rise to move the suspension of Standing Order 47 to allow the Bills to be given a third reading.

**The Speaker:** Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED. STANDING ORDER 47 SUSPENDED.**

#### **THIRD READINGS**

##### **THE COMPANIES (AMENDMENT) (FEES) BILL, 2001**

**The Clerk:** The Companies (Amendment) (Fees) Bill, 2001.

**The Speaker:** The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I beg to move that a Bill entitled, The Companies (Amendment) (Fees) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that The Companies (Amendment) (Fees) Bill, 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COMPANIES (AMENDMENT) (FEES) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

##### **THE DEVELOPMENT AND PLANNING (AMENDMENT) (INFRASTRUCTURE FUND) BILL, 2001**

**The Clerk:** The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001.

**The Speaker:** The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I beg to move that a Bill entitled, The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001 be given a third reading and passed.

**The Speaker:** The question is that The Development and Planning (Amendment) (Infrastructure Fund) Bill 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED: THE DEVELOPMENT AND PLANNING (AMENDMENT) (INFRASTRUCTURE FUND) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

##### **THE GOVERNMENT FEES (AMENDMENT) (INCREASED FEES) BILL, 2001**

**The Clerk:** The Government Fees (Amendment) (Increased Fees) Bill, 2001.

**The Speaker:** The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I beg to move that a Bill entitled The Government Fees (Amendment) (Increased Fees) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that The Government Fees (Amendment) (Increased Fees) Bill 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: THE GOVERNMENT FEES (AMENDMENT) (INCREASED FEES) BILL 2001 GIVEN A THIRD READING AND PASSED.**

##### **THE STAMP DUTY (AMENDMENT) BILL, 2001**

**The Clerk:** The Stamp Duty (Amendment) Bill, 2001.

**The Speaker:** The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I beg to move that a Bill entitled, The Stamp Duty (Amendment) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that that a Bill entitled, The Stamp Duty (Amendment) Bill, 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY. THE STAMP DUTY (AMENDMENT) BILL 2001 GIVEN A THIRD READING AND PASSED.**

**THE TRAVEL (DEPARTURE TAX AND ENVIRONMENTAL PROTECTION FEE) (AMENDMENT) (VARIATION OF FEES) BILL, 2001**

**The Clerk:** The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill 2001.

**The Speaker:** The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I beg to move that a Bill entitled, The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill 2001 be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled, The Travel (Departure Tax and Environmental Protection Fee) (Amendment) (Variation of Fees) Bill 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES and one audible NO.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: THE TRAVEL (DEPARTURE TAX AND ENVIRONMENTAL PROTECTION FEE) (AMENDMENT) (VARIATION OF FEES) BILL 2001 GIVEN A THIRD READING AND PASSED.**

**THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (VARIATION OF TAX) BILL 2001**

**The Clerk:** The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill 2001

**The Speaker:** The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I beg to move that a Bill entitled, The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that that a Bill entitled, The Land Holding Companies Share Transfer Tax (Amendment) (Variation of Tax) Bill, 2001 be given a

third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (VARIATION OF TAX) BILL 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Moving on to Government Motions. Government Motion No. 5/01, The Insurance Law (1999 Revision), The Insurance (Variation of Fees) Regulations, 2001.

The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**GOVERNMENT MOTIONS****GOVERNMENT MOTION NO. 5/01**

**THE INSURANCE LAW (1999 REVISION)  
THE INSURANCE (VARIATION OF FEES)  
REGULATIONS, 2001**

**Hon. A. Joel Walton:** I beg to move Government Motion No. 5/01, which reads:

“WHEREAS section 15(f) of the Insurance Law (1999 Revision) provides that the Governor-in-Council may make regulations amending the Schedule of the principal Law save that any amendment increasing the scale of fees prescribed in the Schedule shall require the confirmation of the Legislative Assembly;

“AND WHEREAS the attached Insurance (Variation of Fees) Regulations 2001 were laid on the Table during the sitting of the Legislative Assembly held on the 25<sup>th</sup> day of May 2001:

“BE IT NOW THEREFORE RESOLVED THAT the Insurance (Variation of Fees) Regulations 2001 be confirmed by the Legislative Assembly pursuant to the provisions of section 15(f) of the Insurance Law (1999 Revision).”

**The Speaker:** Government Motion No. 5/01 has been duly moved. Do you wish to speak to it?

**Hon. A. Joel Walton:** I can just briefly highlight some of the changes to the schedule.

Class A insurers currently pay \$7,500. This regulation moves it to \$20,000 per year. Class B unrestricted currently pays \$5,000; this moves it to \$5,500. Class B restricted, pays \$5,000, this moves it to \$5,500. Insurance agents currently pay \$225; this moves it to \$250. Insurance broker currently pays

\$1,800, this moves it to \$2,400. In the case of insurance subagent there is no change. Also, in the case of insurance manager, acting for not more than 10 licensed insurance, has no change. In the case of those acting for 11 to 50 licensed insurers, this regulation moves the fee from \$10,000 per year to \$12,000.

For those acting for 51 to 100 licensed insurers, this regulation moves it from \$10,000 to \$16,000. In the case of those acting for more than 100 licensed insurers, this moves it from \$10,000 to \$20,000.

Those are the substantive changes to the schedule.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Since it is late in the day I will confine my contribution to a matter of clarification. Have any soundings been done as to the possible range of effects this would have on the local market?

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? If not, would the Member exercise his right of reply?

The Honourable Acting Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** I thank all Members for their tacit support and I wish to reply to the question from the First Elected Member for Cayman Brac and Little Cayman.

Throughout the entire budget process, when considering revenue measures, extensive discussions were had with the financial services industry and other persons in the local private sector. As with any fee, it is difficult to get complete support. Generally the response we got back, and certainly in this case, was that the fee was manageable.

I just want to say on behalf of this particular sector, that it is well understood about Government's position. All of the sectors that we dealt with, ranging from banking to real estate, quite understood the needs to do something with these fees. Just to coin the phrase of a colleague of mine on this side, there was good positive dialogue, not only on this particular proposal, but of the fact that these proposals and examinations would be continuing into the future starting with the fiscal advisory group continuing right on with the other medium term financial strategy.

Thank you, Mr. Speaker.

**The Speaker:** I shall now put the question on Government Motion No. 5/01. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 5/01 PASSED.**

**The Speaker:** That concludes the business on the Order Paper today. I now ask for the adjournment of this Honourable House.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until Wednesday, 20 June 2001 at 10 am.

**The Speaker:** Before putting the question, Standing Order 11(6) reads, "**On a motion moved under paragraph (5), a Member who is not a Member of the Government and who has obtained the right to do so, may raise any public matter for which the Government has responsibility, in order to elicit a reply from a Member of the Government responsible for the matter. After not more than twenty minutes, the Member of the Government shall be called on to reply**".

I have given permission to the Second Elected Member for Cayman Brac and Little Cayman to make such a statement.

The Second Elected Member for Cayman Brac and Little Cayman.

## RAISING OF PUBLIC MATTER FOR WHICH GOVERNMENT HAS RESPONSIBILITY

*Standing Order 11(6)*

## ALLEGATIONS BY FORMER BANKER MR. JOHN MATHEWSON

**Mr. Lyndon L. Martin:** I rise to discuss an issue that I consider is of great national concern. The past few years have been characterised by numerous external pressures being placed on our financial industry, among which have been the demands of the OECD (Organisation for Economic Co-operation and Development), and the FATF (Financial Action task Force).

More recently the integrity of the Cayman Islands has been besmirched by an allegation made by a former banker in the Cayman Islands, Mr. John Mathewson, who has been convicted in the US. These statements made before the US Senate has received wide local and international coverage.

On 1 March 2001, Mathewson alleged that "a political figure" solicited a bribe of \$250,000 and a percentage of the Guardian Bank shares. He also stated, "That individual is still a Member of the Legislative Assembly of the Cayman Islands."

Mr. Speaker, I think it is necessary for the Cayman Islands Government to initiate a full investigation



into this allegation of political bribes to determine the validity of the allegation made and to demonstrate that no one or no institution is immune from probity.

**The Speaker:** Does a Member of the Government wish to reply?

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you.

In replying on behalf of the Government, I think perhaps all of us need to have a very clear understanding of exactly what the situation is with this matter at present. Perhaps it might be in good stead to briefly paint the picture that has set the stage for this matter to come to this point.

The Second Elected Member for Cayman Brac and Little Cayman referred to a Mr. John Mathewson, who was convicted in the US. The statement was made before a US Banking Subcommittee of the Senate and in the statement just read he referred to the statement made on 1 March 2001 where Mr. Mathewson said that "a political figure" solicited a bribe of \$250,000 and a percentage of the Guardian Bank shares. He also stated, "That individual is still a Member of the Legislative Assembly of the Cayman Islands." So I think that is the focal point why this is considered of national importance. Those statements by Mr. Mathewson alleged that someone among us is a person who solicited this bribe.

This issue with Guardian Bank goes back to the early 1990s when several complaints were made about its operations over a period of years. On the 5 August 1993, an audit team from the accounting firm of Peat Marwick Mitchell (I do not think it had yet changed its name to KPMG) supposedly prepared a report on behalf of the Inspector of Banks for the Cayman Islands.

Subsequent to that report a number of other complaints about alleged money laundering and fraud were received from some of the banks overseas clients. Resulting from that, during the years 1994 and 1995 there was joint cooperation between the US and the Cayman Islands law enforcement authorities. Eventually, charges were filed in the US and Mr. Mathewson was indicted.

On our side of the coin, when the report was received from the Inspector of Banks, controllers were put into the bank and Executive Council revoked the bank's license and eventually liquidators were appointed. The rest is history.

There is obviously bad blood between Mr. Mathewson and the Cayman Islands on a whole. It is my understanding that he has made comments to the effect that he is going to put this little '*Banana Republic*' out of business. It is indeed a pity that the indictment was not done in the Cayman Islands, but it is my understanding that when the authorities were at that stage of the game he had already done what the East

Enders call "took foot" for it. So, he was no longer on the Island.

So that we can understand clearly where the whole thing is coming from, regarding the statement just made by the Second Elected Member for Cayman Brac and Little Cayman, especially speaking to the last paragraph of the statement, which I would like to repeat, "Mr. Speaker, I think it is necessary for the Cayman Islands Government to initiate a full investigation into this allegation of political bribes to determine the validity of the allegation made and to demonstrate that no one or no institution is immune from probity."

The Government has no problem with that. The only difficulty that may be seen is the matter of procedure. As I understand it, the Chairman of the US Senate Banking Subcommittee made some comment that the information should be passed on to the relevant authorities to see if any further action should be taken. In checking with our authorities here, namely, our Financial Reporting Unit and the Commissioner of Police, there have been no complaints made. I think since this matter has come to light in this manner, it is important for us to recognise that since this allegation has been made, the onus is on Mr. Mathewson to provide evidence to support the allegation.

I say this very loud and clear: If there is any evidence supporting such an allegation then the world must know that this Government is not going to make any attempt to hide anything. What I think will need to happen is; we certainly can go through the proper channels and ask our authorities to contact the relevant authorities in the US to seek any proof of his allegations and this can be done as publicly as necessary. There is no problem with that.

If there is no evidence forthcoming, as I suspect will be the case, then Mr. Mathewson will once again be found out to be what we know he is right now. One might think that the Government should have done something about it before. Since we are speaking in this forum about it, the fact of the matter is that legal advice was if there is any merit to the allegations it would be forthcoming to our authorities who in turn would certainly investigate whatever comes to them. Thus far there has been nothing passed on.

The difficulty is that there is nothing here to deal with, but rather some wild accusation made in some forum that ... by the way, please allow me, Sir, to take this opportunity, because I read the text of that Senate Subcommittee Report and it was totally obvious to me and whoever wants to do what they want to do can go ahead, but I am going to say this right now. It was totally obvious to me that the whole thing was orchestrated, that Mr. Mathewson was coached and trained as to what his answers should be to the questions he was asked and the whole purpose of the exercise was to put the Cayman Islands on the defensive based on the initiatives that were at hand.

I understand a little bit about it and I do not think this is the correct forum to engage any further into

that. I understand there may be concerns, not only from within the Legislature, but I certainly have my own concerns as part of the legislature. At the earliest possible convenience, we would like the matter to be cleared up. This statement is asking for Government to initiate a full investigation.

I want to make it very clear that the Government has to have something to investigate. Hence, I say we will ask our authorities to contact the relevant other authorities and if there is any evidence forthcoming, certainly it will be investigated and the public and the Members will know exactly what has happened.

I am going a little bit beyond my purview here because those matters will have to be passed on to the relevant authorities over which the elected side of Government has no authority, but I do not think I have gone too far in what I am saying. That is the case. I see nodding of heads which says to me that the relevant authorities will try to find out if there is any evidence about the allegation. Certainly, once we know, it will be made public.

Unfortunately, there is nothing more I can say about it, except to reiterate that speaking on behalf of the Government (I think I can say the entire government), that there is no wish to hide anything. It is just unfortunate that this scoundrel was put in the position he was put in so that he could—what our old people call—“blackgyaad” the Cayman Islands and put us in a position where they thought for a moment we would be on the defensive, while the truth of the matter is (and their authorities know) that it was the Government of the Cayman Islands and our regulatory regime that acted on its own volition to close the bank down because of the suspicious activities.

The US authorities simply took advantage of the situation because that is where he sought refuge. In their anti-money laundering efforts, some smart person has sought to use this situation to his own advantage. Let me also take the opportunity to say very loud and clear that the Government of the Cayman Islands is very much on board with the international anti-money laundering efforts and our passage of various pieces of legislation and the practice we have in place through our regulatory regime proves that beyond a shadow of a doubt.

I would hope that if Mr. Mathewson cannot provide any evidence of his allegations, that there is some recourse for the Government and people of the Cayman Islands. That remains to be seen. Thank you.

**The Speaker:** On this, the last sitting of the first meeting of the 2001 Session, I would like to thank Members for their courtesies and tolerance to the Chair, the Clerk, Deputy Clerk, Hansard Officers, other office staff and the Serjeant-at-Arms for their efficient service. Also, to Anita for her service to all Members.

I cannot close and not once again offer my condolence to our Clerk, Mrs. Myrie and her husband Edward, on the tragic loss of their son. I ask that God

will be very close to both of them and wish for them God's speed in helping them to bear this tragic loss.

I would also like to thank Honourable Members for the opportunity of being your presiding officer. May God bless each and every one of you, and may God bless the Cayman Islands.

The question is that this Honourable House do now adjourn until Wednesday, 20 June 2001 at 10 am. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 5.12 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 20 JUNE 2001.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**20 JUNE 2001**  
**10.16 AM**  
*First Sitting*

*[Prayers read by the Hon Minister for Community Development, Women's Affairs, Youth and Sports]*

**The Speaker:** Please be seated.

The Legislative Assembly is in session. Item 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies for late attendance from the Honourable Second Official Member.

Moving on to Questions to Honourable Ministers and Members. Question 54 is standing in the name of the Third Elected Member for West Bay.

**QUESTIONS TO HONOURABLE**  
**MEMBERS/MINISTERS**

**QUESTION NO. 54**

*Deferred*

**No. 54: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport to give an update on the multidisciplinary study which is now being conducted by CH2M Hill.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** With leave of the Honourable House, I seek that Question No. 54 be deferred until 21 or 22 June. The department is not ready with it.

**MOTION TO DEFER QUESTION NO.54**  
***Standing Order 23 (5)***

**The Speaker:** The Motion is Question No. 54 be deferred until 21 or 22 June. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 54 DEFERRED UNTIL 21 OR 22 JUNE 2001**

**The Speaker:** Moving on to Question 55, standing in the name of the Fourth Elected Member for West Bay.

**QUESTION NO. 55**

**No. 55: Mr. Cline A. Glidden Jr.** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works to give the total number of licences granted for the importation of aggregate through the North Sound.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Currently three operators have been granted permission from Government to import aggregate into Grand Cayman. These companies are Caribbean Stone, Caribbean Aggregate and Quarry Products.

While the question referred to the importation of aggregate through the North Sound, the answer does not address the point because permission is not granted with the importation through the North Sound as part of the condition. The ability to offload is not limited to the North Sound.

**SUPPLEMENTARIES**

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I thank the Minister for his clarification.

Can the Honourable Minister say what other limitations are included as part of the licence? Since we have such an environmental concern with the North Sound, I wonder if consideration has been given to offloading in other areas, namely, our main port.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Government is aware that is not the most acceptable situation. The Port, as it is now, is not ready for the offloading of aggregate in the way it is imported. The ongoing operations through the North Sound are makeshift because necessity is the mother of invention.

We had a meeting with these three importers

very recently and concerns were aired about coming through the North Sound. We plan to meet with them again shortly. The view was they were going to talk some things through to look at alternate sites to off-load the imported aggregate.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Honourable Minister say if there are any limitations to the number of trips through the North Sound, as well as the capacity of the loads for each trip? I have had reports about barges waiting outside the reef until the tide gets higher. I noticed in the answer that one of the major suppliers of aggregate, Quarry Products, has also been given a licence. Is the plan to supplement the mining operations at East End with the importation of aggregate? I would expect to see an increased amount of traffic through the North Sound. Because of possible damage to the North Sound area are restrictions being considered to prevent this?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** It is not going to be easy to give the Member the answer he is seeking because we are working through a lot of issues as we speak between the Government, the Ministry and the three importers.

The conditions Government has given to the importers involve regulating the situation especially since we have to mitigate any further damage to the North Sound. Everyone is looking at the present situation as one that is temporary.

The answer to the situation is now being worked out. There has to be a level playing field. We have to be cognisant of the industry's needs while depending to a certain extent on The CH2M Hill report which will indicate what direction we take in respect of the types of aggregate we are allowed to import. Of course, we are bearing in mind what is produced locally. We have to work through all of the various situations to make sure no specific importer has any advantage over another. Costs by Government to these importers must be equal all around.

Admittedly, because of the way the situation is at present, it is not ideal. Unfortunately, it is something that has been ongoing. Government, however, is not going to leave it alone. The first step was to get the three importers together to find a situation that can work for them all. I am fairly confident that, as we work through this, we will get to where we need to be.

The important thing is to make a decision about an alternate offloading site; that is the key factor. Once we get beyond that point then the other machinations will fall into line.

While the Member may not have received a direct answer on limitations, all of that will be borne in

mind and dealt with as soon as we are able to regulate the level playing field I spoke of.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say what other sites for offloading are available?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Ministry, through Executive Council, was not a proponent of granting permission for transit of fill solely through the North Sound. That is why we are looking for another site. There is no site at present identified and agreed upon.

I was not suggesting that there was another site available. There is the port, but that is not a conducive situation. I did not want to answer the question in a way that spoke to the belief that the North Sound was where we wanted it to happen, because that is not the case.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if Government is in possession of any proposal, or considering any option, of importing aggregate from Cayman Brac?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** If that proposal exists, it has not come through the Ministry or me. I am sorry, but I have to answer like that because I do not know of anything else.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say under what conditions is a shipper allowed to bring aggregate in through the North Sound? Is any consideration being given to assessing the damage being caused by the barges in the North Sound, and will it be applied to an importer that drags the barge across the North Sound and destroys it? The question is: what is the assessment of the cost of damage?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** At present there has been no policy decision regarding any assessment of cost simply because we are trying to work this situation as positively as we can. The importers are conscious of making every attempt to not have this happen. However, there is always the risk.

We have marked channels so they know where the deepest water is. They go with the highest tide possible, doing the best they can. We appreciate the risk, and that is why we are moving forward with the very serious process of getting an alternate site.

The difficulty is that it is impossible to say we are going to prevent any importation of this aggregate until we have that alternate site. That would create other problems within the industry which needs a supply of this aggregate. Thus we have to weigh all the factors together to make the situation as liveable as possible until we have the right answers.

If one took a hard line talking about any cost assessment, perhaps advice could be taken and that could be spoken about. Given the circumstances, everyone is trying to work in the best way possible. Therefore, that is not an appropriate line at the moment. I think if everyone can cooperate together and try to get to the point where we identify and do what we have to do to provide this alternate site, we will all be better off. That is the way I am trying to deal with it.

At the last meeting we spoke about the difficulty with the North Sound and the fact that there were a lot of concerns. The three importers who were all present understood and accepted. While I did not seek any commitment, we all spoke to the fact that they are conscious of the problem and are doing everything they can to cause the least damage while it has to be like this.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I do not see why any damage should be done to the North Sound. As you and I know it is a simple calculation. You know the depth of the water and you get a vessel capable of not dragging on the bottom based on the load.

The other part of my question, Mr Speaker, is how does one get permission to come through the North Sound when an import licence has been issued?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thus far the situation is that the port director approves any offloading site separate and apart from the existing facilities at the port. That situation has been in the port director's hands up until now.

When I speak to regulating this industry, all of those matters are being considered and will be dealt with once we are able to put the whole picture together. At present, that is the situation.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether or not all three of these

companies are currently bringing in aggregate (within the last six months) and if so, to what location?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Two of the three have imported aggregate thus far. One of the three licensees has not started importation. Of the two that have imported, Caribbean Stone offloads on its own site which is where we refer to as Mr. J's Marl Pit. Caribbean Aggregate is offloading on the site adjoining what we know as the North Sound Barcadere, on the reclaimed land east of that site.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether, within the past year, there have been any incidents or accidents in the North Sound or the other site with these two businesses?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I want to be very clear as to what the Member is seeking. Is the Member speaking about boating accidents or environmental incidents?

All I know is that a couple of the channel markers' lights were damaged and repaired. It would be guesswork to speak about any other incidents, because I truly do not know anything else. I am advised that nothing has been reported to the Ministry.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Just to thank the Minister for that. I was trying to ascertain if the operators were conducting business in a mode of safety.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I think the fact that we have even gotten to the point where everybody is meeting is a real plus for this situation. The operators are very much aware and I think they will do everything they can to ensure that transhipments take place, as cleanly as possible while they have to come through the North Sound.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** With all the environmental concerns, I wonder if any consideration has been given to the possibility of upgrading our current dock-

ing facility in order to offload aggregate as an interim measure until a suitable site is found. It could possibly be done at night. I am sure it would be utilising the docking facility to a much better percentage than right now.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Much thought has been given to the current situation. There are some difficulties with the use of the port as it is. The port itself is going to be expanded soon. There are two main factors with that expansion, one is to enhance the port facilities to be able to offload cargo, and, secondly, the offloading facilities for tourists from the cruise ships will be improved. It is not easy to marry that with what the Member is referring to. That is why we are moving as fast as we can to put the circumstances right for importing aggregate.

I am not 100 percent sure. I will speak to the Minister and the technocrats involved with the port expansion to see what is practical at this point in time. If I had to make a judgment call at present, I think I would be able to say that identifying an alternate site will happen just as quickly as the suggestion the Member is making at present.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if the justification for the importation of aggregate is a cost issue or a supply issue?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I wish this question had come six months later. I would be much more prepared.

At present the need to import aggregate applies itself to demand and supply. I do not think what is being supplied locally at present can meet the entire local market.

As to the cost, one would hope the material can be imported, despite fluent competition, at a price which is very reasonable and if possible lower than it costs locally.

**The Speaker:** The Second Elected Member for West Bay

**Mr. Rolston M. Anglin:** Can the Honourable Minister say how one goes about applying for an import licence? And is there any view that there is going to be a moratorium on such licences?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I will answer the last part first. That was part of the discussions I had with the importers. We are gathering facts that will give us the necessary information about the supply and demand. We also have to take into consideration what is being produced locally, so as to not have a situation where we allow whoever has a licence to do certain things to be able to compete. It is not a question of total protectionism, but to make it as level as possible.

To go about applying for a licence, an application is made to the Ministry responsible and the Department of Agriculture. At present, because there is no fixed policy, there is not a moratorium. However, we do not want to have to be dealing with a glut of applications because, somewhere down the line, it is going to become counterproductive and we wish to deal with it by regulating the industry as quickly as we can. Thus, we need the facts to make rational judgments.

Approval is given through Executive Council, conditional to the importer's licence through the Agriculture Department. This means the Department will go and visit the site from where the material is being imported and do the checklist with all the concerns that arise out of importing such material. Once everything is cleared with them, the import licence is issued.

The cost of getting all of this information and visiting the site is also levied to the importer.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** It is my understanding that we have had incidences of barges running aground. They have not just damaged the channel markers. I have also seen pictures of the barges coming through the North Sound and I see a trail of sediment being lifted up. So, it is obvious there are serious concerns.

Since we all appreciate the North Sound is a critical part of our ecosystem and a critical part of our tourism product, I find it difficult to believe that the importers truly appreciate the risk. I understand you can do misplacement calculations based on the depth of water you are going to flow through, the vessel being utilised, and the load.

Can the Honourable Minister say if this issue was brought up in the meeting, and whether or not these importers are going to do proper displacement calculations in the future to stop this damage?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I can assure the Member his concerns are not new. I share the same concerns he has with the same level of intensity. The matter was brought up at the meeting and when I said the importers are cognisant of these concerns and are doing everything they can to mitigate the circumstances, I say that with conviction. I am not here to say what

happened previous to that meeting. I am not doubting what the Member is saying either. I can only speak about where we are at this point in time.

The channel markers have been erected to make sure that where the vessels come through the North Sound is the most suitable by way of depth. The Member for East End mentioned calculating loads and displacement and depth, and I believe the operators have conscientiously made an effort to do the job in the best manner they possibly can.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say why permission to import aggregate is being given without considering the way in which it will be transported into the Cayman Islands?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do not think I said that, and for purposes of clarity . . . I said that permission is granted through Executive Council. As to approval of an offloading site, that is done by the port director. Thus, there is consideration, but it is the port director who gives that permission.

Unless the Member is hinting that he thinks these decisions should be under one umbrella.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I guess what I am saying, to make it a little bit clearer, is that, since importation of aggregate involves the transportation of the aggregate to the Cayman Islands by sea, it would mean that when Executive Council is making a decision it has to be concerned about the possible effects the operation will have on the marine environment. My question is, when permission is granted, is Executive Council aware of what port facilities are to be used to dock or offload the aggregate?

Do they have to say they are going to offload in the North Sound, or on private property?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The situation at present is that, before permission is granted, the operators have to indicate where they are going to be offloading the aggregate.

Permission has to be granted by the port director before the licence is issued.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Previously the Minister said the port director approves the offloading site. I appreciate he would have particular expertise. Given the impact this seems to have on the environment, I wonder if the Minister can say if the Department of the Environment (DOE) is involved. If not, will they be in the future?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Neither the port director, the Ministry, the DOE, nor the heads of the departments involved are happy with this situation as it is. No one is wishing this was the case, they would rather see it differently. It is a situation that has sort of crept up and I find myself in the middle of it having to back track to try to get it right.

It is not something that can happen in one day because we have to make sure we plan and engage in the correct way forward. We are going through that process as fast as we can.

The impression I do not want the Member or anyone else to get is, because we cannot do anything about the situation now, we therefore leave it alone. That is not the case. The alternatives are simply to stop the importation until we put the situation right, or understand the circumstances that prevail and do the best to mitigate with those circumstances. At the same time to try to go forward and provide the alternate site and regulate the industry.

**The Speaker:** I appreciate the fact that this is a very sensitive question, but I have exercised a lot of tolerance. I am going to limit it to three additional supplementaries.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say on what dates the licences were granted?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I think the first licence was issued in 1998 sometime.

*[interjections]*

**Hon. D. Kurt Tibbetts:** July, 1998 I am told.

The second licence was issued in October, 2000. The most recent one was issued about two months ago, on behalf of the company which has not yet started to import.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** While understanding the sensitivity of the North Sound and this subject, can the



Honourable Minister give this House the undertaking he will ensure the North Sound is not dragged upon by the barges that come over it? Can he also ensure importers calculate displacement so that this does not happen in the future until they get an alternate site?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** My name should be "Mr. Ensure!"

I appreciate the Member's deep concern, and I share it because concern for using the North Sound as the avenue through which the aggregate is off-loaded was one of the first things I addressed

To show good faith, and being on all fours with the Member, what I will do is write to the present three importers, although we have had this meeting. I will write explaining the conditions under which the Ministry expects them to operate and at the same time indicate Members' concerns.

The difficulty is there is no law or regulation I know of that one can point to specifically which refers to any sanctions. That is why I am taking the line of seeking cooperation which I am absolutely confident I am getting. I will flag it again to ensure the people concerned are aware. I will outline a blueprint as to how we are instructing them to operate, and that any waiver from that procedure could mean possible sanctions. I will do that, if it satisfies the Member.

I understand the Member wants to ensure other people feel the same way, and that they are going to do the best they can not to do any damage. We will do whatever we have to do, and put that in writing to them.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate in what form this aggregate is brought here? Is it in its finished processed form or is it processed after arriving on the island and value added?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Department of Agriculture stipulates the condition this aggregate can be imported and that is why they do on-site visits.

I think at present there are two or three grades allowed, but they are the finished product. I do not know if this obtains in all situations, but I know in some situations it is washed prior to being allowed to be imported.

Whatever the stringent conditions are, they are set by the Department of Agriculture, and they have to be met to minimise, if not nullify, the risk of importing any foreign . . . let me leave it at that. That is why they set out their conditions and do on-site inspections.

I cannot say if anybody brings in aggregate at a certain grade and then takes it and makes it into another grade. I think if the aggregate is allowed to be imported, then these people would have the ability to do that if they wished. I am not so sure that is cost effective.

Suffice it to say, whatever condition the aggregate is allowed to be imported in, is bearing in mind all of those factors to make sure the safety concerns are met.

**The Speaker:** That concludes Question Time for this morning.

Moving on to item 4 Statements by Ministers and Members of the Government. A statement by The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

## STATEMENTS BY MINISTERS/MEMBERS OF THE GOVERNMENT

### MERGING OF CAYMAN ISLANDS HOTEL & CONDOMINIUM ASSOCIATION (CIHCA) AND CAYMAN ISLANDS TOURISM ASSOCIATION (CITA)

**Hon. W. McKeever Bush:** As a result of recent developments within the Ministry and Department of Tourism as well as the tourism industry, I believe it is incumbent upon me to make the following statement.

Mr. Speaker, the merger of the two organisations representing the widest cross-section of the Cayman Islands' tourism private sector took place recently. From the time I took office I made it clear this Government would only be working with one nation-wide private organisation. The road to integration over the last six months has been fraught with challenges and frustrations. However, the amount of compromise and commitment by the members and leadership of both CIHCA and CITA is commendable and a true indication of working together for the good of the country.

Having one organisation that represents the majority of the tourism industry and, more importantly, business in all sectors and business of all sizes, will be a tremendous help in the management of and communication within the tourism industry of the Cayman Islands.

We should never find ourselves at cross-purposes doing each other's jobs. The role of the on-island operators and service providers is to ensure the tourism product is the best it can be for our guests. We have to be honest in our self-assessment of what we are providing to the marketplace for travellers to buy in light of all the competition we face. That means everything—from hotel rooms, airline seats, snorkel or dive trips, attractions, restaurants, transport—I mean everything! The quality and efficiency of services must be the best we can make it. That is the most important

role of the private sector—the tourism product.

In this model of partnership the role of the public sector is different. The role of the Department of Tourism (DOT) is: firstly, it should lead the development, planning and execution of the marketing and promotions' activities of the destination in order to maximise the benefits for all stakeholders.

Secondly, it is also the role of the Department to coordinate all regulatory activities as they relate to standards and development of all parts of the product. Last, but not least, a very important role of the DOT is to research, analyse and provide input to ministerial and national policy development in sustaining tourism for these islands.

Last week His Excellency announced some important changes in the Ministry and Department of Tourism. Effective Thursday 14 June, Mr. Charles Clifford assumed the position of Acting Permanent Secretary for the Ministry replacing Mr. Harding Watler who has retired.

Mrs. Angela Martins, will shortly leave the post of Director of Tourism to head up the planning process for our landmark 500<sup>th</sup> Anniversary.

We are finalising a restructuring plan to increase the effectiveness of the organisation. The search has begun for a new director. We are in the process of identifying an interim director; this appointment will also be announced shortly.

Some people have asked the question, "What is the role of the Director of Tourism?" I believe the role is similar to that of a senior business executive. As one member of the department staff keeps saying, it is like the Chief Executive Officer of a large diverse company. The person in that job must be well-rounded in business, with a solid understanding of the unique aspects of tourism and ensuring sustainable tourism for a small island country.

As we go forward we will complete the review of the job description and make sure it captures clearly the expectations this country will have of the Director of Tourism. The Director must first and foremost be a sharp manager who is able to manage the diverse aspects of the business. These range from financial management to product development; from marketing to client relationships; and, at all times, to remain aware of important trends, challenges and opportunities.

This is a time for all of us to stay focused on the business at hand, and not get caught up in time-wasting speculation, or with marl road gossip which helps no one. The last six months have been a very important period of assessment, planning, and decision-making.

Here are some of the problems I found, which I can only say boil down to negligence and mismanagement:

1. No guiding policy document to lead the Government or the industry at a national or departmental level. The last such policy expired in 1999.

2. There was no clear marketing strategy or even

marketing plan, most notably in the largest market of the United States.

The DOT was very busy and doing a lot of work, but there was a marked absence in terms of marketing planning to provide focus and accountability for the dozens of initiatives undertaken. This was documented in an audit of the DOT's marketing conducted in 1998 by Dr. Schultz, an integrated marketing specialist from the US.

Yet, despite having the problems and a rectification plan outlined for them, no one took steps to correct the problem.

3. Even within the public sector, that is, the Government, between the Ministry and Department of Tourism, there was constant bickering, in-fighting, and passing the buck.

4. Some important relationships between local public and private sector were not developed, and those that did exist were strained or counterproductive.

5. We found that \$50,000 per year was being paid out to Columbia Sussex (that is Mr. Joe Young's company) without a contract or terms of reference. We received a bill from this company after the election, which we would not pay. Funds were paid out in the past to this company purportedly to bring business to Cayman but no evidence was provided to show how much business was given to other on-island properties.

6. The need for a comprehensive review of all systems and procedures within the US operation.

7. Very poor management of contracts, which did not allow value for money to be clearly demonstrated. This included the honeymoon and romance brochures' contracts which were awarded for approximately US\$200,000 to a company whose principal and owner is the spouse of the former Director of US Sales and Marketing.

This contract was not awarded in accordance with Government's Financial and Stores Regulations as it did not go out to tender and only one company was invited to submit a proposal.

8. To add insult to injury, for years the Ministry and Department of Tourism systematically reported incorrect visitor arrivals to the country.

My role is to lead the way forward that will rebuild the DOT and ensure it is capable of helping the industry reverse this negative situation. My commitment to the people of the Cayman Islands, on behalf of the Government, is to do whatever is necessary to create an environment to improve tourism for all. Although we have a tremendous amount of work yet to do, I am pleased to report we have made progress in a number of areas already.

In terms of rebuilding the Department and its capabilities I have arranged to have Dr. Schultz come back for an update assessment on the marketing capability of the DOT and to help us improve on the restructuring plans we have underway.

This summer, we will begin developing the new

medium term tourism policy document, which will include the private sector and hopefully Members of this House.

I am about to receive the preliminary assessment of the US operation in terms of its marketing, financial management and organisational restructuring.

We have given the advertising agency notice of our intention to put the contract out to tender with a view to ensuring that any creative agency of the Cayman Islands helps us to develop a brand image that is distinctive and effective in the market place.

During this process, I will be providing new resources to bring the necessary attention to the areas of training and tourism development services. Plus, for the first time, we intend to have a facility exclusively for a Tourism Services Training Institute, which is a joint initiative between the Ministry of Education and the Ministry of Tourism.

In the meantime, I have created a Tourism Action Committee made up of business partners from local industry and DOT representatives. The Committee is chaired by Mr. Ron Kipp. The members are Mrs. Suzie Soto, Miss Pilar Bush, Messrs Rod McDowell, Dan Tibbetts, Martin Van-der Laan, Derrington Miller, Ronnie Anglin, Lee Foster, and Mark Bastis.

The Committee has, as its mandate, to work with the DOT during this transition period to ensure local industry provides the necessary tactical programmes and products so that the DOT can refine, market and promote overseas. Since its first meeting on May 18, the committee has met four times and is providing an infusion of business focus to the industry's activities.

Turning now to the matter of the visitor arrival numbers and the announcement I made a couple of months ago in the Legislative Assembly.

I regret that I had to break this news to the public, but I felt it was something that had to be brought out in the open and corrected. The problems which led to the incorrect classification of some of the data and the consequent incorrect reporting of the numbers is now behind us, thank God. The Departments of Tourism, Immigration and Computer Services, under the guidance of the Caribbean Tourism Organisation, worked diligently over the last weeks to address the system's issues and retroactively 'clean up' the database using the new systems of classification.

Officials from the Tourism, Immigration and Computer Services Departments will now calculate these figures using revised data categories that reflect the World Tourism Organisation (WTO) definition of "tourist." This definition is based on a traveller's country of residence, purpose and length of stay as declared to immigration officials when a visitor enters another country. We have put right the data collection process that had to do with how one categorizes a tourist. I am pleased to say that, using the re-structured categories of immigration data, we are able to provide today visitor numbers for January through May 2001 that, hopefully, are absolutely, if I may say that, accurate.

For the year 2000, the numbers have been re-

vised and all conform to WTO standards. Previously released numbers for 2000 according to the last system were 406,620. The correct figures to WTO standard are 306,143 visitors to the Cayman Islands in 2000. This is 100,487 less visitors than reported under the previous system and as forecast by the previous administration!

Since they were aware of the problems, this is equivalent to a false and misleading forecast!

Mr. Speaker, I still cannot get over the fact that leaders of this country could know of this problem for years—and you might hear them on television saying they did not know, but they did, according to the Director of Tourism. According to her, she told the Minister and the Minister told her not to do anything about it. That is her report.

I still cannot get over the fact that leaders of this country could know of this problem for years and not only do nothing about it, but continue to make false reports to the people who plan their businesses around such numbers.

This is a breakdown of the numbers. Looking at a quick snapshot of the year to date, the figure for overall air arrivals through the end of May 2001 stands at 147,680. This number is slightly higher than the same period last year, which was 142,955. For the same period, the largest market—the United States—produced 125,065 air arrivals, which was 6,768 more than through the end of May 2000.

Cruise visitors through the end of May 2001 stood at 541,723, which was 25,738 more than the same period last year.

On this slightly positive trend the DOT and the Ministry are working together as an industry to ensure the numbers increase. We are entering the slow season, and we have to prepare ourselves for it and at the same time be planning for next winter.

I plan to make a formal statement on the visitor arrivals' issue and a complete re-publishing on the monthly numbers for 2000 and 2001 year to date, by region. I want to assure the Honourable Members of this House that, from now on, the calculation of visitor arrivals will conform to the new rigorous processing standards for accuracy and will be released on a monthly basis from the DOT, by the third week of the subsequent month. There will be a more formal and detailed discussion on the numbers over the next two weeks.

We are actively working to increase the value of cruise tourism to the Cayman Islands. To that end, we were pleased to announce earlier this month that Disney will commence ports of call to the Cayman Islands in May 2002. We are equally pleased with Air Canada's announcement of non-stop scheduled service once a week from Toronto effective October 31, 2001 increasing to twice weekly on December 1. The additional airlift will help make us more competitive in the Canadian market.

Finally, I am very happy with the way the plans are shaping up for the year long celebration of the

country's 500 year anniversary, to be celebrated in 2003. The Ministry of Tourism and the Office of His Excellency the Governor, with His Excellency as Chairman of the Committee, are spearheading the event. This landmark occasion can provide a major boost to tourism next year and in 2003.

We have developed a short-term US marketing plan for the balance of 2001 and we are developing the one for 2002. The other regions have always had a plan and Departments of Tourism in those countries are at work implementing their respective plans. The United Kingdom and Canada are notable examples.

You have heard me speak often these last six months about the need for partnership between private and public sector in tourism management and development. The area that gets the most attention is marketing and promotions. In these challenging economic times, it is natural to focus our energies there. I am comfortable, however, that soon DOT marketing will be re-tooled with a new business focus and new systems. This should not only prepare the marketing and promotions' plans but, more importantly, ensure they produce the publicity and awareness which brings visitors to our islands on behalf of the stakeholders.

Then, without delay, we must move on to the other areas of tourism that need national focused attention. This is, keeping the product new, fresh and competitive; addressing the attractions and entertainment challenges and creating new opportunities by seeking out new markets, for example, in sports' tourism and events' tourism.

In conclusion, Mr. Speaker, the goal of this Government is to develop an integrated strategy for sustainable tourism balancing the urgent need for short-term results with long-term viability. We are striving to do our best for our country and look forward to updating you again soon.

Before closing, I must thank my other colleagues in Executive Council and the Legislative Assembly for their cooperation and understanding as we work to address the issues facing tourism. I wish also to extend my sincerest appreciation to His Excellency the Governor, Mr. Peter Smith, for his executive support, care, and attentiveness to the full range of important matters facing tourism. His determination to rectify the issues, coupled with his business insight, has made for an effective working relationship which benefits all stakeholders of the Cayman Islands.

**The Speaker:** Standing Order 30(2) says, "**No debate may arise on such a statement but the Presiding Officer may, in his discretion, allow questions to be put to the Member making the statement for the purpose of clarification.**"

I think the statement was so in-depth it would not be proper for me to allow questions at this time.

**Dr. Frank S. McField:** What?

*[Laughter]*

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Not challenging the Chair, but just on a minor matter of clarification: The substantive statement refers to "island" rather than "islands" and I would, subject to your ruling, ensure that the Minister intends to include the other two Cayman Islands.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, I believe, notwithstanding your concern, that if they have a question I can answer, I certainly will. As far as the other two Cayman Islands are concerned, when we say "the Cayman Islands" we are certainly speaking of Cayman Brac and Little Cayman. I do not think even the Second Elected Member for Cayman Brac and Little Cayman—who just came here—would think otherwise.

**Dr. Frank S. McField:** Mr. Speaker, it would be interesting to know why we had to read about this in the paper this morning, and now have to come and listen to it as a statement when it was already given as a statement elsewhere.

**The Speaker:** I have made my ruling on this particular issue and do not wish to discuss it further. I suggest that if necessary we can hold a private meeting where it can be discussed at length.

The decision has been made, and I am moving on to item 5—

**Hon. W. McKeeva Bush:** Mr. Speaker, are you sure you do not want to reconsider since it seems there are some on the other side who want to raise questions? Let them ask any question and I will be willing to answer if I can.

I understand your concern, but for the sake of open and good government, let them ask.

**The Speaker:** My concern, as your presiding officer, is that I have no control over questions being asked. I have discretion to vet questions during Question Time. I will allow questions, but would, where appropriate, rule any out of order.

The Third Elected Member for George Town, if you wish to ask a question, go ahead.

*[inaudible interjection]*

**The Speaker:** Apparently there are no questions.

Going on to the next Order of Business, Other Business, Private Members' Motions. Private Member's Motion No. 5/01, Review of Government Guaranteed Home Mortgage Scheme.

Before debate starts, is it the wish of the House to take the morning break? We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.33 PM

#### PROCEEDINGS RESUMED AT 11.53 PM

**The Speaker:** Please be seated.

Private Member's Motion No. 5/01, Review of Government Guaranteed Home Mortgage Scheme. The Fourth Elected Member for West Bay.

### OTHER BUSINESS

#### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 5/01

#### REVIEW OF GOVERNMENT GUARANTEED HOME MORTGAGE SCHEME

**Mr. Cline A. Glidden Jr.:** I beg to move Private Member's Motion No. 5/01, which reads:

**"BE IT RESOLVED THAT the Government undertakes to review the present Government Guaranteed Home Mortgage Scheme to ensure that it meets the needs of Caymanian society."**

**The Speaker:** Do you have a seconder?

**Mr. Rolston M. Anglin:** I beg to second the Motion.

**The Speaker:** Do you wish to speak to it?

**Mr. Cline A. Glidden Jr.:** Yes. I hope that in the essence of efficiency, I will not have to speak too much on this Motion, as, during the election, just about all Members of this House recognised and accepted the need for a revision of the existing Government Guaranteed Home Mortgage Scheme.

Over the last few years, we have recognised the need to assist members of our Caymanian society to obtain decent accommodations. In West Bay we campaigned on the fact that we realised it was now more difficult for the average person to acquire adequate housing in this country, and that this was not acceptable. We also realised that people who owned their homes were generally more content, and are better citizens because they have a stake in our country. If we are to maximise our potential as a country, housing is one of the starting points. Therefore, we feel that housing is the foundation of strong families.

Knowing that there is a scheme in place and that the new Minister of Tourism, Environment and Trans-

port announced this in the last sitting of the House, I see the need has been recognised and we are moving forward with a new plan. So, I will briefly illustrate some of the concerns brought to my attention from many constituents over the past few months.

There are a few reasons why the existing scheme is deficient. First, the scheme was originally started to benefit low-income persons. However, many applicants are finding it increasingly difficult to qualify. For instance, in order to qualify for a mortgage of \$125,000, they have to earn a monthly income of roughly \$4,000. For a mortgage of \$150,000, the maximum under the system, an income of approximately \$4,800 is required, and this was at the existing 11.25 percent per annum rate of interest.

We all know that \$4,800 is not what we consider addressing the area of low income. We have an ever-growing high percentage of our people not able to qualify for the current system.

There have been applications from not only married couples, but also from parent/child relationships, common-law partners, and siblings. Past experience has shown that many of these applicants become delinquent. For example, the child moves on, the couple separates or divorces, and the parent/spouse/sibling partner is unable to maintain the mortgage on his own. Thus the list of delinquent mortgages has increased, especially last year when interest rates were on the rise.

Another area of concern is the shortage of properties applicants qualify for.

Another area of complaint is that applications are not accepted from persons having equity that would allow them to qualify for a regular bank mortgage. Even when an individual owns property outright, he may not have the required down payment for a regular mortgage. Therefore, they feel they are being penalised while trying to help themselves by owning their own property.

And we have all heard of situations where applicants want to use their own contractor because, according to them, they can get a better price. However, under the existing scheme, an approved contractor has to be used.

These are some of the concerns that have been expressed to me. These are real difficulties our Caymanians are having. Even though there was a genuine attempt made by the Government to address this problem, it seems there have not been the dynamic changes necessary to keep up with the changes in our society.

The initial scheme was targeted at the individuals they felt were most needy at that time. Since then, economic conditions have changed and I think the plan needs to be reviewed to accommodate a wider cross-section of our needy population. I humbly suggest that what is needed is not one single plan, but a multifaceted plan that would look at the various existing situations, and try to give assistance in those areas. I think it is time we moved on to a more ad-

vanced stage of the housing scheme to ensure that all are given an equal opportunity to obtain housing.

One way to do that is to encourage the availability of fair interest rates offered by lending institutions. We should also try to ensure that lending practices are not prejudicial against any particular group of individuals. We have to try to work something out with the stamp duty waiver. We also need to ensure that adequate housing regulations are in place.

The cost of land has become prohibitive in the Cayman Islands. We could reduce the lot size requirement so as to reduce the cost of housing.

We need to put aside sufficient funds annually to provide some soft loans. We must enter into negotiations with commercial banks so Government can pre-pay some of the interest portion of the guaranteed loans at a discount.

We also need to explore the possibility of providing Government guaranteed loans through one of the other lending institutions, for example, the Caribbean Development Bank (CDB).

What we hope to achieve through our guaranteed home assistance plan is to allow all Caymanians to have the privilege of having an official address. When our people become property owners they can provide an inheritance for their children. Cars can come to their front doors, and they are no longer treated as people without a "real" home, or as second-class citizens.

It is great to be able to invite guests home without shame, to be able to bathe properly and to allow husbands and wives to enjoy privacy together. This is one of the keys to having a successful and hopefully crime free and educated society.

While doing some research, I came across some programmes that have been used elsewhere where they are tying technology together with some of these home incentive programmes which include a great deal of home tutoring.

I know that we are all aware of the need to review the present housing scheme. I conclude my short address knowing the needs and concerns about housing are shared among nearly all Members of this House. I stand aside to allow other Members to make their contributions.

**The Speaker:** The floor is open for debate. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) Last call, does any other Member wish to speak? . . .

The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** As the Minister responsible for Housing, I am pleased to advise that the Government fully supports Private Member's Motion No. 5/01, calling for the Government to undertake a review of the Government Guaranteed Home Mortgage Scheme to ensure it meets the needs of Caymanian society.

The Housing Development Corporation (HDC), which is expected to assume full responsibility for the administration of the Government Guaranteed Home Mortgage Scheme later this year, has identified the review of the scheme as the key objective for 2001. The main purpose of the scheme which was established in late 1995, actually starting in 1996, as a joint initiative between Government and several of the participating banks, to make mortgage financing available to qualified low-to-middle income borrowers on the strength of a Government guarantee amounting to 35% of the amount being loaned. To date, 289 families have benefited under the scheme.

While the scheme has been successful in addressing some of the demands of Caymanian society, the Government still recognises that the need at the lower end of the target group has not been adequately satisfied and we are certainly seeking to address this issue.

The HDC has therefore been commissioned to undertake a comprehensive review of the scheme and to make recommendations for its re-design and its restructuring. It is expected that such a review will be completed with an additional scheme in place and a report submitted to Government before year-end.

The Board, chaired by Mr. Daniel Scott, is very active in pursuing this additional scheme. I cannot now go into the aspects of that scheme, but will certainly make an announcement either to the House or in the wider news media, when that takes place.

Members should also note that the redesign and restructuring of the Government Guaranteed Home Mortgage Scheme is just one of the many initiatives being undertaken by the Government to make mortgage financing more accessible to low income Caymanians.

The Government's overall objective is to develop a more comprehensive approach to the low income housing problem, mainly by ensuring that additional funding becomes available both for policy development as well as for on-lending. It is clear that the answer to the provision of housing for low income Caymanians will not be found in only one solution but through a variety of initiatives.

The Home Ownership Made Equitable Programme that was announced at the last sitting of the Legislative Assembly is expected to come on stream later this year. The Government has begun the process of obtaining funding for this programme and further details will be provided to Members, as soon as they are available.

A group of us, that is, the Honourable Third Official Member (presently the Governor of the Bank); and the manager, Mrs. Miller; Dr. Parson, the economist; and I, went to Caribbean Development Bank (CDB) for their last meeting in St. Lucia. While there, we stated our case and put in a request for a sum of \$5 million. I can say that they responded quickly. An officer of the CDB is now on the island doing an appraisal of our request. Hopefully, we will get some

response soon.

I can also say that, under the plans for the new scheme, we realised that we would have to be purchasing some property. We are well underway on that, having identified some land in East End and some in West Bay. Also the Minister of Planning and the Planning Department are looking at what Crown land might be available. The lands we identify will be sold to people and those funds will be rolled back into the scheme to purchase more property. If someone has a piece of land we will certainly work with him towards getting a home.

This is important to Government. It is part of the Government's platform. I dare say that everyone campaigned on the basis of trying to put a housing programme in place throughout the country. We have always said that would decrease, hopefully, some of the social problems in our community. This Government is committed to doing that. We are all out trying to come to grips with the problem.

I am going to say that I hope people will seek to build a home within their means, and not hang their hats any higher than they can reach. That is a problem that we have seen. There is no use in anyone getting up and saying that I am putting down the people's hopes. I am speaking from experience. We want people to be realistic.

We are looking at several schemes. It might not be the traditional block. It might be for those who can reach that. We are looking at several models and types of buildings from the US. I can say that one of the stipulations from the CDB was that any programme we go into would have to be done with a country which contributes to the CDB in order to receive funding from them.

We are looking at a system in Belize and one in Jamaica, and a Canadian one. I hope that those different schemes will meet the needs of housing for the people in this country who cannot now get a home. I say again that Government is committed to having something in place by year end.

I thank the Mover and the Seconder for bringing this Motion and I assure them of Executive Council's commitment to this programme. I also thank the other Members who have shown a particular interest in housing. I especially single out the Elected Member for East End who has been looking at various schemes himself. He recognises the needs in his constituency, and I thank him for his support.

I thank all Members for their keen interest.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause).

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I just want to thank the Mover and Seconder of this Motion for bringing a very timely motion to this House. I also thank the Minister respon-

sible for housing in accepting it on behalf of Government.

I would like to point out that the issue of housing is prevalent in all the districts of the Cayman Islands. I agree that it is a crucial issue and I am pleased that this House is resolved to address this issue with a degree of urgency.

I see the solution for low income housing as being in three stages: First we must first address the equity issue, which the current mortgage scheme addresses and assist those who cannot come up with the necessary contribution. Second, we have to find a source of low cost funds. The Minister indicated that CDB has been approached, and there is another option, which will be discussed later on in this House, that utilises pension funds. The third is construction techniques and cost of construction. In addition to the models, we must also ensure that our licensed contractors are utilising modern and current techniques in an effort to maintain cost of the construction.

In developing a proper low income housing scheme, the zeal of providing housing must be balanced with the caution that we should not debt burden our populous. We should not over leverage an individual as that can lead to other social problems. So, we must balance those two carefully and ensure that we do not violate normal lending practices of exceeding the debt service ratio of the individual. We do not want to force individuals into aspects of our current community we have deemed causes social problems, such as working two jobs, both members of the family having to work, and children having to work part-time to help pay the mortgage. I just sound that warning.

My second concern is about when we talk of Government purchasing property and making developments for low income individuals in one hub area. I have also observed some social problems as a result of low income hubs where individuals of similar income are grouped into one neighbourhood so that children growing up in that neighbourhood grow up to accept that that is their mode and they cannot achieve anything beyond that. It is always nice to aspire to become better than your neighbour, or better than your own family. I would encourage Government to try to keep these hubs as small as possible, and rather than purchasing large landmasses, making a low income subdivision all in one, spread them out as much as possible. I appreciate the cost savings when purchasing large land parcels, but that must also be balanced with the social issues.

With those few words I give my commitment to support this Motion.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Regardless of what we want to call it, we know that we have a need for housing in

this country, and that need is a result of the fact that many persons are not able to secure mortgages, and when they do, find them too expensive.

I assume that with this Government Guaranteed Mortgage Scheme that many persons that have qualified, have qualified basically because they were able to aggressively lobby and be eventually seen as somebody who could maintain the heavy monthly repayments. In some cases people may not have been completely honest about their ability to finance their mortgages. People were anxious. They saw this as an opportunity to get a home. They are still locked into the belief that to own is superior to renting. Of course, we know that renting sometimes means you are not mandated to come up with those monthly mortgage payments and you do not lose something by going a grade down. In other words, you have some flexibility when you rent. When you own, there is no flexibility, necessitating a more disciplined life style.

As I recall, the Scheme, as put forward by the Minister who brought this to us, was something that would deal with a particular segment of society, but was not envisaged to be something to deal with the entire problem. I think it would be a good idea to review the Scheme because there have been many people unable to pay their mortgages and who have become delinquent. In knowing the sociology, psychology and economics of persons involved we would be better able to determine the best way in order to deal with the problem of housing.

Certainly, there have been cases where persons have not regarded the ability to secure a mortgage as demanding any more commitment and discipline in the way they live their lives and manage their finances. Perhaps counselling should have been established for persons involved in the Scheme. In other words, it should never have been assumed that it was enough just to get a mortgage and let the person go back on their own and be independent without considering the need for some type of advice as to how to budget and thus meet the priorities of the borrower's commitment.

There are persons who are still of the psychology that a debt is not an important commitment—that it is like a relationship, something that you have but you can still move on. There are persons who borrow money from one person to pay another. People need to learn money management. Until they learn that, they are going to have problems with whatever system we come up with.

I recognise the need for us to institute some kind of money management seminar or counselling. By saying that, I am not saying that we will necessarily solve our problem. We still need to find ways of getting the capital necessary to give lower interest mortgages and to cut down on the amount of money persons have to pay in order to get a house or an apartment.

There are those who talk about affordable versus low income. People know what they live in. It is hard

for society to be wealthy and not have poverty. We look at all the societies that have developed in the world where people have wealth and fancy homes, and we find the same societies having accommodation that is not so fancy. America is a typical example. It is the wealthiest country in the world and the disparity between the poor and the rich is the norm. However, there is the reality that you can progress. There is mobility in that society, there is social economic mobility.

You can start off with a small house and be able to move up because there are other opportunities available to you. Because a person stays in a low income housing area, or an affordable housing area, or a government project, whatever, does not mean that providing this type of accommodation creates the problem of poverty. The problem of poverty is created by the way resources are allocated in the first place; the way monetary rewards are distributed. In looking for solutions to the housing problem, Government does not create the poverty. The poverty is already in place; otherwise Government would not be contemplating this move.

All the countries that have government subsidised housing have witnessed the fact that in bringing poor people together, or people from the lower educational, lower income group, it intensifies the development of certain asocial types of behaviour. Therefore, we associate crime with those types of housing developments. What would be the alternative to that?

Maybe the solution needs to take into account the fact that we will have social problems more intensified, or more consolidated, and therefore we need to have social management involved in the plans from the very beginning. Thus we do not want to just build physical buildings and not put social workers in there, and not put counsellors in there, and not put on the beat policemen in there.

We have already seen with the development of our community police officers, that there is some kind of structure there.

I am supporting this Motion and saying, at the same time, that, if Government finds in reviewing this, it needs to try to provide persons who cannot fit into the present mortgage schemes by developing Government housing, I find this might have to be an acceptable evil.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) If not, does the mover wish to exercise his right of reply?

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Thank you.

In replying I would like to thank the Members who responded so positively in support of the Motion, and also those who offered silent support. I thank the Minister responsible for his response in accepting this Motion on behalf of the Government.



I would like to say that both the Second Elected Member for Cayman Brac and Little Cayman, and the Third Elected Member for George Town mentioned the need for funds at a reduced rate. One of the existing problems is the cost of money. I am happy to see that the Ministry and the Department have worked to address this issue as well as the issue of affordable but acceptable construction methods.

I went back to get some information that was given when the Minister announced the Home Ownership Made Equitable Programme. It said that the lending range under the new programme was sufficiently low to enable Caymanians earning between \$1,500 and \$2,900 to qualify for a home between \$60,000 and \$95,000, or a home improvement loan between \$1,000 and \$25,000.

If we can use acceptable methods that will allow us to get homes built between \$60,000 and \$95,000, that in itself is a major accomplishment. Then, if we go further, get money that can be lent at reduced interest rates, then using the multifaceted approach both Members spoke about, we should be on the way to finding an equitable solution.

I also noted that a key component of the home programme is the financial counselling which will be offered to ensure borrowers are put on the right road of financial management for the future. I think the general consensus is that if we attack this dire need for housing and associated problems- the social ills that go along with the lack of housing and the need for adequate housing, I think that, as a country, we are moving along the right track.

I am happy to see that the new Government has placed an emphasis on this need in that they have already done quite a bit of investigation into developing a programme that will accommodate and address the needs that are so evident.

I thank the Members and look forward to their support.

**The Speaker:** I shall now put the question on Private Member's Motion No. 5/01-The Review of Government Guaranteed Home Mortgage Scheme. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 5/01 PASSED.**

**The Speaker:** Proceedings are suspended until 2.15 PM.

**PROCEEDINGS SUSPENDED AT 12.39 PM**

**PROCEEDINGS RESUMED AT 2.19 PM**

**The Speaker:** Please be seated.

Moving on to Private Member's Motion No. 9/01 Select Committee to Review the Health Insurance Law, to be moved by the Second Elected Member for Bodden Town.

## **PRIVATE MEMBER'S MOTION NO. 9/01**

### **SELECT COMMITTEE TO REVIEW THE HEALTH INSURANCE LAW**

**Mr. Gilbert A. McLean:** I beg to move Private Member's Motion No. 9/01, entitled, Select Committee to Review the Health Insurance Law:

**"BE IT RESOLVED THAT this Honourable Legislative Assembly appoints a Select Committee of all Elected Members to review the Health Insurance Law and matters pertinent to its operation in the Cayman Islands;**

**"AND BE IT FURTHER RESOLVED that the Committee take input from the public, health care and insurance providers and medical practitioners and report to this Honourable House no later than the last Meeting of the 2001 Session."**

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I beg to second this Motion.

**The Speaker:** Private Member's Motion No. 9/01 has been duly moved and seconded. Does the Mover wish to speak to it?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** This Motion is two-fold; first, the fact that the question of national health insurance in the Cayman Islands was a matter on which I campaigned in the last election with the promise I would do whatever I could to have this matter brought to the fore with the idea to review and improve; and secondly, the matter of health insurance is something that impacts on the lives of every single individual in these islands.

Leading up to 1998 the people of the Cayman Islands generally did not have health insurance. There were some who did and who realised the value of health insurance and could afford it. For the majority, people paid the medical practitioner or hospital whenever costs were incurred for health care services. For many years, the question of health insurance was mooted. There were various reports on it. It was introduced and brought into effect on 1 January 1998.

I am not here to say that health insurance is not a good means to provide for payment of health services. However, since the time health insurance has become compulsory in the Cayman Islands many people and businesses have felt the harsh impact of providing for health insurance. Many companies, particularly small businesses, complain about the cost of

health insurance. I have heard many instances where individuals complain about it. In several instances, people do not understand the full value of what it is and what it should do.

I would posture that health insurance is perhaps the best known means of paying for health care worldwide. Good insurance coverage is where an individual, or individuals in a group, pay a certain amount of money each week or each month to an insurance company, and when getting medical services the person can produce the insurance information to the health care provider and the charges for that service is taken care of by the insurance company.

That is where a real problem occurs in the Cayman Islands. I believe it is true to say that from the inception of health insurance in the Cayman Islands, costs increased. This was not only the cost of the actual premium, but the fees charged by the health care providers. The general belief was, now we had insurance, the providers could be paid as they would wish to be paid.

I have heard various stories from persons who went to see medical practitioners and were quoted a certain price for the needed service. When the practitioners learned the person was insured, the price suddenly doubled or tripled. I am aware of one such instance from a personal perspective. When I inquired, I was told by the practitioner that it was not strange to charge that amount. In fact the insurance companies expected that charge, rather than what was originally quoted.

Throughout the Islands I think people find it difficult to pay the premiums especially considering the way that many of the insurance companies are responding when called upon to pay for the services rendered.

I think there is a major flaw in the way the insurance is offered in Cayman. First of all, it seems that most insurance companies get permission to offer health insurance. If one measured the result of some of these companies' records of payment, then there is a real problem indeed. There are companies here that charge relatively low premiums for coverage, but are rejected by the provider. The individual is told to pay, and then collect payment from the insurance company. That was never the intention when devising national health insurance.

The whole principle of having insurance is defeated when that occurs. It occurs daily, I would say. Even in some instances where the insurance company is well known by name, and people believe that it has assets above average, you will find providers of health care refusing to accept the cards. One main difficulty that seems to prompt this action is that the insurance companies in the Cayman Islands, and I speak generally here, take such a long time to pay the provider. That is what I have been told, by pharmacies and by doctors, for instance.

It is necessary for Government to put in place much more stringent requirements for an insurance

company to offer healthcare coverage. They should be required to show that they can pay and will pay within a reasonable time.

I have noticed that the local companies, and, to the best of my knowledge this applies to all of them here, do not even appear to be branches. If anything they are agents of some overseas company. It is most frustrating and disappointing when a person in the Cayman Islands pays company X a large premium each month, and which, of course, is received most happily by the company collecting it here. The individual goes to a doctor and tenders his card as payment and it goes through the regular process . . . only to find, if he gets a reply to that particular transaction, the response is likely to come from somewhere in the United States. Something is very wrong with that practice.

We have a major example of failure where health insurance is concerned in the case of Government having taken out a major group insurance with Caribbean Home Insurance. That would have to be the biggest single group insurance that was taken out in the Cayman Islands because Government is the largest employer. It is my understanding that seamen and veterans were included and all the other people Government undertakes to provide health insurance for.

Most unceremoniously, on 15 March, this company gave notice that it was no longer offering coverage for civil servants. My understanding is that over the period of time Government had paid millions of dollars into that company and this abruptly came to an end. I also understand Government is pursuing legal action. I have not heard too much about it recently, and I think that is unfortunate. If insurance companies believe that the Government is hesitant about dealing harshly with any of them, then we will find the general attitude that they really do not have to pay.

I think for national health insurance in the Cayman Islands to work, it has to become much more clearly defined. All insurance companies must be held to the strictest line in delivering their side of the contract. A person in the Monetary Authority has been given oversight of insurance in the Cayman Islands. I personally think that should change. I think of the Monetary Authority as the authority dealing with money, but not necessarily the money which comes under the specialised area of health insurance. I think there should be a commission set up to separately deal with the matter of national health care. Also, something should be done quickly to reduce the number of persons offering health insurance in the Cayman Islands and not delivering when the time comes to pay.

I think that Government should seriously look at a nation-wide scheme either in a captive insurance form or as in the United Kingdom and Canada where everyone is covered from "the womb to the tomb"!

When a person reaches the age of 60 and is sick or not, it seems to be the point where insurance companies cut off coverage, unless you pay extra. If there

is a time a person needs health insurance it is when they become older. I do not think it is sufficient for insurance companies, to deny insurance when a person reaches a certain age even though they all have their own rules. In our area as well, the opportunities for insurance companies to refuse coverage are numerous. High blood pressure is an ailment that afflicts three-quarters of the world's population and in the Cayman setting that could very well be a reason not to cover a person, or offer partial cover only.

If this matter is put into a select committee all of us legislators can examine and make recommendations while standing together in coming to an agreement as to what health insurance should be in the Cayman Islands. The one major difference in Cayman is that we have compulsory national health insurance. The US does not have that, and that is where most of the big health insurance companies exist. There is no such thing as compulsory national health insurance there. There are few countries of the world that have that.

If we choose to have it, and I believe it can work, we need to be explicitly clear as to how we will allow it to continue in this mode in this country. Also, we have to reach a decision about which companies will be given the honour to provide this service in the Cayman Islands?

The provision of health insurance in the Cayman Islands is a matter of major importance to everyone because having health insurance is compulsory.

I read where the Minister of Health has taken certain steps in regard to civil servants offering coverage for them. I was glad to hear that. Perhaps he will speak to this when he replies to this Motion. The task in this area is mammoth. I think that just about every Member of this House can speak about it from the complaints we have all received about health insurance not working as it should in these Islands.

The opportunity is here. Government has the opportunity to respond to it in a positive manner and a clear motivation would be what has occurred with insurance coverage for civil servants. Having outlined some of the reasons why I think it is good to recommend that the matter of health insurance in the Cayman Islands be referred to a select committee of this Honourable House, I would leave the subject in order to hear other Members' opinions.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you.

I rise to endorse what has been put forward by the mover of this Motion, and to express my pleasure in being part of bringing this Motion to this House for consideration and hopeful passage.

Just to add to what was said by the Mover of this Motion, I have two areas of concern with the current legislation governing the provision of health insurance in the Cayman Islands. It appears that the current legislation is very much in favour of the provider of health services. I think we must be careful when drafting any amendment to this legislation that the consultation process includes providers but is not governed by providers of health services.

For example, the current legislation requires for only what I would consider low risk individuals to be insured by the health insurance providers, where high risk or uninsurable are then assumed to be provided for by the Cayman Islands Health Services. I am aware that there is a fixed dollar contribution made per policy sold by the providers that is accumulated into a fund from which the Cayman Islands Health Services can draw. I am also aware of the difficulties in drawing money out of the fund and converting that into general revenue. When we are in select committee, looking at this legislation, we must address this issue if we are going to remain in the current mode where health service providers are not governed to provide health coverage for the high risks. We must have friendlier criteria for drawing out of the fund.

However, I am more in favour of the insurance companies doing what they were designed to do—take risks. Insurance is a risk management business in which the high risk individuals are balanced with the low risk, and the premium set accordingly.

We just completed discussion and debate on the country's Budget. We note that the health services represented some \$43 million in cost, and only generated some \$8.5 million in revenue. I would advocate that a significant portion of this disparity can be contributed to the fact that the health services have to take on the responsibility of providing health care for persons who insurance companies deem as uninsurable.

In the select committee to review health insurance legislation, I would submit that it is time to consider the possibility of health insurance companies being mandated to insure even the uninsurable and assume the risk rather than the Cayman Islands Government.

I join with the mover of the Motion in expressing concern over what appears to be a very unjustifiable increase in the cost the health service providers charged once the national health insurance legislation was put in place. I think we need to come up with some method of controlling these costs and I appeal to the providers, through the health insurance legislation, to charge what they deem as appropriate fees for various services and that they be fixed in legislation and guided by some international standard of fees and charges. There is a Florida Board of Practitioners' Fees and Charges for various services provided in the health industry. We could adopt some benchmark to guide our services and the cost so the insurance com-

panies could have a fixed price that they pay for these services. That would control the issue of cost.

These are ideas that I am throwing out to be considered once in select committee.

The issue of health insurance is extremely important, and we all adhere to it. At the same time, we must make sure that the costs to the individuals or businesses are also controlled. In addition to an increase in the cost of providers once the health insurance was mandated, there was also an increase in usage by individuals in visits to the providers as a result of having national insurance legislation. I advocate that there should be some form of deductible. There should be some benchmark below which amount is paid by the individual.

We should have an education programme to make the populous understand, if that is the case, when working out the required premium there is an insurance provider who has fixed rates they have to pay to the health service providers and also a deductible that would be paid by the individual to reduce the number of visits made in addition to what would be considered normal for healthy living. This would reduce the amount needed to be charged in premiums. Thus, small businesses and individuals could pay less and achieve national health insurance.

With that, I give my undertaking to support this Motion.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I would like to remind this Honourable House that in September 1997 I brought a private Member's motion that attempted, and was successful in asking Government to hire persons to look into the feasibility of an insurance company established by Government to insure members of the civil service, their families, and indigents. This was a watering down of what I had originally intended, which was to suggest that the Government establish a health insurance company that would insure persons within the Cayman Islands.

The reason for this was that I have long believed we tend to borrow systems trying to create social benefits without having first created the resources in order to distribute them as social benefits.

If we see health insurance as a social benefit, rather than a profitable business, then we have to ask ourselves whether or not we have the resources to distribute health insurance as a social benefit. If we have the resources, then in what form do those resources exist?

I think that health is important enough. However, from the very beginning, we realised that it is difficult to talk about each citizen being important, having a right to an education but not believing that each citizen should have the right to lead a healthy life and not have a right to the human compassion and knowledge we find embodied in the health services.

Those of us who understand the birth of health insurance in Germany and other countries understand that those nations got involved because disease among the working poor would have affected the health of their entire countries.

At one point we had to agree on health standards as social standards. Of course, that became a part of the social philosophy.

We have heard about the national health services in England. Regardless of how critical people may be, it helped to provide medical treatment to many of the working people who would have been denied medical treatment and would have been exploited by insurance companies that were simply interested in profit.

As with everything, we need to come to a point of moral philosophical agreement as to what it is we feel our population has the right to expect from us, and what we are able to distribute with available resources. The building of the hospital cost over \$30 million, I believe. This gave concern in that if we were going to have a hospital where people were used to going for treatment, basically for free because we did have a national health system here in the Cayman Islands . . . it was not written in law, but it was understood in the culture that people could get medical attention regardless of class or whatever.

Even when people needed to be air ambulated to the United States of America to get medical treatment, they could go. People came to expect it. There are persons who went to the US and had kidney transplants that cost hundreds of thousands of dollars and they come from some of the poorest areas in our community. So, we saw in the Cayman Islands, equality in sickness. People could expect to go to the hospital and get treatment.

All of a sudden this caring and sharing philosophy as exhibited in the medical practice in the Cayman Islands underwent a drastic change without any consideration for our cultural relationship to sickness and death.

What I tried to express in that motion, and what I am trying to express in speaking to this Motion, is that the question of health insurance is not simply a question of money; it is also a question of expectations. People go to the doctor and expect, whether or not they are insured, to be treated equal to anyone else. We know that people have the habit where they want to go to the doctor for every little thing. That is not new.

Actually, Franz Fanon wrote in *The Wretched of the Earth* a very interesting description of why this is the case. Those who are not familiar with his analysis of colonial neurosis, and how it contributes to health problems need to familiarise themselves with his interpretation.

When people say they do not like certain doctors for whatever reason, we are basically dealing with dynamics. If some of these doctors have time clocks like our good friends the lawyers do and are watching

their time . . . it becomes very expensive for insurance companies to maintain a system that is not just a health system but a social system.

Some of my doctors are very happy to see me when my blood pressure is up and has to be tested, and it is another \$60 and it goes on, and on, and on, because the neurosis is there.

Some of us have not been taught to manage some of the symptoms we have and we have come to rely upon our doctor to agree with us at the end of the day. . . *'yes, Frank, you have a cold. That is why you were sneezing and that is why you were blowing your nose. I am sorry, but you will probably have that for another week or two. I can give you antibiotics, but they would probably not be very helpful.'* The system desperately needs to be sorted out.

I am saying that once you tell people they cannot have access to the doctor, even when we could say *'you don't need to see a doctor, you can see the nurse'* . . . we get into problems where people start to scream about discrimination. How do we get it to the point where it all seems equal?

I believe that, although we should be allowed to compete, and own things separately, medicine should be socialised. We should always maintain health because once we have lost that we cannot regain it. The Maker gives it to us, and it is not something that we should be able to trade and bargain on the open market based upon profit. That was my position from the very beginning. That is what caused me to say that Government should look at a national health insurance that would cover the people it protected. Part of the security of the state would be embodied in the ability of the state to provide good health insurance facilities.

When you take the people's taxes and build a good hospital, and when you take people's taxes and guarantee the running of the hospital, then why is it that you need to send the person out to be insured by somebody else to come to bring the insurance card to your hospital so that your hospital can then build this foreign entity? What I really believe is that in asking the question whether we have the resources to be socially responsible medically for our people, we do have the resources—the hospitals and doctors are there.

Of course, we have to pay the doctors, but we find that Government, even in the numbers it employs, covers such a large number of people employed in the Cayman Islands, in any case. Therefore, the question was why was Government going to be paying money for all of the people it employed, all of the families of these people, all the indigents in the country . . . how many thousands? 7,000? 8,000? We are going to be paying money to a company from overseas, which then pays Government back for services received!

The mere fact that Government owned the hospital meant that Government had the service it could provide. We know taxes are levied in this country for education and other things. Why not use some of

these to pay for the medical facilities as well, rather than relying upon private health insurance companies to compensate you?

I am a firm believer in nationalised health services. There are those who argue about the quality. If they do not think the quality is good enough, they can go to the private sector. That is their choice. Why should we deprive certain people of services because other people want choices?

Some of us really do not choose. It is just that the Government accepted an actuarial study should be done and the result would be laid on the Table of the last Parliament. The Government made the decision, at the end, not to cover its workers, but have Caribbean Home involved and we now see what has happened. No insurance company is going to continue to be involved in an environment where it cannot manipulate the conditions.

If you are going to try to tell somebody how to run his business, then you should do your own business. It is easier to master your own business than to tell somebody else how to run theirs. These are multinational companies! They are used to having their way and their say. They are in whatever country they are in to make profits. It is profit above people.

If we are going to put people above profit in regard to health care, then Government has to become actively involved in providing the financial resources to make that possible. There are all kinds of contradictions which the mover already introduced into the debate which can be further looked at in committee. A lot of us suffer from high blood pressure, diabetes, ageing, and health insurance coverage only seems to be guaranteed for people with perfect health, perhaps the males rather than females because the ladies might get pregnant! At the end of the day coverage is so small and insignificant that we might as well not have it.

That is what people are saying. They want to be insured at the time of greatest risk, not when there is less risk. If insurance companies are only going to be interested in providing insurance when there is no risk, then we do not need them.

I am also interested in the fact that we have the possibility to make a lot of money because we can bring people in from South America and different places to be treated there. We can open our hospital up to help subsidise the cost of the hospital.

I would like to get back to the days when medical treatment made us feel equal in the Cayman Islands. We were a community where there existed so few differences among the people. Now, as a result of rapid development, we have so many. However, we can use our minds to adjust social conditions in such a way as to preserve equality on certain levels. I believe there should be a real attempt by Government to review its Health Insurance Law. The review should go to a select committee and that people should begin to think about the benefits of controlling their destiny rather than giving that destiny to more multinationals.

We are already indebted enough to multinationals from the point of view of the way in which we earn our living. Let our health not also be a question that the multinationals must decide.

**The Speaker:** We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.15 PM

#### PROCEEDINGS RESUMED AT 4.20 PM

**The Speaker:** Please be seated. Debate continues on Private Member's Motion No. 9/01, Select Committee to Review the Health Insurance Law.

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

I rise to indicate my support for this Motion. I believe that the Motion is warranted and timely, because there is general disenchantment with the operation of the current health insurance scheme. I believe that all Members on this side of the House have had concerns related to them by constituents who complain about a considerable number of deficiencies in the current legislation and its operation.

I can offer general endorsement for most of what has been said by other Members, but I thought that I should perhaps offer some historical perspective on the current Health Insurance Law and what, in my view, it sought to achieve when it was passed in September 1997.

Prior to the passing of this legislation, as indicated by the Third Elected Member for George Town, Government was perceived by the populace to be the insurer of health risks in these islands. Many individuals who were covered simply turned up at the hospital, got treatment and went away. School children were covered for years and years. There was, in fact, a semi-socialised health scheme in these islands for many, many years.

With the huge increase in population and the concurrent cost in the provision of health services this system could no longer be allowed to prevail. That is why the Legislature of these islands passed the Health Insurance Law.

The Law established a system of compulsory health insurance and mandated that, subject to certain carve outs, every person resident in these islands had to be covered by a contract of health insurance effected either by their employer or by themselves. Indeed, every individual who had attained the age of majority and was employed was also required to ensure that their spouse and children were also covered. The scheme was, as I see it, to defer the cost of health coverage from Government to insurance companies who for a premium would assume this risk.

The legislation provided for two significant carve outs, indigents, and the category of individual described as uninsurable. In my view, these carve outs made the objective of the health insurance scheme

incapable of being achieved.

As I understand it, there are currently some 10,500 individuals who fall either into the category of indigent or uninsurable.

*[inaudible interjection]*

**Mr. Alden McLaughlin, Jr.:** Mr. Speaker, I should correct that last statement. There are some 10,500 individuals, or thereabout, for whom Government has ultimate responsibility for coverage of their health care, including indigents and the uninsurable. Included in that number are civil servants, pensioners, seamen and veterans.

As I understand the objective of the Health Insurance Law, it was to relieve Government of the tremendous amount of fiscal responsibility it had in relation to health coverage in these Islands. When the number of those whom Government is still required to pay for in relation to health coverage is that high, in my view that objective is not achievable.

So, we must find a way, some scheme by which every person resident in these Islands is able to obtain proper health care, but which does not continue to cost Government sums of money that it can ill afford.

One of the sad ironies of this legislation is that high-risk insurance persons are more likely to be declined coverage by insurance providers. It is these high-risk individuals who, by their very nature, are most likely to require health care on a very regular basis and at considerable cost, since many have chronic and serious debilitating illnesses. We have to arrive at a result that does not cause Government to dig into its almost empty coffers to continue to pay for the health care of these individuals.

We have heard about the tremendous amount of outstanding sums due Government in relation to overseas medical advances and loans. We are, as the Third Elected Member for George Town is fond of saying, still very much a caring community. Any individual who cannot afford medical care, or who is declined health insurance coverage, and requires overseas medical attention is covered by Government. The reality is that most of these sums are not recoverable. The sums involved in treating serious illness, especially in the United States, are so significant that the average individual, particularly if he is quite sick now, will not live long enough to repay Government. That is the reality of the situation.

We must, in my view, give careful thought and careful consideration to the Health Insurance Law and the appropriate medium for this to be addressed is, as the mover has suggested, a select committee of this Honourable House.

Before I sit down, I should just note some of the concerns related to me in relation to the way the current—

**MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** If I may interrupt you for just a moment. We have reached the hour of interruption. If you will finish in a short period of time, it may be the wish of the House to allow you to continue.

**Mr. Alden M. McLaughlin, Jr.:** I will not be more than five minutes.

**The Speaker:** Please continue.

**Mr. Alden M. McLaughlin, Jr.:** Some of the problems related to me in relation to the current scheme are that there is abuse of the system by certain medical practitioners who claim sums which they would otherwise not claim if these amounts were being paid by the patient as opposed to the insurance company. Facts are facts.

There is also abuse by certain of the insurance companies who create reasons why coverage should be denied or declined or deferred, and often delay the payment of claims because the longer the money remains in their account the better off they are.

Then there is also the issue of the over-utilisation of the coverage, with people believing because they have health insurance they can go to the doctor far more often. These matters also need to be addressed by the select committee and we have to seek to develop a scheme that limits this abuse. The result of this abuse is to drive the premium up and make coverage more difficult to obtain and more expensive to have.

This is perhaps a bit off the topic, but these need to be considered in the general scheme of health care in these Islands and we need to give thought to the re-establishment of the Health Services Authority which will have oversight of all of these matters.

I close by indicating my support for this Motion.

**The Speaker:** I will entertain a motion for the adjournment of this House.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, there is a meeting scheduled for tomorrow morning. I am sorry I did not know before now, but it is scheduled at 10 am tomorrow involving members of Executive Council. May I crave your indulgence to move the adjournment of this Honourable House until 11 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 11 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

The Speaker: **The Ayes have it.**

**AT 4.37 PM THE HOUSE STOOD ADJOURNED UNTIL 11 AM THURSDAY, 21 JUNE 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**21 JUNE 2001**  
**11.50 AM**  
*Second Sitting*

*[Prayers read by the First Elected Member for Cayman Brac and Little Cayman]*

Dr C - June 1983

Dr G - December 1997

Dr D - December 1984

Dr H - October 1997

**The Speaker:** Please be seated.

The Legislative Assembly is in session. Item 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**ST. IGNATIUS PREPARATORY SCHOOL  
YEAR 6 STUDENTS AND TEACHERS**

**The Speaker:** I would like to welcome the students of Year 6 of St Ignatius Preparatory School and their teachers Ms. George and Ms. Campbell. We are very happy to have you here, and hope you will benefit from your time spent here.

I would also like to apologise for the late start this morning, but I feel it was a meeting most important to the Government and the Cayman Islands.

Moving on to Questions to Honourable Ministers and Members. Question 56 is standing in the name of the Second Elected Member for George Town.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 56**

**No. 56: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister responsible for the Ministry of Health and Information Technology to state when "the eight doctors who presently do not meet the criteria for registration" and to whom the Honourable Minister referred in his address to health care professionals on 10 May 2001, were first registered under the Health Practitioners' Law.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** In order to preserve the anonymity of the doctors concerned, I shall refer to them in my answer by using letters of the alphabet. The eight doctors were registered on the following dates:

Dr A - May 1981

Dr B - July 1982

Dr E - July 1990

Dr F - December 1995

**SUPPLEMENTARIES**

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say what the criteria were at the time of registration for doctors A through H?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The eight doctors were first registered under section 7(7) of the Health Practitioners' Law (Law 19 of 1974) (1995 Revision). The criteria under section 7(7) states as follows, "**Government health practitioners shall be entered in the registry for the period of their service contract with Government in accordance with the capacity in which they are employed.**"

Only one doctor is still registered under that section. I may say, just for information, the effect of this section is that government doctors' applications for employment were not scrutinised by the Health Practitioners' Board (HPB). By virtue of working for government, such doctors' names were automatically entered on the register.

This deficiency in the system no longer exists. All applications from doctors wishing to work in the Government or private sector are now evaluated by the Health Practitioners' Board.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Is the Minister saying that the registration was the result of inefficiency in the administration, or in the law?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is a very good question. I do not want to place any blame. I can just say exactly what the law states and under what section of the law these individuals were registered. That is section 7(7) of the of the Health Practitioners' Law (Law 19 of 1974) (1995 Revision). I will just read that over again, "**Government health practitioners shall be entered in the registry for the period of their ser-**



**vice contract with government in accordance with the capacity in which they are employed.”**

This, in my opinion, was a weakness in the Law because it directed that those health practitioners working in government were automatically registered under this section of the Law without any specific scrutiny by the Health Practitioners' Board.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Would the Minister say whether there would be any identifiable inefficiency in the administration that exercised its own criteria to hire these doctors? In other words, the criteria did not exist in abstraction, it exists in reality, and the reality would have to be the law or the administration.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** There is no doubt that there was and is a weakness in that section of the law. This has now been strengthened.

I would mention though that the one doctor, Dr. C. in the list, is now registered under section 7(2) of the Health Practitioners' Law, and it is this section that contains the criteria the eight doctors do not meet. Section 7(2) states, **“Any person, being the holder of a degree or diploma in a health profession issued by a university, medical school or other institution approved by the Board, who desires to be registered as a health practitioner may make application to the C.M.O. in the form prescribed in Part 1 of the Schedule and shall tender with such application the prescribed fee.”**

In connection with this section, the minutes of the Health Practitioners' Board meeting as far back as 19 June 1979 state the following policy decision taken by the Board, and that is, **“as for qualifications and conduct a decision was made to accept only recognised diplomas from universities, medical schools or other institutions in North America [meaning the US and Canada], Great Britain and the University of the West Indies.”**

The doctors' health qualifications were from universities and other institutions which do not meet the requirement of this policy decision. Furthermore, they were not registered or eligible for registration in any of the four countries, namely Canada, the UK, the US or Jamaica.

Let me just make it clear that section 7(7) of the law applied to employees at the government hospital. These employees were automatically registered by virtue of their employment with government. Section 7(2) applied to all others in the private sector, and of the 143 doctors that were subjected to the scrutiny at the time this problem arose, only eight of those did not meet the criteria.

**The Speaker:** I would appreciate a motion for the suspension of Standing Order 23(7) & (8).

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

**Hon. Linford A. Pierson:** I move the suspension of Standing Order 23(7) & (8) to allow Question Time to continue.

**The Speaker:** The question is that we suspend Standing Order 23(7) & (8) to allow Question Time to continue beyond the hour of 11 o'clock. Those in favour please say Aye, those against No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time will continue.

### **AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Minister say how many of the eight doctors he has described, not presently meeting the criteria for registration are still employed by the Cayman Islands Health Services Department?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Of the eight doctors, seven are currently employed by the Health Services Department. I hasten to add, however, that from the initial stages of this problem it was made quite clear that despite any weaknesses in the registration of these doctors, it was not the intention of the Ministry to disenfranchise any of these doctors, but to try to work with them to work this problem out.

That, I can say, has been done. I have met with the doctors and they have also met with the HPB in working out a system that will be satisfactory to the HPB.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Would the Honourable Minister agree with my interpretation of section 7(7) as being stated in the imperative. **“Government health practitioners shall be entered in the registry for the period of their service contract . . . .”** It seems to me and perhaps the Minister can clarify this, that neither he nor the Health Services Department or HPB have any authority or jurisdiction to interfere with

the registration of government health practitioners, subject to section 7(7).

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** If that were indeed the case, there would be no need for an HPB. Regardless of whether or not doctors are employed by government, it is the duty under the same law for the HPB to scrutinise every application and every doctor that works within the Cayman Islands. It is quite clear in this section and I do not want to argue points of law with the Honourable Member, especially in view of his profession. However, it is quite clear here that in any situation where it was automatic for somebody to be registered; is the same as someone being automatically registered as a lawyer or an accountant without being properly scrutinised. There has to be a weakness in that system. The same thing occurs here. If just because one is working with government one does not have to be scrutinised, then something has to be wrong with that law. That is precisely what has happened here.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I have no doubt that the Honourable Minister's intention is laudable. However, can the Honourable Minister say whether or not he believes the views of the HPB or of the Ministry can override the law?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I do not think that is what I am saying. I believe if that Honourable Member will read this subsection quite clearly he would also agree that this automatic provision is a weakness in the Law. It avoids the proper process of doctors being scrutinised by the HPB. Obviously this weakness has to be corrected, notwithstanding the fact that it has lasted for some 20 years. If there is a weakness in the Law, it should be corrected. That is what is being proposed.

I will go on to say that this matter really came to light after a situation back in 1998 when a doctor seeking registration was refused registration. She then said publicly that she knew of other doctors with the same weaknesses in their accreditation criteria. It was at that point the Governor directed the Chief Medical Officer to investigate the case.

Of the 145 doctors checked, there were only eight who showed this weakness. I am also happy to say that as I speak, two of those eight have now met the criteria and there are only six doctors who have been given certain criteria to fulfil.

There is no question about the HPB or the Minis-

try overriding the Law. The HPB has a specific duty under the Law. The Board must ensure that every doctor employed in these Islands meets the criteria. If that is not the case, regardless of whether or not it is a weakness in the Law, it has to be corrected. That is what is being done.

By extension, it could be said that because there is a weakness in the Law it should be allowed to continue without being corrected and that would be a gross injustice to the people of these Islands.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The Honourable Minister has referred extensively to the HPB being the authority which scrutinises the qualifications of health practitioners. Can the Honourable Minister point me to the relevant section in the law that vests the HPB with such authority?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I will be very happy to do that. I will refer the Honourable Member to the Health Practitioners' Law (1995 Revision) section 5 which deals with the Board's procedures. If he would also read section 6, it gives detail of the register and section 7 continues to deal with registration. I would be happy to read it, if the Member so requires.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I am most grateful for the Minister pointing that out to me. Section 7(2), which is one of the sections to which the Honourable Minister referred reads as follows: "**Any person, being the holder of a degree or diploma in a health profession issued by a university, medical school or other institution approved by the Board, who desires to be registered as a health practitioner may make application to the C.M.O. in the form prescribed . . . .**" Can the Honourable Minister say whether the Chief Medical Officer referred to in that section is the same Chief Medical Officer with responsibility for government health services?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The Chief Medical Officer is responsible for the clinical side of the hospital, the Director of Health Services for the administrative side.

I would just like to comment on the point raised in reading through section 7(2). I think it is quite clear in section 7(2) that this is the section that provides the criteria for registration and it says "**Any person being the holder of a degree or diploma in a health pro-**

profession issued by a university, medical school or other institution approved by the Board, . . .” and this is the point that is not covered in section 7(7). It states in section 7(7) “**Government health practitioners** [meaning doctors at the Hospital] **shall be entered . . .**” whether or not they have been approved by the HPB, and that is where the weakness lies.

**The Speaker:** I do not think we can settle a legal question here today. If there are other aspects that need to be questioned, I think we need to move on. I will give you one further follow-up.

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I just wanted to ask the Honourable Minister if in his view the proper course is not to amend the Law.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is a very good point. As I speak, we are in the process of revising the whole Health Practitioners’ Law. As a matter of fact, the draft 2001 Health Practitioners’ Law is now before the HPB for their review. As soon as that has been reviewed it will be taken to Executive Council and then made available to the public for input prior to being brought to the Legislative Assembly for passage.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In an earlier reply, the Minister said it was the policy of the HPB as far back as 1979 when it was decided that they would accept qualifications from the United States, Canada, Jamaica and England. Since it is a question of policy and choice, does the Minister think or agree that it should be expanded to other countries. We know that in Japan, Germany, France, Russia and Cuba and India there are some of the highest levels of training in the world. Should the criteria not be that a judgment is passed on the subjects studied by the doctor, the level to which they study and the subsequent exams? This gets away from what is obviously a very limited and subjective situation?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is a very good point especially now since we are in the global age. Just to use an example. In the US today if a doctor out of any of the industrialised countries, be it the UK, Canada, Germany, France, wanted to work in the US, they would have to go through a specific course of training and pass the US bar in order to work there.

The point is that under the new legislation we will be looking at this whole question of broadening the

scope. There will be four distinct councils under the new legislation that will deal with the doctors on the dental side, then there will be the nursing, the mid-wifery, the pharmaceutical side and others allied to medicine. It will be a much broader spectrum and will no doubt extend to other countries. As it is now, it is the policy that any doctors wanting to practice in the Cayman Islands should fall within the criteria of one of these four countries (the US, Canada, the UK and Jamaica).

The question could be asked, why not Australia? Why not India or other countries? We do know that these four countries have some of the highest standards in the world. We want to peg our standards to the very best available because our people deserve nothing less.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Minister talked about the best available for our people, and I support that. He also said that, as of 1979, the policy of the HPB was that they would not register any doctor that was not registered or qualified within those four areas.

Can the Honourable Minister say, since we are looking for the best for our people, why is it that all but one of these doctors has been registered in the Cayman Islands since 1979?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is a valid point. I think I explained that quite clearly, but I will go over it again.

Those eight doctors were registered under section 7(7) of the Health Practitioners’ Law which deals specifically with government doctors. All other doctors in the private sector had to go through the HPB and meet the criteria, and they did. It was just these eight doctors that did not.

As I said, two of those doctors have now met the criteria and we have worked out a programme for the other six. Hopefully they will take this up and get the matter behind us. It is in the interests of this country that this matter does not be continuously be dredged up in the Legislative Assembly under the motivation of maybe a minority of those doctors who do not wish to comply with these procedures.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if we were accepting lower standards for the Government hospital than we were for the private sector?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** To deal with that question as delicately as possible, I think it is true to say that

there was a difference in the criteria applied to the Government health practitioners, which is quite clear under section 7(7) of the Law as applied under section 7(2). To give the impression that the doctors at the hospital may not have the same standards as the private sector would be to give a false impression.

We are looking at a situation where eight doctors—out of some 200—have to upgrade their standards through continued medical education. I would hate for the impression to be given that these doctors are inferior to the other doctors.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It still bothers me that there appears to be a double standard.

**The Speaker:** Please turn this into a question.

**Mr. V. Arden McLean:** I will, Mr. Speaker.

The person responsible for hiring doctors in government is the Chief Medical Officer (CMO). Is he not also the chairman of the HPB which also scrutinises the criteria for doctors in the private sector?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I think it is important for us to look at the history of these appointments. We go back as far as May 1981 up to 1997 with these eight doctors. It is true that the CMO is chairman of the HPB. I think to blame the CMO in any way for this problem would also be wrong because the Law . . . there is an obvious weakness. You referred to it as double standard. Perhaps there was a double standard because section 7(7) states specifically that “Government health practitioners shall be entered in the registry . . . .” It states that specifically.

However, under section 7(2) they had to go through the proper procedure of the HPB. This was a weakness, and this is what I referred to earlier as a loophole. This, I am happy to say has been corrected and there is no longer this problem.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** I believe the Minister was correct in saying that the criteria now being adhered to is in section 7(2) of the Health Practitioners’ Law. Can the Honourable Minister say if, upon his interpretation, it refers to present or future practitioners? Given the fact that it specifically refers to “who desires to be registered” as opposed to the proviso in subsection (7), which is a separate and specific category for government health practitioners.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** This is not a future situation. It deals with any doctor requiring or desiring to be registered in the Cayman Islands. It is more specifically laid out in Part I of the Schedule as to requirements. This is for any doctor and would also have applied from as far back when this Law came into effect initially.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** Can the Honourable Minister say whether section 7(2) was in existence at the same time as section 7(7)?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am not the legal draftsman here, but I can say that I am now looking at the Health Practitioners’ Law (1995 Revision). The original law was as far back as 1974. So, I would presume that this applied from that stage in 1974.

**The Speaker:** I am going to have to limit this to three more supplementary questions. We have been a long time on this.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** Thank you for your indulgence.

Can the Honourable Minister say, by virtue of section 7(2), which now seems to be the applicable criteria, what fee is paid under the Schedule as set out by this criteria and in keeping with the letter of the Law?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am reliably informed that government doctors do not pay a fee. Those in the private sector pay a fee of \$800 per annum.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say, and I am not attributing this problem to him—how is it decided to rate the medical qualifications of individual doctors according to countries, rather than accredited institutions? How was that decided?

We might have different quality schools in the US and England, and we know that is a fact not just in terms of medical schools, but other schools. That is what I am trying to ascertain.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The applicants coming before the HPB are scrutinised on the basis of their qualifications, as in section 7(2) and also within the four country criteria. Those qualifications have to have been obtained within that four country criteria, the US, Canada, the UK and Jamaica.

**The Speaker:** The Third Elected Member for George Town, final supplementary.

**Dr. Frank S. McField:** The Minister refers to the four country criteria, in other words, they have to come from within those four countries. When deciding on these four countries or when continuing to employ the four country requirements rather than extending it or making it three countries or one country, what criteria is used? What is the medical criteria being used here, or is this purely subjective?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** As I said earlier, this has been in effect since 1979. It was mainly because of the standards of these four countries well known to the Cayman Islands. I do not think there were really any other major reasons, but mainly that we held in high regard the standards in the US, the UK, Canada and Jamaica. It was for that specific reason that the policy—and I must state it was a policy—was reached by the HPB to use the criteria applying to those four countries.

**The Speaker:** Moving on to question 57, standing in the name of the Second Elected Member for George Town.

**QUESTION NO. 57**  
(*withdrawn*)

**No. 57:** Mr. Alden M. McLaughlin, Jr. to ask the Honourable Minister responsible for the Ministry of Health and Information Technology Under what section of the Health Practitioners' Law were the eight doctors first registered and under what section are they currently registered.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, we have traversed much of the territory covered by questions 57 and 58. There are some questions Members do wish to ask. If you think the proper procedure is for me to proceed nevertheless, to ask 57 and 58 I will do so. Otherwise, I submit that we could proceed with the additional supplementaries on the basis that those areas have already been opened for discussion as a result of the previous supplementaries.

**The Speaker:** I would suggest whichever of 57 and 58 is in the need of the most supplementaries, withdraw the other question and just go with one. The

Second Elected Member for George Town?

**Mr. Alden M. McLaughlin, Jr.:** I believe the Minister has directly answered question 57, so I will ask 58.

**The Speaker:** Do you have a Seconder to withdraw question 57?

**Dr. Frank S. McField:** I second that.

**The Speaker:** The question is that question 57 be withdrawn. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 57 WITHDRAWN.**

**The Speaker:** The Second Elected Member for George Town.

**QUESTION NO. 58**

**No. 58: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister responsible for the Ministry of Health and Information Technology what section of the Health Practitioners' Law or the Regulations contains the criteria which it is now alleged that the eight doctors do not meet.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I would like to thank the Member for withdrawing question 57. This question has also been dealt with in some depth, and the answer is similar to what has already been provided.

The eight doctors were first registered under section 7(7) of the Health Practitioners' Law (1995 R). Only one is still registered under that section. The one in question is now registered under section 7(2) of the Health Practitioners' Law.

Section 7(2) of the law contains the criteria which the eight doctors do not meet. I will read it again for the record: "**Any person, being the holder of a degree or diploma in a health profession issued by a university, medical school or other institution approved by the Board, who desires to be registered as a health practitioner may make application to the C.M.O. in the form prescribed in Part 1 of the Schedule and shall tender with such application the prescribed fee.**"

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** It seems plain to me that the criteria set out in section 7(2) cannot be imported to section 7(7). I would be grateful, in light of his answer, if the Minister could confirm that the HPB or the Ministry has no authority in law to de-register doctors who have been registered as government health practitioners under section 7(7) as long as their contracts with government are in full force and effect.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I agree that section 7(2) and section 7(7) of the Health Practitioners' Law are totally different. Section 7(7) is streamlined for government doctors, and they are registered automatically under that section without having to be scrutinised by the HPB.

Section 7(2) provides the criteria for registering of doctors.

The question of reviewing that registration arises on the re-registration of the doctors. The HPB may scrutinise the registration of any doctor at any point in time. When the renewal period comes, they may take whatever action deemed appropriate.

**The Speaker:** Before calling on another supplementary, this question says, Health Practitioners' Law (1995 Revision), which should be deleted, as it actually refers back to 1981. If we are referring to it, we should refer to it as Health Practitioners' Law—not the 1995 Revision.

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Maybe I did not fully understand the Minister's response. I am still not sure if he is acknowledging that government health practitioners registered under section 7(7) cannot be de-registered as long as they remain employed by the Cayman Islands' Government. I would be grateful if he would indicate whether or not that is his position. Can they or can they not be de-registered during the course of their current contract?

**The Speaker:** Are you asking for a personal opinion or a policy decision?

**Mr. Alden M. McLaughlin, Jr.:** At the end of the day this boils down to one's interpretation of section 7(7). So, I am asking the Minister to indicate whether or not it is government's position that the HPB have the ability to de-register government health practitioners during the course of their contract with government, under section 7(7) of Health Practitioners' Law.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, you were quite correct in saying that the Health Practitioners'

Law should not be referred to as the 1995 Revision. It should be referred to as the Health Practitioners' Law (Law 19 of 1974) (1995 Revision), which is correct.

To answer the Member, there is no intention to de-register any doctor. That was not the intention. In looking at the re-registration or renewal of a doctor's contract, we looked carefully to ensure that we did not make the same mistake, by saying "we" I mean the HPB that was made previously. To have continued that mistake would have been most unfortunate. I have to congratulate the Board for spotting this weakness and in trying to correct it at this time.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if it is not in the best interest of the general public of this country to allow this subject to play out in the press because of the sensitivity involved, the clientele these doctors have gathered since being here and if it would not be easier to grandfather these doctors into the Law?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is a very good comment, and precisely why I decided to preserve the anonymity of the doctors. It is my understanding that much of this undercurrent is being caused by a few of the doctors. So, if this is brought to light, they have themselves to blame. It has not come from my Ministry; we have been very careful. Even when mention was made on the Cayman Islands Television Network (CITN), I took grave exception to that because I do not want the position of these doctors to be belittled in any way. That is why I have tried to keep it as confidential as possible.

I also feel that it is unfortunate that we have to go through so much of this in the public press, and otherwise, when the matter has been properly dealt with by the HPB.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say if there are any observable reasons why this mistake would have been allowed to continue for 20 years? If not, what are the calculated effects this situation will have regarding doctors who have given evidence in criminal cases in the Cayman Islands?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** This is precisely the reason why it was felt by the HPB and endorsed by the Ministry, that it would not be fair to those doctors to merely grandfather them into the process. It was felt that by

doing so would suggest that those doctors did not meet certain criteria. That is why we preferred to work with these doctors internally rather than making this a public issue.

On the question of any observable reasons why the mistake was allowed to continue for 20 years, I can only speculate on that. I would not want to point fingers at anyone. I can only say that I took up office in November 2000, and the matter was before me when I went into the Ministry. It had been pending for two years. I made it quite clear that I would not have the matter continue pending for another two years. I decided to take action to get the matter corrected as early as possible in the most reasonable and fair manner possible. I am happy to advise the House that this has been done.

**The Speaker:** Two final supplementaries.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Since section 7(2) of the Health Practitioners' Law (1974) (1995 Revision) states that "**Any person, being the holder of a degree or diploma in a health profession issued by a university, medical school or other institution approved by the Board . . .**" The Minister has referred not to institutions but countries, would it not have also been possible to resolve this situation by extending the categories of countries that would be permitted to be entered in as countries qualifying persons to be registered? Rather than asking them to fit into narrowly defined and subjective criteria, would it not have been possible to extend it to cover the country that these individuals came from?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I understand exactly what the Member is driving at, but this could also have an adverse side. We know there are doctors qualifying all over the place. We have an institution even in some of the Caribbean islands, in Grenada. We have doctors coming out of Mexico; we have doctors from all over the place. To make this situation carte blanche without really scrutinising and ensuring that we have doctors of the very highest calibre and qualification would be an injustice to our people.

As I mentioned, a new piece of legislation will be brought to this House and I hope that Members will take the opportunity to make input into that piece of legislation as they deem appropriate.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman, final supplementary.

**Mrs. Julianna Y. O'Connor-Connolly:** Seeing that we are due to get new legislation shortly, that will hopefully rectify this situation, I wonder if the Minister would give an undertaking to consider medically ap-

proved institutions as opposed to countries as part of the criteria.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe it would be a bit pre-emptive of me to give such an undertaking when the new legislation will be coming before the House and up to the Members to decide what is placed in that legislation before it is approved. I would ask all Members to then make their recommendations as to what they deem appropriate to be placed under that legislation.

**The Speaker:** Question 59 is standing in the name of the Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I was getting an indication from the Government Bench, if you would take a suspension, the lunch break in fact—

**The Speaker:** I was hoping we could continue until Question Time was over.

**No. 59: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology what has government decided to do to ensure that the doctors at the Government hospital, who it is claimed do not meet new requirements for registration, reach such standards.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, we were just trying to see if we could get a break before we go into this question because two of us have a one o' clock appointment. That was the reason for asking. Like the other questions, this is probably going to take quite a while to complete.

Would the House be kindly disposed to taking this question after lunch?

**The Speaker:** Can we get an assurance that we can reconvene at 2.15?

**Hon. Linford A. Pierson:** Yes.

**The Speaker:** We have a lot on our agenda and I am concerned that we started late; but if that is the wish of the House, we shall suspend proceedings until 2.15 pm.

**PROCEEDINGS SUSPENDED AT 12.56 PM**

**PROCEEDINGS RESUMED AT 2.39 PM**

**The Speaker:** Please be seated. Question Time continues, the Second Elected Member for Bodden Town.

**QUESTION NO. 59**

**No. 59: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology what has government decided to do to ensure that the doctors at the Government hospital, who it is claimed do not meet new requirements for registration, reach such standards.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** In my response to the question, I must first clarify that there are no new requirements, at this time, for the registration of doctors.

A review of the records of the Health Practitioners' Board by the former Chief Medical Officer, and subsequently the Health Practitioners' Board, confirmed that some eight doctors, most of whom are employed at the Government hospital, did not meet the requirements for registration that had been in place since 1979.

The Health Practitioners' Board made certain recommendations which have been accepted by the Governor-in-Council and these have been passed on to the Director of Health Services with instructions that they are implemented.

The recommendations of the Health Practitioners' Board are as follows:

1. It is recommended by the Health Practitioners' Board that *the doctors should be allowed to maintain registration by undertaking specified additional medical education*, specifically stating (and I quote) "Providing that the eight named doctors meet the requirements set out in this recommendation, they would be considered to have met the current criteria for registration."

2. The Health Practitioners' Board would also *identify specific requirements to be achieved within two years* and the specification set by the Health Practitioners' Board would take into account the needs of the individual doctor in order to meet those requirements.

3. The first requirement would be to *make up the difference between the average continuing medical education since 1994* as it relates to the individual doctor and the present requirement (of the Health Practitioners' Board) of 20 hours over two years. Of this, at least half should be "hands on" experience in an appropriate facility off Island.

In addition, each doctor will be required to update their clinical skills in an area agreed by the Board. This amount would not exceed three months in two years and it would also meet the continuing medical education requirements.

4. In addition, the Health Practitioners' Board recommends that the Government, through the Health Services Department, should provide assistance to each

physician to a maximum as follows –

- (a) the equivalent of a return economy airfare for one to the United Kingdom
- (b) an allocation of up to \$2,500 per month as a contribution to all costs (this would be prorated according to time away)
- (c) paid leave

5. In the case of a doctor in the private sector:

- (a) the equivalent of a return economy airfare for one to the United Kingdom
- (b) salary paid at government scale—Point E1 or locum coverage
- (c) an allocation of up to \$2,500 per month as a contribution to all costs (this would be prorated according to time away).

6. In the case of a locum general practitioner, if that doctor applies and is considered for an established post, that doctor will be required to meet the full requirements of the Health Practitioners' Board to be eligible for registration. If that doctor is to continue in a locum post for a further two years that doctor will need to meet the requirements set for the other doctors as specified by the Health Practitioners' Board.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The question referred to required continued medical education. Have the eight doctors referred to been told that they are required to take further medical education?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The doctors concerned have been advised that they are required to take additional continued medical education.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say what the response of the doctors has been?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I personally met with the doctors and I was of the view after leaving that meeting, that they were all pretty much on board. Since then I understand that two doctors in particular have been agitated somewhat about the continued medical education. I would also say that two of the eight have already met the requirement of the continued medical education. It is now for the others to comply.

The maximum period for any doctor is four weeks spread over two years. That is two weeks per year. It



is not unusual that doctors, in particular, have to comply with continued medical education to keep up their practice.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The answer also refers to hands-on experience for these doctors. Is it that they have not had sufficient hands-on experience while practising in the Cayman Islands, some of them almost 20 years? Or is this some particular hands-on experience for them? Are we talking of something of a specialised nature or general practice?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr Speaker, the doctors in question, Dr. A will require a four week course in mammography; Dr. B, orthopaedic trauma course submitted and approved; Dr. C, a course at John Hopkins University Hospital; Dr. D, four week attachment in anaesthesia to an approved hospital in the UK, the US, Canada or Jamaica; Dr. E, his continued medical education (CME) has been satisfied; Dr. F, his CME has been satisfied; and Dr. G, a four week attachment in general surgery to an approved hospital in the UK, US, Canada or Jamaica.

These are in various areas of speciality and not just a general course as such.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister tell us why it is chosen for the person to go to the UK rather than Jamaica, which is closer and less costly, and which is certainly known to give some of the highest training in medical services in the world?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The answer stated the equivalent of a return economy fare for one to the UK. This would cover the cost of anyone wishing to go to Jamaica, Canada or the US. That is the furthest and most expensive.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. I beg your indulgence to make a brief statement before I ask my question. All this controversy began when I was the Minister of Health.

I know it was alluded to earlier on. This controversy began when a doctor at Faith Hospital wanted to be put in a specialist position and when the Health

Services Department requested evidence of credentials in the specialist area and a diploma in the area that could not be provided to the Health Services Department or the Ministry or the HPB.

I have no apologies to anyone for taking the stand at that time and I still have that feeling. If a person wants to practise in a specialist area I think it is incumbent upon the Health Services Department and this Legislative Assembly to make sure that he has the proper training for that. That goes across the board, not only in medicine.

My question is, in the future, will the HPB register persons who do not have evidence of specified training in specialist areas?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Just to say that that Honourable Member, the Third Elected Member for Bodden Town, being perhaps the tallest Member in this House has even gone to greater heights in my estimation. It is really good that he, as the former Minister of Health, would get up and make a statement explaining the situation that occurred during the period he was there.

To answer his question: No, no doctor will be employed in the future unless he goes through the proper procedures before the HPB.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Maybe you would allow me to make a short statement.

**The Speaker:** I beg you, Dr. Frank, be short!

*[Members' laughter]*

**The Speaker:** And please excuse me for using your name.

**Dr. Frank S. McField:** Mr. Speaker, just to say that the resolution here appears to be one that is workable and certainly acceptable. We did not have any access to this when the questioning started. I would like to congratulate the Minister for working this out.

Could the Minister say whether it is possible to resolve this situation with the two persons he mentioned that might not be so much in agreement with the continuing education studies?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** May I say that as the second tallest Member in the House, that Honourable Member has also reached higher heights in my estimation and I thank him for those kind remarks.

*[Members' laughter]*

**Hon. Linford A. Pierson:** The two doctors, maybe more, maybe three, that are not too happy with this and are still trying to work against it ... I am hoping that they will come on board and let us get this matter behind us as soon as possible.

As I said, we are looking at four weeks at the most to be done over two years. It is basically asking them to complete their continuing medical education at two weeks per year over the next two years. I believe that is very reasonable indeed.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if other doctors on the Island are required to do continuing education on a regular basis? Also, who ensures that this is carried out?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Yes. All doctors registered are expected to continue their medical education and it is monitored by the HPB.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say how long the Chief Medical Officer (CMO) had been in place when that review, mentioned in the substantive answer, had been done, and how long was the membership of the HPB in place when the review was done?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is my information that the CMO had recently taken up his position, and also in his position as HPB and that the HPB had been a relatively newly appointed board.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Just to make it absolutely clear for this House and those who are listening to the reply, the question is: a) are we talking specifically of doctors qualifying to practise in a specialist area; and b) in paragraph 5, in the case of "a doctor" in the private sector, does that refer to one of the eight doctors?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The examination of the doctors was done mainly on their basic qualifications.

They were not necessarily on a specialist register—even though I should say that some of these doctors have engaged in certain specialist practices.

The second part of the question: Yes, this is one of the eight. That doctor, now in the private sector, was a former doctor at the George Town Hospital.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** If the doctor referred to in paragraph 5 is now in private practice where he is no longer employed by government, why would the Government undertake to pay additional monies for his training?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is a very good question. This doctor is really not now in the Government service. However, this was felt to be a humane and proper way to deal with this, so as to assist the doctor to go away and get the additional experience and training required. It was felt by government that financial assistance would be offered to help him reach the standard.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I guess it is just as well that I am comfortable with my height, because I do not think I shall grow in the Minister's estimation, given my line of questioning.

*[Members' laughter]*

**Mr. Alden M. McLaughlin, Jr.:** I would be grateful if the Honourable Minister would say whether this continuing medical education is going to result in a situation whereby the affected doctors are going to be registered, or eligible for registration, either in the UK, Canada or Jamaica?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It had been pointed out in a previous answer that once this continued medical education is complete, those individuals would be regarded as being fully registered.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I do not believe the Honourable Minister responded to my question.

My question was whether the result of this continuing medical education as set out in the Minister's

answer, would be that the affected doctors become registered or eligible for registration either in the UK, Canada or Jamaica?

In order that he understands the basis for my question, I am looking at the HPB General Guidelines and Information for Registration, which sets out in paragraph 5 the requirement for registration in the Cayman Islands as being doctors who are registered or eligible for registration either in the UK, USA, Canada or Jamaica.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I believe the Honourable Member has already answered his question in that the guidelines refer to the Cayman Islands. We are not in a position to regulate medical situations in any of these other four countries. We use the 'four country criteria' as our guide mainly because we are such a very small area and do not have a medical council as such. So we use the guidelines of these advanced countries.

Meeting the criteria here would not in my opinion necessarily qualify a doctor to practise in any of these four countries. They would have to go there and seek permission and be allowed to practise in those countries through a different process.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** If the Honourable Minister would turn his attention quickly to paragraph 3 of his substantive answer . . . since he is embarking on a cleaning up exercise, I wonder if he would undertake to close the loophole that says "**of this, at least half should be 'hands-on' experience in an appropriate facility off island**" to say "off the Cayman Islands" so he would not be put in a position to say that Faith Hospital is not an appropriate facility.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** My good friend knows better than that. She knows that I would never exclude Cayman Brac and Little Cayman. No, we mean the Cayman Islands, Mr. Speaker, not just Grand Cayman.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In paragraph 6, where it speaks of "**In the case of a locum general practitioner**" and so on. Is this speaking of the same person in paragraph 5 practising at the Government hospital in a particular post?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The reference in paragraph 5 is to a doctor in the private sector which is different from the reference in paragraph 6. This locum general practitioner is just filling in part time and is not on the established post at the Hospital. They are two different positions.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Would the Minister indicate if there is an estimated total cost to the CI Government to bring these doctors into compliance with the new set of criteria?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** We have about \$20,000 estimated for the support cost, but then we would have to look at the salary part of it for the eight doctors concerned, where we have agreed to assist those doctors. I do not have that exact figure.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for today.

Moving on to item 4: Other Business, Private Members' Motions. Continuation of debate on Private Member's Motion No. 9/01: Select Committee to Review the Health Insurance Law.

The Elected Member for East End.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 9/01

##### SELECT COMMITTEE TO REVIEW THE HEALTH INSURANCE LAW

*(Continuation of debate thereon)*

**Mr. V. Arden McLean:** I rise to support the Motion before this House, brought by The Second Elected Member for Bodden Town.

There is no doubt in anyone's mind that the time has come to review the Insurance Law of this country. I know much has been said about the many representations we have had from the people concerning insurance. I know that much has been said about the campaign in which many candidates discussed health insurance.

One of the biggest problems this country has with insurance is the lack of an enforceable insurance Law. We hear a number of horror stories about the

way it is abused by the insurer, the insured, and by the health practitioners. Everybody loses if we do not have an enforceable Law.

Then there comes another entity into that equation that loses even more—the Government of this country. We currently have a budget for the health services to the tune of some \$40 million with projected revenue of \$8 million

I believe that the lower projection is a direct result of not being able to collect the monies from the insurance companies, whether it is a lack of manpower to process these claims or because the insurance companies will not honour their coverage.

When we look deeper, we see that in a number of instances the insurance provider does not honour the coverage because they believe they are unfairly charged higher rates by the health service practitioners. That may be true.

My mother was recently hospitalised in Miami and upon going there I was told the bill for two nights was \$10,669. After much discussion and once they heard that I was prepared to pay cash, it was reduced to \$2,200, which I was quite happy to pay. I certainly was not prepared to allow the country I love so much to pay \$10,669! If government was to pay it—and they were required to because my mother is a retired civil servant—it would have been \$10,669! I did not have the heart to put this country through such abuse.

While I cannot speak of any specific instances in this country, like the one I just mentioned, I am sure if it is being done overseas it is being done here too. I point no fingers, because I do not know. Since there are so many rumours of that being the case, it may very well be.

I also wonder what is being done to ensure that the Government and the insurance providers are getting value for money from overseas as well. Is there anyone available to scrutinise these things? Does the insurance company have someone to oversee it? Is that the reason why the insurance companies in this country refuse to live up to their obligations in most instances? This is what any review of the Law or regulations to the law need to address.

Then we hear how the insured abuse the system for every ache. If that is true, then the practitioners abuse it welcoming the insured abuser, because that is more money for them.

There has to be some schedule put in place where the practitioners know exactly what the insurance is prepared to pay for a particular treatment. Certainly, we will always find exceptions to the rule. An operation on one person may not go as smoothly on another. Therefore, it may be necessary for all concerned to come up with some understanding as to what healthcare in this country is going to cost. Get an average and develop some kind of relationship between the insurer, the insured, the practitioners and government.

One of the things that happened to this country many years ago was the implementation of the Health

Services Authority to streamline government's side of providing health service. Of course, that was shot down shortly after a change of government.

**The Speaker:** If I may interrupt you for a minute. I call your attention to relevance. We are really discussing an insurance Law.

**Mr. V. Arden McLean:** Mr. Speaker, I appreciate your ruling, but I was trying to show that the Health Services Authority could also play a role in regulating government getting money through the health insurance where government has employees and others insured. However, I take your point, Mr. Speaker.

I believe that the health insurance needs to be looked at very critically, particularly when we hear of insurance issuing identification cards that are not accepted by practitioners. This is one area which needs to be addressed in the Law.

We cannot expect providers to wait six months for their money either. Certainly we must legislate and mandate that we require practitioners to accept these insurance cards and insurance companies must pay within a prescribed time. Anywhere else in the world and in this country too, you have to pay your debt within a prescribed time. There is no reason why the insurance should not pay within a prescribed time.

We hear continuous rumours from insurance providers and health practitioners, that this is the reason why cards are not accepted. We cannot expect the populous to pay insurance and then have to go to the practitioners and pay them also, and then claim it back from insurance. That is totally unfair. In essence, you are paying twice and hoping to get reimbursed.

Then we hear of the situation where the deductible is a certain amount for the year. Thus, the first time you go to the doctor for the first procedure, they take the full deductible out. Something is wrong with that. The review of the Law needs to address that. There has to be a schedule stating what is 80 percent and what is 20 percent and it should be done in accordance with that.

If medication is 80 percent and you pay \$10 for medication, then you should only really be paying \$2. The healthcare provider should be paying the \$8. Of course, if the total bill were \$100 and the deductible \$250, that is the first \$100 out of that \$250. I do not believe that should be the spirit of any policy or Law or regulation in this country.

We hear of the reverse situation where the insured, the employee, believes insurance is being deducted but when he goes to the practitioner he finds he has to pay everything because his employers did not pay their share of the insurance premium. The others I outlined are bad enough because they are recoverable somewhere down the line. However, when your employer does not pay the insurance premium, nothing is recoverable in that one. There is no enforcement of the Law. I can name at least ten people who have made complaints to their employer, and

nothing has been done. It appears that nothing can be done with an employer who decides not to pay any more insurance but keeps you in his employ.

I recognise the difficulty in monitoring this particular situation, but we heard this morning about getting the best for our people so we need to ensure that they enjoy the best.

I have every confidence that the Government is going to accept this Motion. I have every confidence in the Minister of Health working very hard to ensure that Caymanians get a proper and enforceable insurance Law in place in the not too distant future. The second resolve of the Motion calls for a report to this House no later than the last meeting of the 2001 Session, which is not very far away.

The Caymanian population is an ageing population, in particular the baby boomers. The insurance issue is going to be coming down on this country in the not too distant future. We must prepare for it now. We also hear of situations where people have been insured their whole lives with a particular insurance company and, bam!—all of a sudden this particular company decides you are uninsurable because you made a claim. It falls straight back into the laps of the people of this country because government must then take care of those individuals. The insurance company must not be allowed to drop any of their insured like a hot potato; they must hold that hot potato in their hands and take some of the burning too.

Because you have a heart condition and you are in your late fifties the insurers immediately drop you and they give you a letter saying you are uninsurable. Another insurance company also gives you another letter saying you are uninsurable, which you take to government and you become an indigent and government puts you on free medical. Now, something is wrong with that.

Those who are not holding their hands out to government are pulling government's hands out and placing these letters in them.

I trust the Government will respond to that because it is out there. The same way we can debate or ridicule the health care practitioners and the insured, the insurance companies are abusing the system also. Caymanians are crying out. We have aged Caymanians who are suffering as a result of being unable to be covered, or considered uninsurable.

You probably paid in more than that one claim you made in your fifties, nevertheless the insurance cuts you off and then that chronic situation falls squarely in the laps of the people of this country and it drops on the base cost of living in this country.

I am only relating to what I have heard. People are crying out to the Government of this country to do something about it. If we do not do anything about the insurance companies now, the biggest part of this population is the baby boomers. In the next ten to fifteen years someone is going to have to address it. It is an ageing population. If we do not address it now, it is going to reach crisis proportions. It is almost crisis

management now.

I am not blaming anyone. The time has come to address the situation. Let us put a stop to everybody; the employer, the insured, the insurer, the healthcare provider. These are the four in the equation driving up the cost of insurance.

Soon, the cost of insurance will be out of the reach of the average Caymanian and if we do not stop it, it is going to fall right back into the laps of everyone. I believe it is easier to address the issue and pay \$100 a month for insurance. That is easier than paying for healthcare to the tune of \$300 to \$400 per month to subsidise the health services government provides. It may well require stepping on a few toes. There are times when toes may need to be stepped on.

It is time to make those tough decisions we all campaigned on. This country is going to go on and the people are going to continue living after these four years. It will turn into a vicious circle. If we have any foresight we can see that in the next few years every one of us is going to pay for healthcare in this country with our lives.

One of the things that should be addressed is how insurance companies determine that one is uninsurable. There has to be a clear definition as to when one is uninsurable. It is not at the whim and fancy of one insurance company and then their buddy down the road will give a customer a second letter saying they are uninsurable and send them running over to the Ministry of Health so they can get free medical.

The people who come to this country must also be insured. In a lot of instances people who retire in this country have overseas insurance. They come here and go to the health services and it is not paid. That is how a Health Services Authority will assist. We look at the other Authorities, the Water Authority, Civil Aviation Authority, the Port Authority, all hold their own. We need to turn our health services into an Authority as well so that they can regulate the monies they are supposed to get from insurance companies.

It is killing this country. We have millions and millions in overseas and local medical charges now considered unrecoverable. We have people in this country with the means to pay it, and they have not paid it. The insurance must pay government when government renders the services. It does not happen. Then we sit back. Is it any wonder that we are constantly looking for money to supplement our budget? We are not collecting what we should and a lot of it comes from the lack of collecting from insurance companies.

The health services in this country are losing because of insurance. I am not saying it is entirely the fault of the insurance companies, but they surely contribute significantly to the loss this country experiences in health services in delays. It is the responsibility of this Parliament to put provisions in place, that is, Laws to ensure that insurance is regulated in this country.

We hear of so many older people in this country government is taking care of. Government does not

even have health insurance! Nevertheless, we still have to take care of them; that is government's responsibility. As legislators, we must also ensure that we regulate the system whereby government can get affordable insurance.

It goes without saying that the older you get the poorer your health becomes. That is how it works. The Second Elected Member for West Bay keeps jumping up about his little 29 years, but eventually he is going to get there too!

I am ahead of him, and I am going to get there. As long as you live, you are going to get old. We must make provisions for it because the cost continues to increase. While technology continues to improve, the price continues to go up and insurance and re-insurance must be the place to pay it off.

I support this Motion. I think it is timely. I think it would be in the country's best interest if government accepted it. I am told that I can be confident that they will by the Leader of Government Business. I have a little problem with it, but the Leader of Government Business does not have to respond, so I trust they have coordinated their thoughts on that side.

**The Speaker:** May I interrupt you for just one minute? Will you be finishing in a short period? It is my understanding we want to adjourn a bit early.

**Mr. V. Arden McLean:** I will be finished in two minutes.

**The Speaker:** Thank you.

**Mr. V. Arden McLean:** I have a little problem with all these private Member's Motions going to select committees with all Members. I think that maybe you need to do that a little different because other Members have a lot of work to do and Executive Council has a lot of work to do as well. Mr. Speaker, all 18 of us should be working together for the betterment of this country. If we cannot trust a few to become a committee to look at these situations, then it was not worth the country electing us. Why is it that everybody has to spend time in a select committee? This must be the second proposal asking for a select committee of the whole House. That is my concern and that is my contribution. I ask that other Members consider breaking down these committees to a selected number. Thank you.

**The Speaker:** If it is the wish of the Government, I will entertain a motion for the adjournment.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, while the business of Parliament is of utmost importance, there are some other matters that need attention. A press conference is scheduled for tomorrow morning at 10 o'clock at which all Members of Executive Council

need to be present. So, if you would allow, Sir, I beg to move the adjournment of this Honourable House until 11 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 11 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 3.48 PM THE HOUSE STOOD ADJOURNED UNTIL 11 AM FRIDAY, 22 JUNE 2001.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**22 JUNE 2001**  
**11.39 AM**  
*Third Sitting*

*[Prayers read by the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs.]*

**The Speaker:** Please be seated.

Proceedings are resumed. Item 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable Minister responsible for Education, Human Resources and Culture and the First and Second Elected Members for Cayman Brac and Little Cayman. I also extend apologies from the Honourable Second Official Member for late attendance.

Moving on to item 3, Presentation of Papers and Reports: The Report of the Standing Business Committee for the State Opening and Budget (First) Meeting of the 2001 Session, to be laid on the Table by the Honourable Minister responsible for Planning, Communications and Works, Leader of Government Business, Chairman of the Committee.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REPORT OF THE STANDING BUSINESS  
COMMITTEE FOR THE STATE OPENING AND  
BUDGET (FIRST) MEETING OF THE 2001 SESSION**

**Hon. D. Kurt Tibbetts:** I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee for the State Opening and Budget (First) Meeting of the 2001 Session.

**The Speaker:** So ordered. Do you wish to speak to it?  
Moving on to Questions to Honourable Ministers and Members. Before so doing, I will appreciate a motion for the suspension of Standing Order 23(7) and (8).

The Honourable Minister for Planning, Communications and Works.

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

**Hon. D. Kurt Tibbetts:** I beg to move the suspension of Standing Order 23(7) & (8) to allow Question Time to continue.

**The Speaker:** The question is that we suspend Standing Order 23(7) and (8) to allow Question Time to continue beyond the hour of 11 am. Those in favour please say Aye, those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time will continue.

**AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** Moving on to Questions to Honourable Ministers and Members. Question 54 is standing in the name of the Third Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 54**

*(Deferred Wednesday 20 June)*

**No. 54: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport to give an update on the multi-disciplinary study which is now being conducted by CH2M Hill.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The study for the Provision of Construction Aggregate and Fill Material is currently in the final stages of work with 24 of the 26 tasks completed. The final two tasks are the submission of the draft and revised final reports. The draft report will be delivered in the last week of June.

As with earlier phases of the study, the reports will be available to the public for review and comment. A project briefing covering the recommendations of the study will be conducted for Government and private stakeholders. In addition, all documents will be available in their entirety on the study's web site. The address is: [projects.ch2m.com/Cayman](http://projects.ch2m.com/Cayman).

**The Speaker:** Are there any supplementaries?



If not, we will move on to question 60, standing in the name of the Elected Member for East End.

### QUESTION NO. 60

**No. 60: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport what regulation and/or system of inspection is in place to ensure that all high-pressure storage vessels in the Cayman Islands are safely maintained and operated.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** In 1997, a Fire Prevention Code was enacted as law.

Chapter 15 of the Cayman Islands Fire Prevention Code applies to bulk oxygen systems and to the storage, handling and use of compressed gases as defined in section 202 of the Code.

Section 1503 states, “**Each cylinder or pressure vessel shall be designed, constructed, tested, maintained and marked with the name of the gas contained so as to be reasonably safe to persons and property. Evidence that each cylinder or pressure vessel has been designed, constructed, tested, maintained and marked with the name of the gas contained in accordance with national standards shall be evidence that such cylinder or pressure vessel is reasonably safe to persons and property.**”

The national standards that are accepted are those used by United States’ agencies such as-

- The Department of Transportation (DOT)
- American Society of Mechanical Engineers (ASME)
- Compressed Gas Association (CGA).

The diving facilities on the Island are almost self-regulated as most, if not all, premises using pressure vessels have consistently adopted the DoT standards, which require these pressure vessels to be re-tested and re-certified at five-year intervals. This is normally accomplished by the process of hydrostatic testing combined with a visual inspection.

The Fire Department does carry out random checks of premises to ensure that pressure vessels which are currently in use comply with all requirements.

### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say, in the interest of safety, if there are any intentions to establish an inspection process on a regular basis for pressure vessels in the country?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** In the substantive answer we mentioned regular intervals, and what is accepted in the industry, not just locally but internationally, is a five-year period. However, I will speak to the Fire Department and put forward that suggestion.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** As I believe the Minister and Members are aware, some years ago there was a tragic explosion of a large pressure vessel which wreaked tremendous damage and involved loss of life and injury. During the course of events, including a prosecution, it was determined that there was no process or equipment available in these islands which would permit the hydrostatic testing of vessels of that size. It was also determined that most of the diving operations in Cayman had ceased to use these large pressure vessels and had gone to DOT stand up bottles.

Can the Honourable Minister confirm that there are no longer any of these large pressure vessels, for which there are no facilities available to be properly tested, in these islands?

**The Speaker:** I think that is outside the ambit of this question, but if the Minister wishes to answer, he may.

The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I can say that there are three companies that are still using the large containers. One of them is moving to the smaller bottles and the other two, the Fire Department is working with them in a process that will lead to using the smaller ones.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Minister say when this process will be completed and can we be assured that the larger vessels are no longer in use in the country?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The one that is presently to the point where they can use the smaller bottles will be accomplishing that in the next couple of weeks. The other two are more problematic. It seems that will not happen until the end of the year.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if one of those companies that has the larger vessels can be seen using the road with the big vessels on a makeshift trailer and if it is operated in a safe manner?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** The Member is correct. One of those companies is one that we are dealing with right now. I can see where the Member is leading, and I think he is quite right. We will look further into that matter and not wait . . . let us put it this way, we will try to get it done more quickly.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister give this House an undertaking that that operation will be looked into with immediate effect to have these cylinders removed away from the general public of the Cayman Islands?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** What I will do is give the House an undertaking that we will deal with the matter with an urgent response.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Minister say if he is giving consideration to enacting suitable regulations or legislation to govern the safety of pressure vessels and to determine national standards for their testing and use?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** The procedures are already in place with the Fire Prevention Code which was enacted as law in 1997. We are following that code. The testing is all done locally according to the code on the smaller ones. The problem is those two particular companies with the larger ones. As I said, there is some problem in dealing with it, but as was already mentioned, I intend to, as urgently as possible, deal with that particular issue of transporting them through the public domain.

Hopefully, while I was told by year's end, we can deal with it in less time.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I have read the excerpt from chapter 15 of the Fire Prevention Code, and section 1503, which is in his substantive answer. Can the Honourable Minister acknowledge that section 1503 does not address the kind of pressure vessel that can or cannot be used in these islands; and that notwithstanding this section, the concern remains? We are still in a situation with pressure vessels so large that they cannot be hydrostatically tested, and are being used in these islands. Can the Honourable Minister say if it is his intention to address that concern either through regulation or legislation?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** There have been some recommendations put to the Ministry that we will review. Certainly, where the law needs to be tightened up, I will have that done. It is very important. I recognise it as being important. We will have the law on that section reviewed with a view to tightening it.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 61, standing in the name of the Elected Member for East End.

#### QUESTION NO. 61

**No. 61: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport under what agreement, are dive operations being conducted on the West Bay Public Beach.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** There is no formal agreement between the Government and any dive operator that would permit commercial dive operations from the West Bay Public Beach.

#### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** That answer was short and sweet. Now, my question is going to be short and sweet also: When will it be stopped?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, this particular matter has been one that has caused many questions in the House, in fact at several points while on the backbench I raised the issue myself. It is only at this point in time that I know today that they have no permission. The licence for the operation of the public beach gives no permission to anyone. Permission would have to be given by the permanent secretary. This has never been done.

I do believe we need to do something about it because at points in time there are tanks there. We just finished talking about pressurised tanks. Many times I have seen them there. It is not something that started today.

I certainly intend to look at the situation to see how we can remedy it, without hurting anyone. There seems to be business operations and I do not want to stop anybody from making an honest living. However, they will have to operate properly. I do not think that is a proper operation. I do not think it is the place for it.

I give the House an undertaking to try to get to the owners to start a discussion on the situation.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Would the Honourable Minister also give an undertaking to investigate a similar matter on the West Bay public pier next to the new launching ramp on the corner of Northwest Point?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Why not, Mr. Speaker? Who am I to deny a request from my esteemed colleague?

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if I am considered an esteemed colleague.

I do not wish to destroy any business, especially if it is a small Caymanian business. However, by the same token no one must operate a business in this country at the expense of the general public.

There is a sign at the boundary of the public beach put in place by the Port Authority many years ago with an arrow pointing towards West Bay saying "Dive operation in this area stay clear" or something to that effect. Can the Honourable Minister say if that sign is enforceable at this time?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I understand that the area was designated some time ago. I will have to investi-

gate it because I really do not know any more than that. I will sit down with the business operators to see how we can remedy the situation in a way that will be favourable to the public yet not hurt the business operators.

At that particular public beach and, in fact, at most public beaches, we have had all kinds of complaints and problems including loud music. No one seems to understand we do not want that on the public beach disrupting everyone else.

There are several concerns with the use of the public beach and I intend to enforce whatever regulations we can to keep peace, order, civility and security on the public beach.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In a previous question we discussed high pressure vessels. He quite readily gave us an undertaking to address it within the general public. Now, it may not be easy to do it on the road right now, but on the West Bay Beach, that is public property. I have witnessed half-inch hoses being pulled across the beach to the boats which kids are stepping over. That is extremely dangerous and my discipline tells me that that is beyond control.

I would like the Minister to give this country and this Honourable House an undertaking today that that will cease and desist immediately effective today.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I heard the Member's complaint and I believe it warrants urgent attention. I will accordingly ask that it be investigated with a view to a remedy of the situation with some security.

The Member is insisting that I give an undertaking. I have just received word from the Port Authority that there is some sort of regulation in place allowing them to use it.

My information is that under the licence they have no permission. If there is a regulation in place which has the safety or protection of law, then I cannot give the House an undertaking to do something immediately.

I will try to get to the bottom of the situation to see exactly what obtains. As soon as I can find out whether or not there is a law or regulation, I believe it should be changed. If there is no regulation then under the licence there is no protection and they will have to put the situation where the public is not at risk. I give that undertaking.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** In an earlier answer he mentioned that there was no agreement in place.

Now, since these are commercial businesses, they would require a Trade and Business Licence. Can the Honourable Minister say if on that Trade and Business Licence it would be acceptable to list as their place of business a public beach, without having an agreement in place? If that is the case, I am sure there are many other businesses in this great Cayman Islands that would like to operate on a public piece of property.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The Member has raised a very pertinent point. It is something that I raised some years ago. However, I do not know. I was not able to find out then, and I am presented with the situation today. I will investigate the matter to see what obtains. I do not know what their Trade and Business Licence says, I do not know if they have any permission. Under the licence the public beach operates there is no permission given.

I can only say that I will investigate the matter and try to put it right.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** This question does not have to do with the storage vessels for high pressured air. However, it has to do with the usage of the waters around us, public beaches and all.

Can the Honourable Minister say whether or not there was permission granted for placing the moorings in the water as far out as they have in front of Cobalt Coast? I was told that one of the local fishermen went inside the moorings the day before yesterday and was confronted by some members of that dive operation and reprimanded. The gentleman did it because he was experiencing some difficulties with his boat. I am wondering if it is necessary to have the moorings out to the edge of the ocean or could they be brought closer to shore?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport. This is outside the substantive question, but you may answer if you wish.

**Hon. W. McKeeva Bush:** We will take it on board to try to find out what the situation is. I have just asked the officers here from the Port Authority and the acting permanent secretary to urgently look into the matter to try to ascertain the situation.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if government receives any money from the commercial ventures going on at the beach?

Secondly, can he give us an undertaking to check on other commercial activities on other beaches within the Cayman Islands that may be unsafe?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I have no such knowledge of any fee, since there was no permission given. I will certainly say that we have intentions to look at all the existing public beaches, what is happening around them and their present state of affairs and upkeep and so on.

**The Speaker:** The Second Elected Member for West Bay, two additional supplementaries.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say if in his undertaking to review the situation on the public beach he will also review the situation just north of the public beach? There seems to be a small piece of private property also being used. We would not want the answer to be no, they will not use the public beach but will use a piece of property adjacent to the public beach, which is a high traffic area, namely the location of the beach bar of the Holiday Inn. This is an extremely urgent matter and there is a dire need for attention to this. The public's safety is of the utmost importance to us and I am sure to the Minister.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I can say from memory that the persons operating on the small beach, the last speaker is referring to, were given permission by the owners, because I questioned that years ago. As to its location near the public beach and the new property of the Holiday Inn, I agree, that causes concern. I will have to defer to the Fire Department inspection and the ongoing discussion with the company to try to do something about it. I cannot say anymore than that. I hear the concerns, I have the same concerns and we are going to move on it as fast as possible.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 62, standing in the name of the Elected Member for East End.

#### QUESTION NO. 62

**No. 62: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport what is the current status of the expansion and upgrading of the Port Authority.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The Port Authority, after seeking advice from the public and private sectors' interest groups, has decreased the size and environmental impact of the project without compromising the need for additional cargo and cruise passenger landing area.

Currently the design drawings and tender documents for the project are being finalised to reflect those changes. Upon their completion, the Environmental Impact Report will be revised. The new design calls for the cargo area to be established to the north of the existing dock. The existing cargo operations area and the present finger pier will be converted to a cruise passenger landing area. In the very near future, coastal and development planning permit applications will be submitted to the relevant authorities for approval with the anticipation that the project will be fully permitted by year end and the commencement of construction scheduled for the first quarter of 2002.

#### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say what percentage of usage measured in periods of time the dock currently enjoys, when weather permits?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Maybe the Member could amplify on his question.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** There are 365 days in a year. Considering we have ten days of bad weather; of the amount left, what percentage of that time is the dock utilised?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I do not have that information readily available here. We will have to try to find out what percentage of the time it is being used. We know the dock does not operate at night in most instances. We know that.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Can the Honourable Minister say whether there are any plans to either change or regulate the usage of the Port Authority property in SafeHaven? We have been getting some complaints that that area has been monopolised by certain operators instead of being available for use by the general public.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** According to a motion that was passed some time ago on a request that was made, that property has been vested in the Port Authority. As of now, we do not have control of it. It is not vested in the Port Authority as yet.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Minister stated that obviously the dock is not used at night. That is precisely the answer I was trying to get.

Can the Honourable Minister say why we do not use the dock at night, particularly with bulk cargo in that its cost per ton would certainly bring revenue to the Cayman Islands Government?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I have asked the director to investigate how we could utilise the port at night, what the cost would be and all of the ramifications, because I also have the same question. That matter is with the director presently.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In light of environmental concerns surrounding the North Sound and the unloading of cargo in that area and the destruction of the bottom, I wonder if the Minister can give us an undertaking to consider in this review that aggregate being imported into the country be brought across our docks even if the facility has to be utilised at night.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Just a few days ago, the Honourable Minister for Planning, Communications and Works gave some undertakings and answers to a similar question. Regarding the dock, I have no problem in allowing the dock to be used for the importation of aggregate when we have to do that. All the parameters and impacts would have to be investigated in order to see that it is done properly. As Minister responsible, and as chairman of the Port Authority, I certainly

have no problem, once that is put to us in a formal request by those involved.

Bearing in mind that there would be added cost to all of this, shippers could not just bring the material across to the port for nothing.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** From the Honourable Minister's answers, my question is: are we then saying that the reason we are allowing the destruction of the environment through the North Sound instead of using our existing dock facility at night is an economic one? When I say economic, that it is not to the Government's advantage?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I understand the Member's drift. I can only say that this Government never gave permission to anybody. It was the previous Government that allowed that. As the Minister of Communication and Works said, it is being reviewed. We would have no problem in looking at a request that is proper to bring any cargo across the port that is legal. Certainly, it would mean more income for the port and I will certainly look into it.

At present, I do not have a request.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** On a previous occasion the Honourable Minister for Planning, Communications and Works informed this House that when permission is given for the importation of aggregate, it would not necessarily specify where it is discharged. However, once that is provided by the importer, the port has to approve where the aggregate is unloaded.

We know this is causing detrimental damage to the North Sound, the jewel of our tourism product - we have had barges run aground, destroying channel markers and tearing up the bottom as shown in aerial photographs. Can the Honourable Minister give an undertaking that he, along with the Minister of Works, will sit down as soon as possible with the importers with the view to utilising the George Town Dock for the unloading of this cargo? We cannot sit around and allow anyone to gain economically while, at the same time watch the North Sound being destroyed. I think I speak on behalf of every Member of the Backbench because we have had numerous complaints from our constituents about this matter.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Permission to come through the North Sound was given before I got the Ministry. As I said, this question was traversed very much the other day. I understand from the Honourable Minister of Planning, Communications and Works that a letter has already been sent to the persons concerned.

As far as I am concerned, as chairman of the Port Authority and as Minister, I will certainly work with my colleague together on the matter from my point of view for a speedy resolution of the situation. I do not think I can say any more than that.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning. Would this be a convenient time for the morning break?

*[inaudible interjections]*

**The Speaker:** We shall suspend for lunch and come back at two o'clock. Please remember two o'clock.

#### PROCEEDINGS SUSPENDED AT 12.32 PM

#### PROCEEDINGS RESUMED AT 2.15 PM

**The Speaker:** Please be seated.

Proceedings are resumed. Suspension of Standing Order 14(2) to enable Other Business to take precedence over Government Business.

The Honourable Minister for Planning, Communications and Works.

#### SUSPENSION OF STANDING ORDER 14(2)

**Hon. D. Kurt Tibbetts:** I move the Suspension of Standing Order 14(2) to enable Other Business to take precedence over Government Business.

**The Speaker:** The question is the suspension of Standing Order 14(2) to enable Other Business to take precedence over Government Business. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

#### AGREED: STANDING ORDER 14(2) SUSPENDED.

**The Speaker:** Other Business, Private Members' Motions. Continuation of debate on Private Member's Motion No. 9/01, Select Committee to review the Health Insurance Law. The Floor is open to debate. Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Health and Information Technology.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 9/01

##### SELECT COMMITTEE TO REVIEW THE HEALTH INSURANCE LAW

(Continuation of debate thereon)

**Hon. Linford A. Pierson:** Thank you.

I am pleased to respond on behalf of the Government to Private Member's Motion No. 9/01. It is only fair to acknowledge that since the Health Insurance Law of 1997 and regulations came into effect in 1998 certain concerns have arisen that deserve our attention.

Concerns seem to be spread across the board and involve insured persons, health insurance providers and health care providers, giving rise to the situation where none of these groups is satisfied with the workings of the Health Insurance Law 1997 and accompanying regulations. Therefore, this Motion is timely and I thank the Mover and the Seconder for bringing it to this Honourable House.

I have taken note that the motion first resolves that "this Honourable Legislative Assembly appoints a Select Committee of all Elected Members to review the Health Insurance Law and matters pertinent to its operation in the Cayman Islands;" and also resolves "that the Committee take input from the public, health care and insurance providers and medical practitioners and report to this Honourable House no later than the last Meeting of the 2001 Session."

It may be good to mention that I take the suggestion made by the Elected Member for East End that perhaps it is not necessary to have all Members of the House to form a committee to deal with a particular issue. It might be just as efficient and effective if certain specified individuals were asked to conduct such a select committee.

The Government supports a comprehensive review of the Health Insurance Law 1997 and the regulations. Nevertheless, we would hope that the Select Committee would see fit to meet with or receive a report from the Health Insurance and Health Fees Advisory Committee. This Committee was appointed by the Governor in Council on 20 February 2001, and is chaired by the Permanent Secretary (PS) for Health and Information Technology. It has been meeting regularly and has already done relevant and useful work with respect to the subject of the Motion. It would also be helpful to receive input from this Health Insurance and Health Fees Advisory Committee.

The terms of reference of the Health Insurance and Health Fees Advisory Committee are as follows:

- To examine the pros and cons of a self-funded scheme for government

- To consult the Honourable Attorney General regarding a suspension of the Government health insurance contract with Caribbean Home (and this matter is now being looked into);
- To make recommendations on improving collections at the Cayman Islands Health Services Department (this is also being attended to presently);
- To examine problems associated with the working of the Health Insurance Law 1997, and the regulations and to make recommendations; and
- To examine and make recommendations on a fee structure for the health services to be phased in over three years, starting in 2001.

We have heard suggestions that we need to standardise the fees charged, not only by the hospital but by the private sector health care providers. We are looking into this matter at present. The fees at the hospital are somewhat low and a subcommittee of this Health Insurance and Fees Advisory Committee is now looking into the matter of revising the fee structure at the hospital.

The members of the committee are as follows: Permanent Secretary for Health and Information Technology, Miss Andrea Bryan. These positions will remain, even though the individuals now filling them may be transferred from time to time. Superintendent of Health Insurance, Mr. Christopher Collins; PS, Personnel, Mrs. Jenny Manderson; Deputy Director Health Services, Mrs. Eloise Reid; Government Risk Manager, Mrs. Betty Jefferson; Director of Budget and Management Unit, Mr. Peter Gough; Attorney General Designate, Mrs. Sheena Frederick-Westerbourg; President of the Cayman Islands Civil Service Association (CICSA), Mrs. Gloria McField; Senior Assistant Secretary of Health and Information Technology, Mr. Colin Ross:- a very strong committee indeed.

The Health Insurance and Fees Advisory Committee is also able to co-opt other members as the need arises. The Committee has set up four subcommittees that have been working very hard at looking into the various issues raised by the terms of reference. These subcommittees are due to submit reports to the main Committee by the end of this month (June). The main Committee will then consolidate those reports into one report which will be presented to me, as Minister of Health and Information Technology.

I also wish to make certain comments on some of the points raised yesterday. I think the Members made some very useful comments and I hope these will be taken into account when the select committee becomes operational.

The Mover spoke about the abuses in the health insurance within the islands. I will not say a lot about this because the matter with regard to Caribbean Home Insurance could be *sub judice*, except to say

that we have been told of abuses of the whole insurance scheme system.

The Mover also said that insurance companies take a very long time to pay up and this is indeed a problem. Provision will be made to ensure that payments of claims are made within a specified period.

Another point raised by the mover was that the insurance companies tend to exclude older folks from the scheme and individuals whom they consider to be high health risks. There is something wrong with this system, and this is an area I will ask the select committee to pay very close attention to so that provisions can be made in the law to guard against this abuse.

I think the point was rightly made that it seems the health insurance companies only cover those individuals who are young and healthy, but have no regard for older individuals or those with illnesses. This cannot be right.

The point was also made that at present the Government health services department covers a number of individuals by providing free medical services. In regards to the uninsured and/or partially insured they are covered by the contribution other individuals make. The system in place was \$5 and \$10 and these monies were put into a segregated fund. There are funds in there now and hopefully this money will be available to assist in setting up this self-funded scheme.

The Second Elected Member for Cayman Brac and Little Cayman also made some very important points. He also suggested that attention should be given to a wider scope for the insurance coverage and not just covering the healthy individuals. I support that 100 percent.

I would not want to miss making reference to a comment made by the Third Elected Member for George Town when he suggested that the question of health insurance is not simply a question of money; it is also a question of expectations. When we are looking at this law I think this is an important social aspect that must be taken very much into account.

The Elected Member for East End told of his experience in Miami where he witnessed attempted abuse of the health insurance system. Obviously, there is abuse and we will have to tighten up the law and guard against such abuse.

In closing, the Government supports Private Member's Motion No. 9/01. I offer again the input of the Health Insurance and Fees Advisory Committee, appointed by the Governor in Council to advise on this subject as well as related matters.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** This Motion certainly touches the lives of everyone in our community, whether insured or, as we have heard, indigent or uninsurable. Once we have gone down the road of mandatory

health insurance everyone is affected. In fact, before this Motion was brought, the Mover and I had an opportunity to speak of our grave concerns of the state of health insurance in this country.

I fully support this Motion. The one thing that we are going to have to do after the Motion is passed is have a thorough and meaningful debate in the Select Committee. This will serve to thrash out this issue. We will report back to this Honourable House on something we all feel serves everyone in this community and the people we represent. This issue touches on every single adult and child on the islands.

I note from the contributions so far, that not only the Health Insurance Law was touched on, but also mention has been made about the philosophy of health insurance and what it means to the people and the Government. That is good because we must think in the broadest sense when we seek to represent the people's needs health wise.

Once we go to a committee all members must be minded that we are looking at the law. We have to come back and report to this House in a matter that is comprehensive. The report must give the Minister the opportunity to effect a change that will be fully endorsed on both sides of this Honourable House. I feel that that is what is going to happen. I have confidence in everyone here in terms of making a valid contribution.

What has brought us to this point? Obviously, the health insurance is disarray at this stage. In fact, I have heard some go on to say the health insurance situation is an absolute mess and that it is just not serving the needs of those persons who are insured.

A constituent came to me two months ago. She had herself and her young daughter insured. She made some \$1700 per month. Her health insurance coverage was over \$400. That is a serious amount of your income taken up by health insurance. Pension contributions also have to come out of her income.

It is obvious when we look at any society, that there are those considered ordinary citizens, you have the Government and then business. It is my humble opinion that in mandatory health insurance big business and health practitioners are the winners. The consumer, all of our constituents, our families, friends and neighbours have lost miserably.

We have heard talk of models of health insurance set up in Canada and the UK. Although we have to consider those systems in committee, we must appreciate that what we do in Cayman must fit the people of these islands and our expectations and the way we live. When you take a foreign model, very often the effects are adverse.

While we are on the topic of health, it is very much like medicine. When it goes into the body it is foreign and its effect can be either positive or negative. We must come from this select committee with a positive set of recommendations to give to the Minister in terms of the way forward.



Speaking of Canada, I had the opportunity to speak with a former colleague of mine who hails from that country. It was very interesting to hear him articulate how the system works there. Without going into too much detail, the one thing he was very clear about was their health insurance system when compared to other countries like the US. There are advantages and disadvantages and a few significant disadvantages.

For example, within their system, everyone contributes through their federal taxation policy and in some provinces through Provincial tax. That is, in British Columbia the residents pay a separate tax (I think CAD\$750.00 per annum) specifically earmarked for insurance. One thing encountered is long lines, even for operations. Obviously life-threatening matters are fast-tracked. He reckoned that in terms of equipment used it was not quite as modern as in the US, where free enterprise is what drives and funds the industry. Therefore, it is always on the cutting edge versus something which is government run which can sometimes make the system lag behind. If we are thinking of going in this direction, these are things we need to know. At the end of the day, we have to ensure that whatever we put in place is well thought out this time. It has to serve our people.

Hamilton said that education is the bedrock of any society. I live and stand by that comment. However, I will be the first to admit that nothing is achievable in life without good health. Thus, when talking about health and health insurance coverage and the way we administer health care to our citizens, this has to take priority above everything else.

One thing we need to seriously address, whether or not we have mandatory insurance or if we go with another model, we have to look at abuses of the system. If everyone is going to drive to the hospital and clutter the emergency room simply because they poked their finger with a needle while sewing, we will have problems. No country can afford to build the infrastructure so large that it will accommodate every little ache and pain.

As responsible leaders, we have to say what is truthful to all our citizens. If we are going to get the positive outcome we want, we cannot just talk about the glitz; we must talk through these matters thoroughly. We must be open and frank.

I have heard mention of establishing a certain minimum below which service will not be provided free. Take for example, \$50. If you go to the hospital and it is \$50 or less, you will pay for that. Anything above that, if you went to the model of governmental type blanket coverage . . . Of course, the one thing I would add to that is that, I would not support any minimum when it comes to infants.

Whereas adults can make judgment calls, using a dramatic example of pricking your finger while sewing. However, I will not ask any citizen to make a judgment call when it comes to their infants who cannot communicate. Every time they cry, we have no idea what it is that is going on in their bodies.

I certainly want to make it clear that if we if we do go to a model similar to that of Canada, the people of this country will have to realise that, all of a sudden, they are not going to stop paying insurance premiums, and government be able to afford to provide that service to everyone, there will probably be an incremental tax that will have to be added on.

Of course, the attractiveness of this thought process is that we feel like we could tax the people at rates that are significantly less than what the health insurance providers charge by way of premiums. Once you do that and have the extra money injected we should be able to modernise our equipment and should be able to invest in terms of getting, in a more realistic fashion, Caymanian doctors and nurses. This is a sore topic for me because we have to make a conscious effort to ensure that we have Caymanian doctors in this country.

I hope that a part of our report would be the establishment of a timeline and certain minimum numbers of Caymanians that we want in this profession at least studying on their way to becoming doctors.

If we think of going to this model, we also have to ensure that our people do not have unreasonable expectations. Often people say that we need a hospital in Cayman that will prevent us from having to fly our citizens off. While there is a lot of good in that thought, we have to be realistic. I, for one, have often seen while living abroad, people having to be flown from one hospital to another in a nearby city because the city they were in, perhaps because of its size, simply did not have the funds available to invest in all the necessary equipment.

For example, I remember seeing on the news people being flown out of Tampa General Hospital to nearby hospitals in Orlando and Jacksonville. They are in the same country, so it does not become as big an issue as it does with us. We fly overseas. To think that we will have neurosurgeons here with all the equipment, in my humble view, is unreasonable. We must ensure, however, that we have a good base level of service that can prevent us from sending patients overseas for certain procedures that we currently send people over for.

I would have to also add that my contribution to this Motion will be shorter than my usual contribution, because we are going into a select committee. I think we all recognise that when we are taking something to select committee that is where we will thrash out the details and that is where the work will be done. I listened carefully and heard a few interesting items come up that need to be followed up within the select committee. I thought I needed to share some ideas simply because between now and the report of the select committee, I do not want reports in the press where we might start to get unreasonable expectations.

I would like to add one last point. I was quite angered last night when a gentleman I have known all my life shared with me a horror story. It truly exempli-

fies why this Motion is so timely and why we need to press on with a comprehensive plan.

The gentleman's wife was authorised by his insurance company (and I might add a local insurance company) to receive treatment. She went off to Miami to Cedars Hospital. She was referred by the Health Services here because the procedure could not be performed here. She fulfilled all the criteria and the insurance company stated they would pay.

She went to Cedars as opposed to Baptist because the particular surgeon performing the procedure satisfied the insurance company that Cedars was the only institution that could handle that particular case. The lady has many serious ailments. She had her blood work done and was called at the 11<sup>th</sup> hour and advised that the surgery would have to be postponed without being given any reason.

A day later they were told that the hospital had had problems collecting from that insurance company in the past and were not going to accept the letter of guarantee from the insurance company. They would also require a \$16,000 (US) deposit. Now, most people cannot simply come up with \$16,000.

The insurance company proceeded on a line of principle. They said they would not pay until the services were rendered. While the logic in all of us can appreciate that sentiment, I still was disgusted that for \$16,000 and after providing a letter from the insurance company stating they would provide coverage, they could not simply provide a draft for \$16,000. If they cared enough they could have forward-dated it to the date of the surgery to ensure the services were provided.

This is how they proceed. It is a business. They do not care (seemingly) about the people. The lady had to come back home. She needed critical surgery. They spent \$1100 in airfare and hotel. Would anyone be kind enough to say to them for the measly \$1100, *'Look, I am sorry for what happened, I will give you this?'* Of course not!

What is so disheartening is that the gentleman has been covered for over 25 years by that insurance company along with his wife. This is what is so disgusting and despicable about this situation. I call on the powers that be because I am going to provide them with the names of this family, to see what they can do to help this woman get off this island to receive the surgery.

I do not need to go on any further because with cases like that, whether \$16,000 was being paid up front or not, common decency would have told me it should be done. Indeed, the insurance company in question provided a letter stating they were going to cover the surgery. All the hospital was asking for was 50 percent up front.

Of course, we hear of people submitting claims. In fact, my father submitted a claim. It took him 24 months to get the funds back. If we are to continue down the road of mandatory health insurance we must have minimum repayment periods stipulated by law,

we must have fines and penalties for going beyond that date and applied vigorously to this industry.

I realise that they are in the business for a profit. However, all businesses must recognise what business they are in. If you make computer chips, that is one thing, but if you are providing health insurance, providing premiums and taking people's money away, when they need to have reimbursement it must be efficient and prompt.

I will stop here. I could go on and on all day on this topic. I will leave that for the select committee. I congratulate the Mover and I look forward to the deliberations.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

If not, does the Mover wish to exercise his right of reply?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you.

I must say that I am very pleased to know that the Government has accepted the Motion that has been brought to this House dealing with national health insurance and that it will now go to a select committee to be examined by all Members.

I think it is a general feeling among Members of this House that health insurance is a major concern, both to have it and the present way in which it seems to be functioning or, should I say, dysfunctioning.

Insurance in the Cayman Islands is compulsory. That in itself changes the condition immensely, and different from that in most countries of the world. We have chosen to go that route and I think it is good to have health insurance. Whether we have chosen the right way to go by allowing so many companies to offer health insurance when it appears, at least in several instances, they are not meeting their obligations is a different matter. Perhaps it is time there were fewer insurance companies, those who can prove beyond a shadow of a doubt that they are in a position to offer health insurance as required by law.

Out of this debate so far, more than one Member has mentioned that perhaps we need to look at a self-funding system of health insurance which could be provided. I thought it was quite ably put by the Third Elected Member for George Town. The indigents and persons who are uninsurable or partially insurable, government has to find money to pay insurance companies to pay back the hospital or doctors, or offer the service free. One way or another it is costing government, and it is costing millions of dollars.

I believe that we have a great opportunity to examine all of the various aspects that have been raised by the Members who spoke. The Third Elected Member for George Town pointed out that this is a social consideration. The people of the Cayman Islands have always expected that health care would be there for them and even from the earliest of times this was

possible. There was a Government Hospital, a government doctor and health care was provided.

So, when we look at providing health insurance, we have to look beyond the companies wishing to offer health insurance to make a certain margin of profits. We have to see this as part of our social obligation and if necessary be innovative and go the extra mile to ensure that all the people of the Cayman Islands have health insurance coverage. I mean indigenous and well as non-indigenous.

At least two persons spoke of the need for health insurance managed properly and reintroduction of a Health Care Authority. I also support that view. I think it will give the Minister of Health a break from the regular and constant demand from members of the public who see him as their only point of appeal when they are up against a hard situation in getting health services.

I am not saying that that is not something that should be available to a member of the public, but the Minister of Health should be the person who provides the policies under which health insurance services are provided and not necessarily the person who has to take a dozen calls in any given day to call a doctor or his PS to deal with certain specific matters.

A Health Care Authority would work under certain prescribed management requirements and systems, which would encompass the workings of a health insurance. I certainly believe that the greatest efficiency can be found through allowing an autonomous body or statutory board empowered to deliver or manage the delivery of health care services. I think that is something we need to look at seriously.

If we look at a few of the instances where the greatest complaints come from, and look at the way the Law and regulations are written, it amply provides for the health insurance company. However, as for the insured, one could raise a lot of questions.

For example, the prescribed health care benefits in the minimum package guarantee for ten in-patient benefits. If we look in Part III of the Regulations at the many benefits that can be excluded from a standard health care contract, we find 22. Some that are excluded are things such as the supply or fitting of eye-glasses, contact lenses, or hearing aids. It could hardly be more basic than that because most people as they progress in age need these things. Why would these be excluded?

Also excluded is dental treatment, x-rays and extractions.

I think we have to look at all of these areas and I must say, at this point, that I totally support the suggestion made by the Second Elected Member for West Bay that we should work together to come up with a comprehensive plan that we can give the Minister to move forward with. I want to pledge my full support to working towards such an aim. We will address some of the obvious problems which have arisen since the Law came into force.

The Minister of Health mentioned the fact that a Member suggested that the committee could be a select committee of a smaller number of persons. I really do not see a difficulty with that. I know that when it comes to something as touchy as this, everyone wants to offer his contribution. However, if the Minister (whom I would imagine would chair this committee) and all of the backbench Members, perhaps that might be representative enough, I do not know. It offers an opportunity for everyone to be in on it.

I hope a meeting of the Select Committee will be set as soon as possible and regular meetings held. I encourage, nay implore, Members to attend because this is such an important matter. If it is set for 9 or 10 o'clock I encourage Members to be there, and let us get down to business and deal with this instead of having to wait—as I have often seen over the years—to find sufficient Members to make a quorum. It does not make sense for us to go through this exercise if that is what will prevail.

Another point that was made by the Second Elected Member for West Bay was the fact that we could look at different models. Whatever we choose must fit Cayman's needs.

I was happy to hear the details as given by the Minister regarding the health care advisory committee that has been set up. I think that they have been working already and would be in an ideal position to advise the select committee. There are stalwarts on that committee, so I believe we can look forward to detailed information.

I thank the Government for accepting this Motion, and look forward to offering my contribution in select committee. This matter is of such major social and financial importance to us all. I thank the Members who did not necessarily wish to debate the Motion for their support.

**The Speaker:** Before putting the question, I would like to call to the attention of Members that under Standing Order 70(1)-Select Committees, **"The House may appoint any of its Members to be Members of a select committee to consider and report on a Bill or otherwise to assist it in exercising its function under Part IV of the Constitution."**

The House clearly has the authority to appoint any number, but this Motion specifically states "all Elected Members." Therefore, I shall appoint the Honourable Minister for Health and Information Technology to be chairman of this select committee.

Will you accept?

**Hon. Linford A. Pierson:** Yes, Mr. Speaker.

**The Speaker:** I shall now put the question on Private Member's Motion No. 9/01, entitled Select Committee to Review the Health Insurance Law. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 9/01 PASSED.**

**The Speaker:** Moving on to Private Member's Motion No. 16/01, Amendment to the Penal Code (1995 Revision) to be moved by the Third Elected Member for West Bay.

## PRIVATE MEMBER'S MOTION NO. 16/01

### AMENDMENTS TO THE PENAL CODE (1995 REVISION)

**Capt. A. Eugene Ebanks:** Thank you. I beg to move Private Member's Motion No. 16/01, Amendment to the Penal Code (1995 Revision), which reads as follows:

**"WHEREAS section 132 (3) of the Penal Code (1995 Revision) states "Whoever unlawfully and carnally knows any girl under the age of sixteen years is guilty of an offence and liable to imprisonment for seven years:**

**"Provided that it shall be a sufficient defense to any charge under subsection (3) if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years";**

**"AND WHEREAS section 144 (1) of the Penal Code (1995 Revision) states 'Any male person who has carnal knowledge of a female person who is, to his knowledge, his grand-daughter, daughter, sister or mother is guilty of an offence and liable to imprisonment for five years";**

**"BE IT RESOLVED THAT Government consider increasing the available term of imprisonment in the Penal Code (1995 Revision) section 132 (3) to twelve years for victims between the ages of 12 and 16, and 20 years for victims under the age of 12;**

**"BE IT FURTHER RESOLVED THAT Government consider increasing the available term of imprisonment in the Penal Code (1995 Revision) section 144 (1) to life for victims under the age of thirteen; and twenty years over the age of thirteen.**

**"BE IT FURTHER RESOLVED THAT section 133 of the Penal Code be amended by increasing the maximum penalty from two years to twelve years."**

**The Speaker:** Do we have a seconder?  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 16/01 has been duly moved and seconded. Does the Mover wish to speak to it?

**Capt. A. Eugene Ebanks:** Thank you.

The Penal Code was introduced back in June 1975 and is currently consolidated with 12 other laws which, in my opinion, that makes it a very complex piece of legislation. Over the years since 1975, there have been amendments to the Penal Code for various reasons.

However, as far back as 26 August 1981, the Honourable Member for North Side (at the time Mr. Craddock Ebanks), said, and I quote from the 26 August 1981 *Hansard*, **"I feel, sir that the time is right, that the time has come when we must do something for people who can continue to enjoy their privileges or what used to be."**

Then, on 9 October 1998, the Honourable Richard Coles commented on the amendments so urgently required to the Penal Code.

Mr. Speaker, I feel that this Motion is timely in view of the fact that for many years now members of the public and the judicial system have been crying shame on the leniency in sentences for some sexual offenders.

In doing my research on this Motion, I gathered some statistics from within the Cayman Islands and Canada, Australia, the Caribbean and the United States. With your indulgence, I would like to share some of these statistics which I think will strengthen my argument.

**The Speaker:** Go ahead.

**Capt. A. Eugene Ebanks:** I read from the Royal Cayman Islands Police (RCIP), Annual Report 1998 and 1999 that in 1997 there were 71 reported cases of rape, attempted rape, indecent assault, indecent assault on a female, insulting the modesty of a woman, indecent assault on a boy, defilement of a child, defilement of a girl under the age of 12 years, defilement of a girl under the age of 16 years and indecent exposure.

In 1998, there were 64 reported cases of such offences, and in 1999, there was one reported case of incest. If it were just one case, it would still be too many.

I would like to share some statistics from the local and regional newspapers under *Rape, Abuse & Incest, National Network*. In the Trinidadian Newspaper Saturday Express, 16 September 2000, there is an article entitled "Girl 12 Gives Birth." A girl of 12 gave birth to a baby now ten days old at the Mt. Hope Women's Hospital, triggering alarms of social workers, police and health officials.

It goes on to say that it is a criminal offence, statutory rape, for anyone to have sexual intercourse with a girl under the age of 16 even if she consents. The issue of consent does not even arise if the girl is

under 14. The maximum penalty for that offence is life imprisonment.

Then in the World News section of the *Caymanian Compass*, 8 March 2001 it says that the United Nations Children's Fund (UNICEF) is calling for an end to child marriages which are common in Africa and Asia. Young girls can suffer disproportionately from the physical and emotional toll of early marriage and early motherhood. Young brides tend to be pulled from school prematurely, depriving them of one of their most basic rights—education.

UNICEF also released a report on the eve of National Women's Day stating that pregnancy-related deaths are the leading cause of mortality for girls ages 15 to 19 worldwide. While much of the high toll is due to poor health care, physical immaturity is the key risk for girls under age 15. The report said that forcing children, especially girls, into early marriages can be physically and emotionally harmful. UNICEF director, Carol Denny, says that it violates their rights to personal freedom and growth.

In the local news *Caymanian Compass*, 12 March 2001, there was a case (and I will refrain from calling names) of a young man, 16 years old, who got involved with a 13-year old girl. She had a child when she was 14. Even though the sentence for that offence locally is seven years, the young man spent approximately one month in prison and was placed on probation for 18 months on the condition he helped support the child. With sentences like that for such offences, there is no wonder that we have a rise in crime amongst young people.

Manuel Banales, a Texas judge, ruled recently that sex offenders in the community of Corpus Christi, Texas, must place signs in their front yards and on their cars warning the community that sex offenders reside in the community.

The same judge ruled that pictures and the names of the sex offender be placed on the Internet. Judge Banales feels his ruling is designed to protect the lives of children. He has received much criticism in his ruling, particularly from the families of the sex offenders, as they feel it will ruin the lives of their young children.

Here in Cayman, unless we take some very swift and stiff measures to deter some of this crime, we will be in the same position as some of these other countries.

In an article from the *Rape, Abuse & Incest National Network*, it states that in 1995 and 1996 only 31 percent of the rapes and sexual assaults were reported to law officials. That's less than one in three. One of the startling aspects of sex crimes is how many go unreported. The most common reason given by women for not reporting these crimes is the belief that it is a private and personal matter and they fear reprisal from the assailant.

If we are going to use the international yardstick of 31 percent of reported offences, that would put the Cayman Islands in 1997 to approximately 230 actual

offences and in 1998 to 2000. In such a small community with such a small population, those numbers are staggering. It is appalling to think that there are that many offences actually happening without being reported.

According to the US Department of Justice, in 47 percent of rapes the victim sustained injuries other than rape injuries. Seventy-five percent of the female rape victims required medical care after the attack. On rape offences, 29 percent used weapons during the assault.

Family violence and abuse is not a family matter. Family violence and abuse are among the most prevalent forms of personal violence against women and young children, both boys and girls. The sexual abuse of a child should never be just a family matter, but many children are afraid to report an incident to the police because the abuser is often a family friend or relative. Approximately one-third of all juvenile victims of sexual abuse cases are children under the age of six. That is a frightening thought.

An article from "Survivors of Incest Anonymous" website states that sexual contact between a child and a trusted individual damages a child, covert or overt, whether flirtation or sexual intercourse, needs to be dealt with assertively. It scars virtually all facets of the victim's life since she or he is left with little or no self-esteem. The child's emotional growth will be stifled at the age of the first attack and the victim will probably never begin to recover until adulthood if ever.

The article goes on to point out some of the social maladjustments arising from incest such as alcoholism, drug addiction, prostitution, promiscuity, eating or sleeping disorders, migraines, back or stomach pains – just a few of the physical consequences that a victim suffers.

Food, sex, alcohol, and/or drugs, deaden painful memories of the abuse and expel reality temporarily. If a victim perceives obesity to be unattractive and if she believes she was abused because she was pretty, a victim may overeat in a guarded attempt to defend herself from further sexual assault. Anorexia is another form of self punishment eventually leading to self victimisation and suicide.

There are many emotional problems emerging from the abuse including inability to trust, perfectionism, avoidance of both intimacy and emotional bonding, denial system that ensured her survival as a child now prevents the survivor from enjoying an unencumbered adulthood. She does not trust her own perceptions. She was first to become an expert in disbelieving her own senses, she tries to convince herself that she overreacted, that nothing really terrible happened. When reality is too painful for a child's mind, she learns to fictionalise. It is extremely painful to give up the fantasy family since children see themselves either in reflected glory or in disgraced shadows.

The victim makes excuses for the abuser saying he was drunk at the time, he had a rough childhood,

and she takes responsibility for the assault saying 'I am too pretty' or 'I am too sexy.'

The victim may have parenting problems always second guessing her decisions which is another result of distrusting her own perceptions. A victim may avoid parenting altogether repeating the abuse. The worse possible consequence is when a victim perpetuates the abuse onto the next generation.

Another repercussion of incest stated is that victims often regard authority figures with anxiety, passivity. It is comfortable because it is familiar and she may accept familiar misery rather than risk unfamiliar change.

Another result of conflicting messages of incest is that many victims confuse sex with affection and love. Sexual offences such as rape, incest, and defilement of minors are hideous crimes. They leave their victims scarred for life and with horrifying lifelong memories, and take away self-esteem. In many cases, it brings unwanted children into a family which is not prepared to care for the child emotionally, physically or financially.

I feel if we were to increase the sentences as put forward in this Motion, it would help to act as a deterrent to potential offenders. In my opinion, saving our people from such traumatic experiences would be a major contribution to the people of these Islands. I feel it is our duty as legislators to do whatever we can to make these islands as safe as possible.

Due to some major changes in some laws throughout the region and more victims speaking out, there has been some progress made in the way of deterring some of the hideous crimes. The incidence of rape, attempted rape and sexual assault declined by 17 percent in 1997 because of judges like the judge in Texas making rulings, and more victims getting the courage to speak out. These are possible deterrents to these crimes.

I think it is high time that we took the bull by the horns and put some laws in place that will help to protect our young and old people alike. We need to remember that the pain from these crimes is temporary, but denial and its consequences are forever.

I trust that the Government and all Honourable Members of this Legislative Assembly will support this Motion. Thank you.

**The Speaker:** Does any other Member wish to speak? (*Pause*)

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you.

May I take the opportunity to thank the Mover of the Motion for bringing this to the Floor of this House, and to say at the outset that the Government accepts the gist of the Motion with one relatively minor alteration in relation to the penalties for incest.

The House will be aware that not too long ago there was a serious case of incest dealt with by the

Grand Court involving a father convicted for the crime of incest on his young daughter.

The sentence imposed was considered quite widely to be lenient for what was rightly considered an horrendous crime that offends everyone's sensitivities and sense of what is right and proper. Not surprisingly, some members of the public were considerably vexed by this, and in fairness to the Court I think it should be said that the ability of the Court to deal with the circumstances was fettered by virtue of the length of sentence available to the Court in that the maximum sentence was, and is, a mere five years. Accordingly, the Court had no option but to remain within that tariff.

However, following the imposition of that sentence and the surrounding circumstances some members of the community drew up a petition which was received in my office seeking an amendment to the law to increase the penalties for incest. As a result a Bill was drafted and is presently before this sitting of the House, and was intended for earlier enactment, but a number of issues prevented that, including the Election.

The Government has considered this Bill along with a number of other Bills which are due to be debated in the early part of next week and the Government has approved the amendment of the law to increase the penalties for incest in a way in which I will describe and is already laid out in the Bill which is in the public domain.

Upon consideration of this Motion, certain discussions took place at an earlier stage and also more recently with the movers of the Motion. While other changes to the Penal Code have been contemplated for some time and ought still to be brought forward at the appropriate point and are in the pipeline, there are provisions relating to morality which should receive priority. As a consequence of the view that both incest and defilement are serious issues meriting serious measures, the Bill designed to increase the penalties for incest is intended to be amended, with the approval of this House, at the committee stage to incorporate certain increases in the penalties for defilement also so as to meet the terms of the Motion.

In short, the Government accepts the Motion with the amendment I will describe in a moment, which is in relation to incest that I believe the Motion talks about amending section 144 so that the sentence available for victims under the age of 16 would be life. The Government's preference would be to say victims under the age of 13, since 13 is nearer the notional age of puberty and laws that we have examined both here and elsewhere would indicate that the age of 13 is a more appropriate breakpoint.

However, that does not mean that the penalty for incest in relation to a female over the age of 13 would be insignificant. The proposal in the Bill is, in fact, to have the maximum penalty for incest by a male against a female under the age of 13 to be life, and otherwise to be a maximum of 20 years. I understood

from our discussions with the Mover of the Motion that that would meet the purpose of the Motion. I am taking that indication as correct, although it is a matter for this House to decide what the Law should contain when we get to that point.

I should also say that this would replace the present five years which is available in any circumstance with a sentence of up to life if the female was under 13 and up to 20 years otherwise. These are very substantial increases.

Indeed, one might say that if you had a young person who was somehow (unlikely as it may seem) guilty of incest with a young female less than 13, the possibility of a life sentence may seem rather drastic. On the other hand, I stress that these sentences are maximum sentences.

The purpose of life in relation to a young woman under the age of 13 is to give the court the ability to impose the length of sentence that would be appropriate in the circumstances of a particular case. And the differentiation between a female victim below the age of 13 and over is thought to be appropriate given the particular harrowing nature of incest with a female under the age of 13. Without going into details, there are aggravating factors about that kind of behaviour, which would appear to merit the distinction being made.

Similarly, in relation to attempts, section 143(3) simply provides that **“a male person who attempts to commit the offence [of incest] is guilty of an offence”** that does not have a tariff attached to it at the moment under the law and therefore would attract a maximum of two years being the general provision that applies where no specific sentence is mentioned in the statutory provision. Accordingly, as you will see from the Bill, all of the incest provisions are in the existing Bill. The proposal would be for a female victim under 13, an attempt would attract a maximum of ten years (that is an increase of eight years on the two I mentioned), otherwise a victim 13 or more, seven years. So, there would still be a threefold and more increase, a fivefold increase in relation to a female victim under 13.

In relation to section 145, is the section that deals with incest by females. The proposal in the Bill as amended by the committee stage amendment would be that the two years that apply there would be increased to ten years. The two years is the same type of provision as contained in section 144(3) which does not specify a time period.

I trust the House will see that these proposed amendments to the Penal Code in the Bill, together with the committee stage amendments, would bring about the result sought with the one exception of the breakpoint age.

I said earlier that discussion had taken place on consideration of the Motion. In the committee stage amendments that have been circulated relating to defilement would have the following effect: defilement of girls under 16 is dealt with in section 132 of the Law.

The present Law states in 132(1) that **“whoever unlawfully and carnally knows any girl under the age of twelve years is guilty of an offence and liable to imprisonment for fourteen years.”**

It is proposed that the maximum penalty in that provision would increase from 14 to 20 under the amendment, which accords with the Motion. In relation to section 132(3) presently, **“Whoever unlawfully and carnally knows any girl under the age of sixteen years is guilty of an offence and liable to imprisonment for seven years.”** That would increase to 12 years under the amendment.

The net effect would be that the penalty for defilement in relation to a victim under 12 would be increased to 20 years and for a victim between 12 and 16, would increase to 12, which accords exactly with the terms the Motion seeks. It is not proposed, unless the House is so minded, to increase the penalty for attempted defilement, which at present is ten years in section 132(2).

It may be noted in passing that there is a defence to a charge of defilement under the existing law in relation to a person who was under the age of 16, that it is a sufficient defence if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe that and did in fact believe that the girl was or above the age of 16 years. This is to avoid the danger of convicting persons where the young woman has made herself appear overage deliberately.

However, it is no defence to a charge under this section to prove the girl consented to the act of unlawful and carnal knowledge. These safeguards would remain under the proposed amendment. Essentially, what is being changed is the tariffs for the commission of these offences.

In accordance with that, section 133, which deals with defilement of idiots or imbeciles, which says, **“Whoever knowing a woman or girl to be an idiot or imbecile, has or attempts to have carnal knowledge of her under circumstances not amounting to rape, but which prove that the offender knew at the time of the commission of the offence that the woman or girl was in idiot or imbecile is guilty of an offence and liable to imprisonment for two years.”** It is proposed that the two years, in accordance with the Motion, would be increased to 12.

There is one last committee stage amendment which is considered appropriate at this time, although I am aware there is a further motion before the House in relation to related matters which may result in future changes to the law. However, it does seem such a glaring inconsistency that section 143 of the Law which states, **“Whoever unlawfully and indecently assaults a boy under the age of fourteen years is guilty of an offence and liable to imprisonment for five years.”**

When you compare that with the tariffs we have been discussing, that would appear to be somewhat

light and the proposal is in the committee stage amendment, that that should be increased from five years to ten years as a maximum. You will appreciate the relevance of what I said earlier about this touching on other matters. However, for the moment, these seem to be the most obvious and sensible changes in order to make the tariffs sufficiently serious to act as a deterrent to certain types of behaviour.

These offences are all categorised as offences against morality under the law. While I appreciate that other changes could and perhaps should be contemplated in due course, these matters have come to the forefront of the Government's attention and the private Member's concern and appear to be sufficiently pressing to require attention now. I would have been outlining the proposals regarding incest and will do so again in presenting the Bills when we get to them, but this seems to be as good an opportunity to ventilate the issues as we are likely to get. Perhaps in the rather freer flow of debate upon a motion I emphasise that the Law is never still in this regard; the Law needs to remain vigilant insofar as it can to ensure that penalties are appropriate.

It will not always be the case that the Law is current and as up to date as we might want, but we ought to try as a House to ensure that when we have the opportunity we take it and move the penalties in accordance with the perceived gravity of the offences. You will hear about other measures designed to improve the working of the criminal justice system and will see them in the Bills that have been circulated. However, I would like to suggest that the public needs to have confidence in the ability of that system to be able to deal effectively with wrongdoers at the end of the day. So the deterrent aspect can work and the courts can be given adequate powers to deal with cases coming before them. We must support the works of the court and we must support the criminal justice system. By endorsing the Motion and bringing forward the amendments that have been contemplated, it is hoped that we are moving in that direction.

I think these are all the remarks I wish to make at this point in time. If other issues arise, perhaps another opportunity will be found when we debate the Bill itself. All I will say is that the proposed amendments to the Penal Code will also be reflected in proposed amendments to the Criminal Procedure Code which sets out the maximum sentences for various offences.

May I thank the Movers of the Motion for their cooperation in the discussions we have had and for the ability to reach a common approach to this matter. The Government regards it as extremely important, very serious and would wish to pursue these amendments to the Law as a priority, as I indicated.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** In attempting to speak to this private Member's Motion which the Government has already accepted and which the Members seem to have had the opportunity to have discussed with the Government. I would like to ask the Government (since it is now partly their Motion), if good people are made good by the enactment of laws, or by the existence of a collective morality.

It seems that the original attempt here was to deal with the question of incest and how those persons who commit this heinous crime should be dealt with. This appears to have succeeded in going to the point where the Motion is also calling for increasing the penalty for those who unlawfully have carnal knowledge of girls between certain ages.

This is an important twist in what might have been the original intention of the persons petitioning the Government last year to get the penalties increased for incest because of the public outrage over the case which the Honourable Second Official Member described. I believe that if we did not have our criminal justice system that it would be possible that the mob mentality would have prevailed and that person would have been dealt with in a manner which many people would have felt was appropriate at the time.

Thank God, we live in a reasoning society where it is hoped that our Government does not react like a mob. That it changes laws in order to improve what laws can improve and it uses other means to improve those things that laws might not be able to improve.

There is still the question whether or not the morality of a people is improved by passing to the State the obligation to correct the lack of morality which causes persons to commit incest and persons to have sex at an age that we believe might not be the appropriate age. Can laws prevent teenagers who are 14 or 15 years old from having carnal knowledge of each other? Or can this best be prevented by parents and schools educating their children to say no when it comes to sexual intercourse at that age?

We have been witnessing, in industrialised developed societies that have become giant legal bureaucracies. The criminal justice systems have taken us beyond reason, penal systems find it ever more difficult to keep up with the demands to incarcerate and rehabilitate persons. The criminal justice system is one result of the politicisation of the people's moral consciousness that has led to an act of taking away responsibility for morality from the people and institutionalising it inside the criminal justice system and the State.

This is the reason you find good politicised attorney generals in America. When it comes to a particular crime coming forward, use the crime as a way of getting people motivated to increase penalties and to see the increase of penalties as a way of solving the problem. The problem has resulted because of the lack of solidarity between the people, which creates



the type of collective morality we need to have as the real roots of social control and order in our society.

We are all cognisant of the terrible trauma that the victims of sexual crimes suffer. The question, however, is will their protector be the State, or the people who are to become the perpetrators of these events? In other words, if we can spot our problems early enough, we might be able to make sure that our citizens do not become victims of this or that crime. If we believe that we can wait to create laws in order to use them as a deterrent, then the question to still be answered is whether or not the increase in sentences truly acts as a deterrent for these wicked acts.

Then, there are those who say, 'Well, if the people who commit these acts are so wicked then the best place for them is in prison.' This is easy to say, but the people who say that then have to pay the taxes to maintain these people in the prison. Thus, we have a vicious cycle where we create the need to tax people in order to get rid of their victimisers and the people become the real victims because they have to bear the burden of the taxation system which supports a criminal justice system, a penal system that has absolutely no answers for us. This has been proven in every country in the world.

I am not one who welcomes the lack of order; but I believe that to give the State the role of preserving social order by inculcating in the people the type of morality we need in order to get them not to offend the rights of others is a terrible mistake that has been made in the world all over.

I believe that we should punish persons who commit incest, especially when we look at our history. Although we saw this act last year as something that offended our morality and was shocking, historically, we will see where incest occurred on a very regular basis. We have a cultural experience with incest.

Incest is treated as something that offends our sensibilities to the extent that we now want to manage the problem by creating life imprisonment in certain cases for those who do it. There are those of us who understand that maybe the person who chooses to do something like that might not have been socialised in the appropriate manner; that the values in regard to sexuality and the respect of other persons' bodies might have been transmitted to that person in a very confusing manner within their own domestic environment, peer groups and community. Simply put, there are some people who, when they speak of it they do not talk about incest, they talk about sex.

When we are socialised in such a way that we are incapable of distinguishing exactly where it is and how it is that we enter into those types of relationships, we are creating problems for those individuals. Of course, we can say that it is not important what happens to them because if there is a cancer, cut it out. If there is a rotten apple, throw it away. However, at the end of the day, we are forced by certain types of humanistic obligations to maintain these people in prisons.

That, to me, creates a problem. If we could just eradicate them, if there was a final solution, maybe it would not be too terrible. We have no final solution and we have to pay for people. In developing our Laws we must make sure that our Laws are not completely removed from the reality of the situation. That is, we will have offenders and the fact that the penalties are stiffer will not always deter the offender from offending. This has been proven.

We need to not feel that the solution is in stiffer penalties. The solution is partly an understanding at this particular time that there have been incestuous relationships in our community and that some people felt that if the public knew it would be bad, but they still felt that if they could get away with it that it would be okay. What made the act bad was simply being caught, not doing it, not in thinking about it. That is where the danger is—when we do things and separate ourselves from the reality that we are seriously a part of.

I know I might be a little older than some people. Looking at the reality of the country I grew up in back in the 1950s, with the many little houses we lived in and the very close relationships we had and the very ways in which people regarded things. As a result of those beginnings I might seem to be someone who is trying to excuse a particular kind of behaviour. I am not trying to excuse the behaviour. I am really trying to expound upon the dangers of believing that the possibility for that type of behaviour will somehow be dealt with by creating stiffer penalties and not accepting the fact that the basis for it is already in the sexual attitude of, in particular, our male members of society. Something has to be done to counsel people and work with people in order to make sure that people understand and redefine the purpose of sexuality as they understand it personally. That is the kind of development that a lot of people would be best going through.

I am saying this not so much on the issue of incest which I tend to agree is serious, it offends our consciousness in such a way that we want to do certain things to those people. I am saying that we have to think about that but we also have to bear in mind that in the same amendment to the Penal Code that it is increasing the sentence.

It says "**BE IT RESOLVED THAT Government consider increasing the available term of imprisonment in the Penal Code (1995 Revision) section 132 (3) to twelve years for victims between the ages of 12 and 16, and 20 years for victims under the age of 12.**" I might not have so much concern about under the age of 12. When we get to 12, 13, 14, 15, where we are aware in a Caribbean country, in a hot country where people dress certain ways, we are beginning to skate on thin ice. Let us be honest about feelings and how people are aroused.

I do not know the last time anybody was at the Batabano - so, what I am saying is, will the discipline come from the Law or from what is instilled in us in

regard to how we should conduct ourselves on a sexual or personal level.

I am worried, for instance that if two young people, one 14 and one 15, have knowledge of one another that the consent will, as the Attorney General said, not be a factor here. It is only when the 15-year old boy can prove that he thought the girl was not 14 but 17. That creates a problem for me, simply because if there is such a thing as teenagers having sexual relationships in our community . . . if there is such a thing because it might not be, because you know it might not exist here.

*Interjection by a Member:* Just like gangs!

**Dr. Frank S. McField:** Just like gangs, right!

However, suppose they do. What does the law mean when it says that this will happen to whomever? Does it mean that in the case where two teenagers happen to be doing this that we turn a blind eye and say 'Well, they're teenagers so we can't do anything'? Then, what is the significance of the law? The law is making itself impotent. It is showing people that it is not serious, that it has double standards—the same reason why people have very little trust in the criminal justice system! People understand the dualities in the system and how there is one judgment for this one and one interpretation for the other.

I have some real problems trying to understand why the penalties were not sufficient before. I have some real problems understanding how many times persons were actually brought there and where we can say it was the Law that decided the sentence. Instead of the judge saying, 'Well, in this particular case I might be convinced to believe that the defilement of the 15 year old girl by the older person was the result of such and such, therefore, I am not going to apply the maximum sentence of seven years.' How many times did we see 15, 16, 17 and 18-year old boys going into court? All those teen pregnancies that we had attending the young parents' programme – were the boys who got these girls pregnant 16? Were they 15? Were they 13? Did anyone do any investigation, according to the Law, to make sure that the State's interest in that relationship was investigated?

The State makes a declaration, by making a law, that it now has an interest in the very personal sexual relationship. If it makes a declaration, it must be a useful one, otherwise it proves again that people cannot rely on the Law because in many cases the law is only a manifestation of a political ritual and has nothing to do with reality. It is simply a manifestation of political ritual.

If possible, I would like to have the Mover of the Motion, or someone else, show the real reason for asking the Government – in the case of the defilement, not the incest – to consider increasing the term of imprisonment to 12 years for cases involving victims between the ages of 12 and 16. Are they willing to see the possibility that that might create a particular

danger for young people? Although we can agree that the young people would be better off not having these relationships, that that type of morality would be best achieved by more effective parenting, more concerned members of the community and a school system that teaches kids how to value their bodies?

It has to be remembered that that part of us is a very important part and when we devalue that, we are devaluing our humanity. When people learn how to value their humanity they learn how to value their sexuality. You cannot separate the two. Maybe in this Caribbean territory we need to start to respect people's humanity and then we will understand that sexuality is part of that humanity and we will respect that as well.

I do not want to create more victims by making our criminal justice system insensitive to the very culture it is to govern. Although laws have come from the collective consciousness of our people, sometimes we allow how we feel at the moment to dictate and legislate and judge how we might be able to react tomorrow.

We also know that we have a lot of people in this country who, as soon as somebody related to them gets in trouble, they run to talk about how terrible the Law is and how terrible the Judge is because the shoe is on the other foot. When we make laws, we have to understand that we are making laws for everybody.

If something should happen that I cannot tolerate other people suffering under, or being punished by, I cannot create a greater punishment than I would be willing to suffer myself, or see members of my family suffer.

Then, when we have jurors and people coming in, another aspect again is that they also have to have input. We will find that our laws are not static, that they are dynamic and always interacting with the on-going process of concluding a judgment.

I know it has been mentioned that the judges will have some discretion. However, there is a danger here too for those of us who have come to understand that our judges are not our own people. To give the judges the discretion when at this moment we in fact have the say— Since I have to look at the fact that other persons will use the Laws that I make to judge my people, I have to ensure the Laws I make for my people are the result of my understanding of my people. Sometimes, I know that my people will get angry and bitter at what others do. We cannot afford to develop the mob mentality in this House nor outside of this House.

We need to understand that if there is no need to try to gain any political mileage by going that way, and I am saying that because one of my good friends came in to try to cheer me on, or cheer me down from saying this—

**The Speaker:** May I interrupt you for a moment?

**MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** We have reached the hour of interruption. Do you intend to finish in a short period of time, or —

**Dr. Frank S. McField:** I would like to come back on the next day and do some more preaching. Thank you.

**The Speaker:** I will entertain a motion for the adjournment of this Honourable House.

**ADJOURNMENT**

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Monday.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Monday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM MONDAY, 25 JUNE 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**25 JUNE 2001**  
**10.24 AM**  
*Fourth Sitting*

*[Prayers read by the Elected Member for East End]*

**The Speaker:** Please be seated.

Proceedings are resumed. Item 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First Official Member and the Honourable Minister for Health and Information Technology.

Moving on to Questions to Honourable Ministers and Members. Question 63 is standing in the name of the Second Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 63**

**No. 63: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works how the buddy pass system on Cayman Airways Limited works and how is it monitored by management.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Currently there is no buddy pass system on Cayman Airways. A buddy pass system refers to a reduced-fare ticket which can be purchased by the employee for a person who would not be eligible for passes through the employee (e.g., a friend of that employee). This particular programme is of interest to unmarried employees who have no spouse or children receiving travel benefits. This was in existence from 1991 to 1993 and was discontinued due to various concerns that arose at that time pertaining to abuses within the system.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister outline all current systems in place that allow for employees and their families to travel free of charge on Cayman Airways?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The pass system currently in place has been in existence for some time and is under review to see how this compares with industry norms. The current pass entitlements are active employees and dependants; free tickets, taxes only payable at US \$26.50; one to four years of employment six free tickets per calendar year. Five to nine years of employment, 12 free tickets per calendar year; ten plus years, unlimited free tickets. I must say that this was changed to ten plus years in 2000, which was not consistent with retiree benefits. Service charge tickets, US\$15.00 and US\$25.00 for dependants, plus taxes payable. Cayman Airways employees are not limited to the number of service charge passes used each year.

Retirees and dependants: Employees who worked for Cayman Airways for ten years or more and then left, unlimited free tickets, required to pay taxes. This benefit was amended in 1999 and as of June 1, 1999, to qualify for retiree benefits employees had to have 20 plus years of service.

Active board members and dependants: Unlimited free tickets, required to pay taxes. Retired board members and dependants, unlimited free tickets, required to pay taxes.

Other airline employees: This varies depending on the interline agreement with Cayman Airways.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister provide this House with an indication of what percentage of the travelling public on Cayman Airways travel free under this system he just outlined?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I am not in a position to give that answer, but I can say that when I found out exactly what was obtained with this system, I asked the same question. I certainly expect an answer very shortly, and once I get that, I will undertake to provide information to the Member in writing.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you. Just for clarity, when the Minister spoke of retired employee receiving unlimited tickets, was that the retired employee and his dependants?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Yes, Sir, that is correct.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if retired board members are those appointed many years ago and then removed from the board?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I would suspect that is the case, however I cannot verify that. I will seek to get that answer for the Member and provide that in writing as soon as I have it.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister undertake to also look to see the passenger capacity of the aircraft, considering these passes are on a "standby" basis, to get a complete picture of the whole scenario?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Yes. That has already been borne in mind. For the benefit of all Members, let me clarify some questions that may be in their minds. The way the passes are monitored is as follows: The employee, retiree, or board member submits a request in writing to the pass bureau office. The pass bureau administrator tracks all employees' requests and is able to verify the type of ticket to be issued.

Currently there is one full time pass bureau administrator in Grand Cayman and a part time one in Miami. Note that for all passes I spoke of in the prior answers, these are issued on a space available basis. Employees in all categories are issued one positive space vacation pass per year. Positive space passes may also be issued for business travel for CAL active employees, board members and other airline executives. It is only with these passes where a revenue paying passenger might be displaced.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Would I then be correct in assuming that because the majority of the buddy passes are done on a standby basis, they would only be given a seat on the aircraft if there were availability? Hence, if this system were not in place this would be revenue that could not be collected.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** If I understand what the Member is asking, in a nutshell the question is that since these passes (not buddy passes) are issued "space available" it means that if the airline was filled with passengers and the person wanted a pass, the person would not be able to travel. In other words, paying passengers have first option and these passes are only used when the seat is empty, thus it has no reflection on revenue.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** The Minister's last answer gave the impression that it would not affect revenue. I have difficulty understanding that. If someone wants to travel between here and the United States and knows he would not have to buy a ticket, I have difficulty in seeing how that does not affect the revenue of the airline.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Member must understand clearly that I am not defending the policy. It is a policy that I found. What I meant was that if these people who have "space available" free passes on the airline did not have this option, Cayman Airways could not guarantee they would be flying Cayman Airways if they wanted to travel. I meant that there was no guarantee it would add to revenue, therefore revenue was unaffected.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say how far down the family tree this free or reduced travel runs?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** "Dependants" is one of the words that I asked to have defined. I think that is where the Member is going. I assume it would be what we normally understand to be dependants (direct family members, husband, wife and kids), but I do not

have a written reply. I will give an undertaking to provide information to the Member.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister clarify if passes for current employees and board of directors that do not have to be on standby is for official business only?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** That is not for official business only. My information is that employees in all categories are issued one positive space vacation pass per year. I think that would be part of the terms of employment. We are investigating and drawing parallels to see what the industry norm is, and Members can rest assured that new policy will be in line with industry norms.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if any study has been done to see how many people are getting passes from Cayman Airways, that is, directors past and current, employees, and the like? What amount in cash would that equate to if these were paying customers?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** If the Member will reflect on a previous answer that is part of information that I am seeking. It is not difficult to obtain. We are going to go back over a two-year period qualifying where the free passes were issued. Until we have those facts, I can not go any further with the question.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister say if there is any other group of individuals receiving discounted or free air service, such as Civil Aviation employees?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I am not presently able to answer that question, but that forms part and parcel of the enquiry. Perhaps it is best for me to give an undertaking to provide information in writing to all Members.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I welcome the Minister's undertaking. Can the Honourable Minister provide that in the form of a government statement, rather than in writing, so that it can be entered into the record?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I think that supplementaries answered in writing are put into the *Hansards*. I will take it a step further than what the Member is asking and perhaps do a statement when I have formulated the new policy to show what was and is the case.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 64, standing in the name of the Fourth Elected Member for West Bay.

#### QUESTION NO. 64

**No. 64: Mr. Cline A. Glidden Jr.** asked the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports what educational programmes are currently in place for young offenders, giving the number of youth offenders broken down into male and female.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The educational programmes that are currently in place for young offenders are those offered by the Cayman Islands Marine Institute and the Education Department's Alternative Education Programme.

The Cayman Islands Marine Institute's (CIMI) programme has both academic and vocational components. The academic component of CIMI is primarily self-paced. Each student has his own individualised plan which includes the following areas of study: English (spelling, reading, writing and comprehension) and Mathematics in preparation for the American College Test (ACT). CIMI also teaches Mathematics, History and English to ICGSE level. The vocational component includes: Culinary arts; Auto mechanics; Scuba diving; Seamanship; Information technology and computer repairs.

The total number of young offenders currently enrolled in the CIMI programme is 14. There are ten males and four females.

The Alternative Education Programme (AEP): The programmes currently in place for young offenders at AEP are the same as those offered at George Hicks High School and the John Gray High School in the following areas: Mathematics, English, Information Technology, Social Studies, Careers and Life Skills. If the student is in the last year of high school and is

taking external examinations, assistance is also provided to the student for those subjects. Presently there are three male young offenders in the AEP.

In total, there are 17 young offenders in the two educational programmes.

### SUPPLEMENTARIES

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I thank the Minister for that detailed answer.

Can the Honourable Minister say although these troubled young offenders are removed from the existing system, into CIMI and the AEP, what disciplinary actions are used at that stage?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** There is counselling offered at CIMI and a reward system when they do what they are supposed to do. There are serious consequences if they do not do what they are supposed to do.

I cannot answer for AEP. That would have to come from the Minister of Education.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister expand on the rewards given for good behaviour, good attendance et cetera at CIMI?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The rewards are in the form of special privileges where they are allowed to do special activities such as using a wave runner, horseback riding, they are given music CDs, T-shirts, and such things.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if one of those "such things" includes going out to nightclubs at night?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I am told definitely not.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I am glad to hear that, because I was informed by one of the people in there that one of the rewards they got was for being good for two or three weeks.

Anyway, at the CIMI, the vocational components include seamanship. How is seamanship taught without a boat?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I am told that CIMI has four boats, including a 39' sailboat. The captain teaches maintenance and operation.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister say if there are any plans to place the CIMI under the Ministry of Education?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** That is outside the question I have been asked to reply to, but I think CIMI was under *[inaudible interjections]* ... it has always been under Social Services? There are no plans at this time to put CIMI under the Ministry of Education.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say whether or not she intends to invite the Elected Member for East End to view this project so he can have his fears eliminated?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I really do not know why I am being called upon to reply to that question because I am sure the staff at CIMI would welcome any Member of this Legislative Assembly to visit them.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Since the Minister had such a defined answer for the rewards, can we also get an answer as to what some of those serious consequences would be?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Some of the serious consequences would be: removal of privileges, cleanup around the facility, as well as community service in assisting with cleanup of public beaches, or public parks.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Did I hear correctly? Did the Minister just say that cleaning up around the facility and community service was punishment?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I am told it is more detailed cleanup around the facility, or they may be assigned that job for a week and do community cleanup service of public parks and beaches.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I am certainly no expert in this area; however, from my limited understanding of human beings I would think that any facility in this country should seek to mirror appropriate normal behaviour at their facility. I would think that community service should be an ordinary part of the daily lives of youngsters at those facilities. It is certainly a part of the ordinary activity of social clubs and within the school system.

Can the Honourable Minister say if, when a child runs away from the facility, he is tested for drugs upon return to CIMI?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I am told that they are. I think we are getting off the particular question I have been asked. However, I understand they are tested.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say at what stage, or who actually determines these are young offenders?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** It is my understanding that the juvenile court makes the order that these kids attend CIMI, but not AEP. AEP would be done through the schools where they are having the problem.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say what the position is with any young offenders from the Brac? I am not aware of any, and if there are, what is the procedure? Would it also be to CIMI?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The answer to that question is 'yes' if that is the type of treatment they need and are referred.

**The Speaker:** I would appreciate a motion for the suspension of Standing Order 23(7) & (8).

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

**Hon. Edna M. Moyle:** I move the suspension of Standing Order 23(7) & (8) to allow Question Time to continue.

**The Speaker:** The question is that we suspend Standing Order 23(7) & (8) to allow Question Time to continue beyond the hour of 11 o'clock. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question Time will continue.

**AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say if there is open dialogue between her Ministry and the Ministry of education and their respective departments as to the placement of these young offenders?



**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I am told that the Children and Adolescent Services Team review these offenders' cases and place them at these facilities. There are representatives from social services, legal and education and CIMI on that team. I have had no discussions with the Minister of Education, but we can look into that.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say what the procedure is if the kid is going to be moved from the CIMI prior to the end of that period for which he or she was submitted?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I will undertake to provide that answer in writing. I do not have all the facts at hand.

**The Speaker:** Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Can the Honourable Minister say whether solitary confinement is also used as a punishment?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** It is my understanding that if any of these children are giving problems, there is always a staff member present.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if there are similar educational programmes in place at Northward Prison for the young offenders sent there?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The answer to that is that such young persons would fall under the programmes available at Northward Prison.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Honourable Minister say what facilities are available at CIMI to allow for the extreme solitary confinement? Is it a room or a holding cell? What is there?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** That is not an educational programme, but I will answer it for the Member; it is a classroom where they are held in the presence of a member of staff.

**The Speaker:** Two additional supplementaries.  
The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if her Ministry or anyone from the youth department has any form of coordinating role with the young offenders, be that through the social services or department of youth to ensure they are being rehabilitated and possibly transferred to CIMI after a period of time?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I think we need to understand that CIMI is for juveniles up to the age of 17. Young offenders at Northward Prison are beyond that age, so they could not be taken into the CIMI programme. It is my understanding that probation officers visit Northward Prison and work with young offenders there.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for today.  
Suspension of Standing Order 14(2). The Honourable Minister for Planning, Communications and Works.

#### **SUSPENSION OF STANDING ORDER 14(2)**

**Hon. D. Kurt Tibbetts:** Yes, Mr. Speaker, I would move the suspension of the relevant Standing Order to allow Private Members' Motions to continue on a day other than Thursday—but simply to allow Private Member's Motion No. 16/2001 to be completed, at which point in time we revert to Government Business, Sir.

**The Speaker:** I will put the question that we suspend Standing Order 14(2). Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 14(2) has been suspended.

**AGREED. STANDING ORDER 14(2) SUSPENDED TO ENABLE THE HOUSE TO CONCLUDE PRIVATE MEMBER'S MOTION NO. 16/01 BEFORE REVERTING TO GOVERNMENT BUSINESS.**

**The Speaker:** Third Elected Member for George Town, continuing.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 16/01

#### AMENDMENTS TO THE PENAL CODE (1995 REVISION)

*(Continuation of debate thereon)*

**Dr. Frank S. McField:** Thank you, Mr. Speaker. In order that we can have a clear perspective on what it is that I am attempting to debate here, I will say that I am debating Private Member's Motion No. 16/2001. This Motion deals with amendments to the Penal Code (1995 Revision).

Mr. Speaker, this Motion is calling for several things here and I would like to just briefly read the Motion. It says:

**"WHEREAS section 132 (3) of the Penal Code (1995 Revision) states "Whoever unlawfully and carnally knows any girl under the age of sixteen years is guilty of an offence and liable to imprisonment for seven years: Provided that it shall be a sufficient defence to any charge under subsection (3) if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years;**

**"AND WHEREAS section 144 (1) of the Penal Code (1995 Revision) states "Any male person who has carnal knowledge of a female person who is, to his knowledge, his grand-daughter, daughter, sister or mother is guilty of an offence and liable to imprisonment for five years;**

**"BE IT RESOLVED THAT Government consider increasing the available term of imprisonment in the Penal Code (1995 Revision) section 132 (3) to twelve years for victims between the ages of 12 and 16, and 20 years for victims under the age of 12;**

**"BE IT FURTHER RESOLVED THAT Government consider increasing the available term of imprisonment in the Penal Code (1995 Revision)**

**section 144 (1) to life for victims under the age of sixteen and twenty years over the age of sixteen.**

**"BE IT FURTHER RESOLVED THAT section 133 of the Penal Code be amended by increasing the maximum penalty from two years to twelve years."**

Mr. Speaker, the incest taboo is something that we will find in most societies. The part of the Motion which deals with section 144 which says that any male person who has carnal knowledge of the female person who is, to his knowledge, his granddaughter/daughter is dealing with incest taboo which is seen here as a crime with a prescribed punishment.

That seems to be an area where I have very little problem with in terms of increasing the punishment for this particular crime. I did argue and I would like to summarise briefly that my only fear is that we are creating stiffer punishments by way of incarceration rather than giving the victim certain types of restitution.

We see certain crimes as basically crimes in which the state has interest. The victim relies upon the state to get redress in the form of the prescribed punishment, which could mean incarceration. In a lot of cases when it is lengthy incarceration it means that the citizens must bear the burden of the taxation which goes to provide for the institutionalisation of offenders.

It is also noted that the longer persons are institutionalised or incarcerated in the mental or penal institutions, the more difficult it will be to return those persons to normal existence in society. Therefore, when we make up our minds to incarcerate persons for lengthy periods of time we should be doing so with good knowledge that, first of all, it will be costly. Second, it will most likely deprive those persons from being capable of being integrated back into society and having useful lives.

These are considerations that persons who are calling for stiffer penalties with regards to certain criminal offences need to bear in mind. When we create these stiffer as deterrents, do they sufficiently warn us the economic burden imposed upon the society and, the social and psychological consciences upon the perpetrator of the offence?

The other point is: what does it really do to assist the victim in being able to retrieve his or her dignity? That is why in certain societies, people are understanding that the sharp separation between restorative justice or restorative punishment—punishments that have to do basically with the state intervening in order to restore to an individual that which he or she has lost—has been separated for too long from what we could consider to be areas dealing with civil matters.

It is a civil matter. So, as a citizen you go through the process and the State will not be involved. However, the State is involved when it believes that what you have done will impact upon the

general good and the interest of the Crown or the State. If that only results in the punishment of the perpetrator, and the State does not attempt to restore any benefits to the victims (maybe not a financial loss, but a loss)... We are dealing with sexual offences.

The question is: Does the Government only have an interest in what happens to the victim of a sexual offence? Or should the victim of a sexual offence also have the possibility to have restored to him certain types of benefits as a result of being a victim of that offence?

I know it is considered that the psychological damage that might be done to a woman in the case of rape might cause her to seek treatment by a psychiatrist for a period of time. That might be a medical expense, which she might have to bear herself.

In another circumstance, we could see where there would be a role for this restorative justice concept—where the perpetrator would also be responsible for paying for those expenses. Those expenses would not become a cost to the victim. The state is not really interested in the victim. The state is only interested in the perpetrator—in making sure that the perpetrator is punished. That is a very limited and primitive interest.

If we go back and see the way in which the justice system came into civilised societies, we will see that there is a certain assumption about the usefulness of punishment necessary in order for crimes to be defined. As a matter of fact, a crime is defined by the prescribed punishment or those acts would not necessarily be considered as crime. So, our healthy consciousness is, of course, disturbed by the occurrence by certain types of unsanctioned sexual activities and one is that of incest.

Action needs to be taken by the society to minimise the occurrence of incest, but the question remains: Will we minimise incest in the Cayman Islands by offering stiffer penalties? Or will we minimise incest by understanding a bit more about the dynamics of this particular anti-social criminal behaviour?

What is it about incest that we understand? What do we understand about those persons who commit such crimes? I have heard people say that someone who might commit incest might be an older person, and the victim would most likely be a younger person. Although the law does not really deal with the ages it deals with sexual relationships between certain blood relatives.

Obviously, the entire dynamics might be the result of certain types of power relationships in the first place. In other words, someone might be in a position of trust and a position of authority over a human being who is much younger and weaker and that person is, therefore, taking advantage of a very scared trust. We have to also understand that there could be cases where we are dealing with women and not just with men in terms of the perpetrators of this act. The assumption, of course, is that it is going to be a man. I

do not think that we have had any cases coming before the courts where women have been involved.

Mr. Speaker, this is exactly why I say there is a need for us to understand more about incest and its occurrence in our society—the patterns and the ability of those persons to hide these particular acts simply because of the kinds of dynamics that are at play here. The typical situation is between a man and his daughter—who is dependent on him for survival and sees him as totally and utterly in control of her environment and her life. That person is almost omnipotent in the eyes of that young child.

What causes a society to allow relationships to manifest to the point where that child begins to feel that person is so omnipotent? How have the other persons that should have been involved abdicated their responsibilities? The State should have taken a greater interest earlier by having the social mechanisms in place to detect the possibility of such occurrences and not at the stage after the act has been committed. This is a very important point when we are considering amending the Penal Code and it might mean that when we amend it we would have finished our work. What I am saying Mr. Speaker, is that we begin our work at the beginning and not at the end. The end is when the act has been committed and judges will use our laws to make conclusions about the lives of other persons.

Mr. Speaker, perhaps there are many cases of incest occurring and statistics could be startling. If it is, then that is even more reason why we need to have an understanding of why it happens and why people are able to hide it from the authorities. If this is so, why has the government of these Islands done nothing to put in place laws that would compel persons who had knowledge or suspicion to come forward and report to the appropriate authority so that the investigation could take place? The first question must be with the reporting of these incidents. So that we can get the statistics and have some kind of case in point that we can study and understand the dynamics, and not turn everything into a crime—meaning that once it is a crime we punish it and finish with it. That is the worse thing to do.

This whole idea of coming here and saying '*let's put them in jail for life*' and we still have not done anything to make sure that those persons who are victims are assisted. The victims are assisted by us preventing it from happening not by the punishment. I hope this at least makes us realise our responsibilities. In a society like ours, with an obvious history of incest, once defined in the seventies as the Caymanian disease by a doctor of genetics, Dr. Bloom, means we have a greater job. Clearly if this was so at a particular time in our history, we should have created the mechanisms to be able to detect and report these incidences long ago.

Most Honourable Members here want, I hope, to see this particular Motion voted on according to the different resolutions simply because we have gone

from incest which we know is something that disturbs our healthy consciousness to dealing with defilement. They are both in the same Motion. I think that we could take the emotional world wind that comes from the incest debate and go right into the defilement debate. Perhaps we lose a particular awareness. We did not bring a particular awareness of our society to the debate.

I think it is important that when we are put here to make laws that are going to deal with punitive justice, we try to be as honest as possible about the human constitution. The ability of the human being to succeed in abiding by the norms of society, without hypocrisy or double standards, means we must put the norms beyond what might be achievable by the great majority of us. We do not want to always move the goal post and therefore criminalise more of our people. We know the great number of our people who are sitting at Northward and those who are waiting to go there today. We find the courts crying out for assistance to find alternative means of decriminalising persons. All over the world people are moving away from incarceration, while our penalties are being increased. We deal with defilement of girls, which section 32(3) is now trying to move to 12 years for victims between the ages—

**The Speaker:** I think it is section 132.

**Dr. Frank S. McField:** Section 132(1), “**Whoever unlawfully and carnally knows any girl under the age of twelve years is guilty of an offence and liable to imprisonment for fourteen years**” is proposed to change from fourteen years to twenty years.

Mr. Speaker, under the age of 12 years imprisonment from fourteen years to twenty years? Twenty years in prison is a long time and all I am saying is that if you are going to send someone to prison for twenty years you might as well just write that person off. That is what you are doing—writing that person off and you are making sure that you need another cell because that cell will be occupied for life. So start building another cell.

The question is, under the age of 12 years, imprisonment up to fourteen years, is already a very stiff deterrent if sentencing is to act as a deterrent. I cannot reasonably see the difference between fourteen and twenty years, if it is a deterrent. If imprisonment is a deterrent then fourteen years in prison should be as much a deterrent as twenty years. I hope that the sentence is not to just make our conscience feel good by saying, ‘*we punished that bad person*’ but to also preserve society and the general good. So, somehow the sentencing would have to be there.

Now, the one that I really have the problem with even more is section 132(3), “**Whoever unlawfully and carnally knows any girl under the age of sixteen years is guilty of an offence and liable to im-**

**prisonment for seven years.**” That is being changed from seven years to twelve years.

The problem here, again, is that a young boy, who is sixteen years old and has a sexual relationship with his girlfriend, who is fifteen years old, would be classed as someone who unlawfully and carnally knows a girl under the age of sixteen, and would be guilty of an offence and liable to imprisonment for twelve years.

I am not sure how often these sentences have been used as they are. It would be good to look at the statistics to see exactly what is being anticipated by the government to make these amendments. Have they done their research or have they just been moved by conviction to believe that by increasing the sentence they are doing the community a favour? I would like to see some statistics. I mean private Members are not necessarily going to have access to all this and do not have the manpower to do so. Certainly the Government, if it is agreeing to something, should at least, show us that agreement is based upon empirical reasoning rather than on some type of ill-conceived idea about how people feel about some of these issues.

I think that we live in a society where sexuality is real. We are dealing with sexual offences here and I am only saying that we can achieve what we want to achieve. This is not dealing with rape. It is not dealing with someone who unlawfully and wilfully has sexual contact with someone against his will. There is in this the notion that there is an agreement. So, if the 16 year old boy has sexual contact—or attempts to even have sexual contact—with the fifteen year old girl, her parents will have to deal with that situation if they do not like this boy. If he comes from the wrong side of the track, what happens? Are we going to wait for her to go before the judge? Are we now going to put our responsibilities to the judges and say, ‘*judges decide*’?

Well, there are a lot of people who have serious apprehensions about the decisions that are made in the courts. They question them all the time. There are people who believe that there is justice for one group but not for another group. I cannot be a judge but I am a legislator. I want to make sure that in legislating I do as much as I can to make sure that by the time the laws impact the people whom I represent it will do as little damage and as much good as possible.

Mr. Speaker, crime and punishment are two important concepts that help to keep the community together. Those who are not victims of these types of crimes want to know that if they were, the perpetrators would be punished. We would experience a certain amount of satisfaction with the knowledge that the person was punished.

Mr. Speaker, in biblical times, people would pick up rocks and they would all be involved in the criminal justice system. They would be the judge, the jury, and the executioner. They would all cast stones

and they would feel better that the community would be safer.

Today, we need to be thinking more about the victims. We do not think about the victims and we do not necessarily help them by casting the stone against the perpetrator to the point where the perpetrator becomes incapable of assisting us in restoring some type of justice or benefit to the victim. I say we should think about that. Maybe that could be possible because if someone did something to me and you are the State putting that person in Northward, I would not hear from that person again and that person would not be able to harm anyone else. You are really locking that person up. The assumption is that if that person is incarcerated, he would be unable to harm anyone else.

What I am saying is that the State is still partly charged with rehabilitation. The State is going to have to incarcerate and pay for those people, which means as the victim, I have to pay to incarcerate the person who victimised me. I do not get anything from it but higher taxes. The perpetrator pays his fine to the State, but the victim does not get any of the money. If that person was charged \$2,000, the victim does not receive any material benefit.

Therefore, it is time that we begin to understand that incarceration is not always good for the State; the victim or the society as a whole. We need to somehow move away from this. I will be calling for us to vote on each of these resolutions separately since I believe that from a point of reason they should stand alone and should pass or fail alone.

Thank you very much, Mr. Speaker.

**The Speaker:** Would this be a convenient time to take the break, or would you prefer to continue until lunch? I am in your hands.

**Hon. W. McKeever Bush:** I am ready to speak for a few minutes, Sir.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** I do not intend to be long because I believe the Mover, my colleague the Third Elected Member for West Bay, did a fair job in explaining the position.

I guess all kinds of arguments could be made regarding the terms people spend for various crimes. I guess legal people could make all kinds of cases. I am sure that sociologists are just as keen to make their case. As elected representatives, I pay attention to what the law states and I look at how the country is presently made up. I believe it is time that we put stiffer penalties on the atrocious crimes committed against children and incest.

There is no reason anyone should be sexually abusing a person, be it female or male. The Third

Elected Member for George Town gave various reasons we should not increase the penalties on these sexual abuses. First, he said it did not help the victim by casting a stone on the perpetrator, and then he said that the state still has to pay because the person is incarcerated for such a long time. What do you do? In a country that is supposed to be educated and enlightened, do you just leave them alone? Can they rape a two-year-old, or a ten-year-old child and we just give them seven years? During that time, the child's life has been destroyed.

No, we cannot undo what has been done, but I believe that a person must pay and the punishment should fit the crime. Some of the atrocities that have come to public knowledge—and there are many that have not—and many cases the police did not have knowledge of because they went to social services but we cannot leave these deviants, mad people, anything bad we can use to describe them, because they should know better. I am not going to have it said that I condone it, and could pacify the situation by making excuses about casting stones or the state paying. This is one time I believe that what we are asking for in a motion fits the crime. Far too many small children have been molested, lives ruined and we have just slapped them on the wrists. Do not talk about 12, 13, or 14 years imprisonment as good enough for a man who knowingly sexually abuses another one or his own child.

Are we saying that we live in an enlightened world, and an educated Cayman Islands which would allow it? What kind of education would that be? What kind of enlightenment would that be?

I held the responsibility for many years for Social Services. I have been elected to this House now to serve my fifth term and you, Sir, have served 20 years. I know you have seen as much as I have, probably more. I said a long time ago that they should institute the cat-o'-nine-tails. That will be the first lesson. Flog them and flog them well. If that is living in the dark ages, let it be the dark ages. I know one thing: after you put a good thrashing on him he will remember it while he is serving his sentence. It will serve notice in this country that while we have to abide by laws pushed on us by the UK, and that we are so liberal that they can get away with these things it will serve notice that the government means business. The only thing I see wrong with this, is that we are not instituting the cat-o'-nine-tails. I dare say that if you go throughout the length and breadth of this country you would find several Caymanians to do the job!

I have no problem in supporting this Motion as is, except for the change the Honourable Attorney General suggested in the second resolve, where we change the age of 16 to 13. I feel it is my duty as a responsible legislator to institute methods in this country that should be a deterrent. If it works out not to be a deterrent, then at least we tried to do our part.

I am confident that what we are asking for here can and will work as a deterrent. Yes, there is much

more work to be done when it comes to social development. Our laws must have teeth. A mere slap on the wrist of seven years is not good enough, especially when we consider that persons incarcerated do not serve full time any more.

It cannot be that any legislator, no matter what his beliefs and philosophies are, would say we are on the wrong track, outside of trying to be on both sides. In my 20 years in this House, my fifth term now, that is the hardest thing in the world to do, straddle the fence. That is why I have never attempted to do it—I am too big a man, both physically and otherwise! I stand by what I say and by what I mean to say. There is no hemming and hawing about where I stand.

The only thing I see wrong with this is that we should amend it to say we institute the cat-of-nine-tails.

**The Speaker:** Shall we continue until lunch?

We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.59 PM

#### PROCEEDINGS RESUMED AT 12.22 PM

**The Speaker:** Please be seated.

Private Member's Motion No. 16/2001, Amendment to the Penal Code (1995 Revision), Continuation of debate thereon.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I rise to give my support to this Motion. This Motion deals with a very relevant and important aspect of life not only in these Islands, but indeed the world. If we are afraid to talk about sex, then we are afraid to talk about life.

I listened carefully to the contribution thus far, and would like to commend the Third Elected Member for West Bay for bringing this Motion to this Honourable House. As with anything, once you have a good spin-doctor you can make an argument against it. I am not here to do that, I am here to represent my constituents and the reality of life. The problem with intellectual arguing is that very often nothing gets done, no formidable solutions come forward and life remains just as it was.

I would first like to clarify that the Third Elected Member for George Town said that as far as he knew, the Private Member's Motion was an incest motion and suddenly he saw things creeping in to deal with defilement in the committee stage amendment to the government bill, and somehow implied that these amendments were the workings of the government. Well, for his knowledge, and indeed everyone's knowledge, the committee stage amendments before us were made only because the Honourable Second Official Member saw our motion and decided to incorporate them at this stage to avoid duplicating the debate.

What is in the committee stage amendments to the Government Bill is a mere reflection of what we had in our Private Member's Motion, the one I seconded. So, if you want to cast stones, it came from the Private Members who moved (the Third Elected Member for West Bay) and seconded (that is, me, the Second Elected Member for West Bay.) it.

I would also like to clearly state for the record that there are maximum sentences now available to the courts. I kept hearing talk of the maximums that can lead the public astray if they are not thinking about this carefully. These are new limits available to the judiciary, and does not mean, as was implied, that a 14 or 16-year-old boy would necessarily be sentenced to the maximum.

The Third Elected Member for George Town also brought up another point regarding double standards in our laws, implying that although the Motion sought to increase the sentence from seven to 12 years for defilement of a girl between the ages of 12 and 16, an adult he would be treated one way, and a teenager another way. Well, the last time I checked, that is exactly how our justice system works; minors are treated very differently from adults in a lot of instances. If that is what he seeks to change, then let him bring a motion. I apologise to no one for the double standards in our judicial system. I think you will find these double standards in many judicial systems because there is logic behind adults being treated differently from minors, or those mentally incompetent.

We debate motions, so when we do not speak directly to the issue and just say what we have to say the air gets a tad cloudy. All I can say is that as is, I support this Motion.

I also know that there could be potential problems down the road in terms of the sentencing options contained in this Motion. There is an ongoing debate in the community as to what life imprisonment means in the Cayman Islands. Once that debate gets resolved, some of the sentencing in this Motion may then be inappropriate. The way I see life, is that when those changes are made we then make the appropriate changes elsewhere in the legislation. I am simply dealing with the current situation this Motion deals with—the reality. Let us, as legislators, stick with the reality of the situation.

Mention was also made of the fact that longer sentences do not necessarily prevent crime. I think that is common sense. Certainly, the Members moving this Motion did not see this as a form of penicillin. However, when we reviewed sections of the Penal Code and had discussions with our constituents we were of the view that the sentences were inappropriate, hence the Motion.

I may be new here, but I am here to do a job. I might be a Backbench Member, but I am not here to simply critique. I am here to try to get results as well. All this Motion seeks to do is give more latitude to the judicial system.

I would like to publicly congratulate Mrs. Tania Nelson for her thesis on Restorative Justice. I think contained therein are many good ideas that have been incorporated in other jurisdictions that could help us in terms of crafting what our criminal justice system will look like.

The first resolve of the Motion before us to do with section 132(3) of the Penal Code, and that currently states: **'Whoever unlawfully and carnally knows any girl under the age of sixteen years is guilty of an offence and liable to imprisonment for seven years.'** Section 132 (1) of the Penal Code, where it states if a girl under the age of 12 was defiled, the maximum available term is 14 years. Other sections of the Penal Code, section 125 dealing with rape, have some relation. Defilement or statutory rape is having unlawful sexual relations with an individual who does not have consenting capacity. I make no apologies for calling for stiffer penalties for paedophiles, people who seek out females in our community who are young, easily influenced, or led astray or easy prey.

We have had this in our community for many years. We will always have criminal activity present on earth. It is a part of humanity and our society that will always be there. We recognise that there also needs to be greater emphasis on proper rehabilitation to be part and parcel and the Third Elected Member for West Bay and I are not absconding on that level of responsibility. We do not believe in giving up on lives, however, we also have had concerns expressed to us making us ponder and contemplate.

When I go to Northward Prison and see the state of the facilities and lack of order, a system that looks nothing like what we expect as our norm, then we have a real issue on our hands. If we are going to ask people after they have been incarcerated to readjust into "normal" society, then the facility we imprison them in should mirror normal society. They should have to get up, go to work, and come home, all within the confines of the prison. We also accept that lesser risk prisoners could be allowed outside prison.

When we look at the destruction that mainly preying male adults have on the lives of young girls in this country, and yes the young girls are very mature, but let us face it, we have had incest and sexual predators here for many years. There are individuals ever present, and continually preying on the young girls in this community. Yes, I am calling on the rest of my colleagues in this Legislative Assembly to vote along with us in terms of stiffer penalties. When the time comes, we must look at the entire criminal justice system and find ways in which to become more successful in rehabilitating those who offend the laws set by society.

However, when we see inappropriate sentencing options given the nature of the crime and let us face it, this is a sick crime when a male adult takes advantage of a young girl and removes all sensibility

of what is right and wrong in terms of her sexuality. We cannot sit idly by.

When people are imprisoned, and I think my constituents understand that with everything there is a price. So, yes, we have a Penal Code and various laws that call for various forms of punishment. One punishment we have accepted as a community is imprisoning people. When we do that, we have to pay for their upkeep. Until I am convinced by having it put before me in a better way of how to deal with the situation, then that will continue to hold true.

We can have lower sentencing or say forget about prisons because they cost too much. That is a real option. After all, we live in a democracy. That would be the choice we could make. I am of the opinion that that would be inappropriate. I think I can safely say the citizens of the Cayman Islands would not find that to be a palatable solution at this point in time.

Mr. Speaker, a few colleagues have motioned me—

**The Speaker:** If this is a convenient time for you we shall take the luncheon break. We shall return at 2.15.

#### PROCEEDINGS SUSPENDED AT 12.45 PM

#### PROCEEDINGS RESUMED AT 2.48 PM

**The Speaker:** Please be seated.

Continuation of debate on Private Member's Motion No. 16/2001, Amendment to the Penal Code (1995 Revision).

The Second Elected Member for West Bay continuing.

**Mr. Rolston M. Anglin:** Thank you.

I would like to continue my debate on Private Member's Motion No. 16/2001, where certain changes to the Penal Code are being sought, namely, a restructuring and increase in the sentencing available to the judiciary in regard to statutory rape or defilement, an increase in regard to incest, and an increase in the sentencing available to persons having sexual relations with what are known as imbeciles or idiots as defined in the Penal Code (1995 Revision).

I would like to turn to an editorial in the *Caymanian Compass* of 27 March 2001. I crave your indulgence to read a portion of that editorial.

**The Speaker:** Sure.

**Mr. Rolston M. Anglin:** I quote: **"Cayman's laws should be revised to make sure that children, both boys and girls, are adequately protected from pedophiles of either gender which would protect anyone against sexual predators, especially in situations where the predator is in a position of power or influence, such as in family situations, employer/employee, teacher/student, and similar**

**relationships. There are such predators in any population group, and Cayman would be deluded to assume that such things do not happen in these islands. They always have, and it is the duty of the community and the law to provide as much protection as possible to potential victims."**

As I eluded earlier, this is an important issue from the petition carried out against incest in particular, from the editorials in the *Caymanian Compass*, speaking to constituents, and having constituents come up to me after this Motion was made public in our previous sitting (because this Motion is being brought back along with some ten motions agreed by Government at the previous meeting) to laud our effort. However, a lot of other pertinent points need to be borne in mind as laid out by previous speakers.

The increase in the available sentence to a judge is not penicillin. Indeed, when we speak of these crimes, we have to be truthful with ourselves first and foremost. We must recognize that when it comes to such an offence being brought to the courts, at that point in time there is a lot of damage done to a particular young person's life. Therefore, there are a lot of repairs and amends that need to be made. I am advocating not only counseling for the victim but also for the perpetrators of such act. We know, once we are being truthful with ourselves, these crimes have always gone on within our society. We must be sure to try to help every citizen lead more productive lives. That is the duty of all of us when we seek to make Cayman a better place to live.

I would also like to add that there are those in our community who liken incest to murder. They feel as though the act of incest is so heinous that you take the child and rob her of something so precious, a sacred trust is broken. Some say it is analogous to killing the child.

We also know that in our community incest is not the only issue. There are also significantly older males who seek out young girls below the age of 16 simply to have sex with them, simply for their own pleasure. That is a fact of life in these islands. None of us would argue otherwise, I would dare say.

We have young women being robbed of something that they will never get back. Their lives are changed and altered in ways that as they mature they recognize the seriousness of the act. Most persons under the age of 16 do not truly appreciate the seriousness.

When debating the defilement and incest sections of this Motion in a small community, a person's self esteem, name in the community, decision to marry and start a family, the future lives of the young victims we are talking about can have a tremendous negative impact.

Section 133, deals with an act with imbeciles or idiots, this act is so sick in my view. I think the collective consciousness of our community is shocked when

we hear of persons who take advantage sexually of such persons.

I will be glad when I see solid proposals coming forward for alternative sentencing, comprehensive proposals in regard to a restorative justice system so that we can address a lot of these matters on different levels, levels that the community can look at and say 'this is more meaningful, more wholesome, more holistic, this is where we are trying to get to.'

However, I will not apologise for this Motion to anyone. This Motion contains what I think is the consciousness of many citizens in this community. In ending, I urge all Honourable Members to stand united; let us stand against pedophiles, sexual exploitation of young persons in our community, in particular young girls and let us look within ourselves to support Private Member's Motion No. 16/01. Thank you.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I rise to offer my views on Private Member's Motion No. 16/01, Amendments to the Penal Code.

Various views have been put forward on this matter by Members speaking before me and I think the one point that needs to be focused on is the fact, as pointed out by the Honourable Second Official Member, that we are talking about offences against morality in the Penal Code.

Morality is characterised by conventional virtues, decency, that which is trustworthy and so on. We also need to take into account that in every society in the world this type of action occurs. In more primitive societies we might say, these are not necessarily looked on as offences and in fact are accepted as the norms of society.

As noted by the Second Elected Member for West Bay, this Motion deals with the matter of sex. If we can not talk about that, then we will have a problem talking about this Motion. I wish to define it further by saying sex in circumstances looked upon in our society and in the Penal Code as offences. The sections dealt with in this Motion relate to sex with a girl less than 16 years, blood family members, or with someone who is an imbecile or an idiot. For those two words, I would just like to say that I do not claim to be a lawyer, but perhaps there could be kinder words or phrases found to describe persons in our society who have limited intelligence. I know in day-to-day living we will refer to someone not having much sense as 'fool-fool' or any of those good colloquial terms, but we do not necessarily say 'Hey, you idiot.'

No matter how hard we try, I do not believe that these occurrences will come to an end in this society because these are human tendencies motivated by feeling of sexuality placed by nature in the male and female. They also occur when persons do not adhere to what is considered good conduct. Some people do



not have the control to not commit these offences, and some just do not care and think they have the right to do it whether there is a law against it or not.

Under one section in this Motion, that speaking to defilement under girls 16 years of age, I have a concern in that the way it is sated in section 132(1) it says, **"Whoever unlawfully and carnally knows any girl under the age of twelve years is guilty of an offence and liable to imprisonment for fourteen years ...."**

Section 132 (3) says, **"Whoever unlawfully and carnally knows any girl under the age of sixteen years is guilty of an offence and liable to imprisonment for seven years."**

It hardly needs saying that a girl, a child of twelve years or under, is just that—a child. While bodily functions may have developed to a point where the girl may be growing into all of the areas of womanhood, she is definitely of an age where her mind has not reached the level of her biological growth. There are numerous cases in the world where young girls subjected to sex offences at that age are scarred for life, damaged in every sense of the word and I believe all of us in this House understand this and stand diametrically opposed to it.

How much the increase of penalties will hinder a person who is prone to do such a thing, I cannot simply offer an opinion. Where there might be an intention, I think the fear of penalties certainly keeps people in line. Generally speaking, I do not know how much it will mean to somebody who might do such an act if the term is 14 years or 20 years. If the longer term would have some effect of a deterrent, then by all means, we should increase it. I have no problem supporting the recommendation of an increase. The point I am making is that I do not know if a longer penalty will stop it. I think that the only way to stop it would be to bring people of that mentality to a stage where they recognise the repugnance of it.

One thing this does open up is that we can have a situation of a 15 year old boy and girl committing a sexual act and it appears to me that the 15 year old boy would be open to the liability of this higher penalty. At that age the biological functions of young people are at their zenith. The pursuit of love and happiness of 15 year olds and the sexual scenes constantly shown on television, make it more difficult for younger people to resist these physical temptations.

The recommendation is to change the seven years to 12 years in the instance of defilement. Again, I think that we ought to take into consideration that this law says "whoever", it does not say "an old man" doing this, or a 25 year old or a 30 year old, it says "whoever." That is something that one might wish to look at in this particular law.

The other section of the law that is mentioned in this motion is section 144(1), which reads, **"Any male person who has carnal knowledge of a female person who is, to his knowledge, his granddaughter, daughter, sister or mother is guilty of an**

**offence and liable to imprisonment for five years."**

If ever I heard a unanimous outcry in Cayman in recent years, it was about one year ago when there was a case of a young girl, I think eight years old, who had an act of incest committed on her by her father. At that time I think that if the public were to have had access to the offender, (who was ultimately convicted and sentenced), they would have taken justice into their own hands. It was particularly offensive because the child was so very young. However, beyond that, the offence of sex between blood relatives, as cited in this section, is an offence that is frowned upon by society.

We now have greater knowledge and understanding of genetics, and if we were to only take that side of things, sexual intercourse between blood relatives can have serious effects on children from those acts. Incest is a heinous but not a new crime that occurs for different reasons. I understand some departments of government have knowledge of this happening, and that it does not necessarily reach the police; it is dealt with via Social Services. I do not know whether or not Social Services have to report it. I am not trying to state specifically what occurs, but I have heard and I understand there are instances not prosecuted by the police because they are not brought to their attention.

The likelihood of that situation is greater all the time because of drugs in our society. Families (not necessarily wife and husband, it could be a man and woman living together with their children) with minds made foggy from the use of drugs go into living quarters that are cramped and so on, where children are exposed to situations between adults that they should not be exposed to; those are realities of our society here. We can pretend that they are not, but they are.

Some people for various reasons believe they are so liberated that they do not take such exception to incest. My first knowledge of things that would amount to incest was when I heard my grandmother talk about it, and what was said in the Bible. For example, if we look in Leviticus 18:6-18, it is recommended therein that the person should surely be put to death. The penalty brought out in Leviticus 20:11-21 is death. We are speaking of making the penalty life, which is the present equivalent of death, removed from our laws. Perhaps it is right that where this occurs with the very young, that should be.

I would like to refer again to the Bible. In Genesis 19 when Lot left the land of Sodom and Gomorrah and went up to Zoar where he and his two daughters dwelt in the mountain, Verse 31 says, **"And the firstborn said to the younger 'our father is old, and there is not a man on the earth to come in unto us after the manner of all the earth. Come, let us make our father drink wine and we will lie with him that we may preserve seed of our father.' And they made their father drink wine that night, and the firstborn went in and lay with her father and he perceived not when she lay down or when she arose."**

It goes on to verse 37, where in each instance the daughters deliberately and knowingly had a sexual act with their father because they believed it was the way of preserving the family. That was the first case I ever heard about, and it is recorded in the Bible. We know from Bible times this happened, and the reason they gave was to ensure continuation of the family. They went to the point, which is no different now in cases where persons get young persons in a state of inebriation and they do these things.

Normally the law does not prescribe that one should go see a psychiatrist. To the best of my knowledge, that is done by a judge depending on the case and whether or not the law permits. The law provides for penalties and among the modern concepts in law is the idea that rather than incarcerate, persons can be ordered to make restitution by other means, commit themselves to an institution as the case may be. Generally, it is through incarceration. Currently, there is no other punishment available except incarceration or imprisonment. Does it change the person who committed the act? It certainly leaves a victim, and where this occurs, the best we can do is hope that the person can live through it and out of it. There is really no way of knowing. I am sure that those of us who know of instances where incest has occurred, the people have not developed stable adult lives.

I think that alongside penalties it is necessary for us to create awareness through education, through talking about these things, through civic groups and associations, PTAs, et cetera, these aspects of the law and why people should refrain from them. There are many reasons nowadays. I think there needs to be some degree of protection, particularly for the young in our society. Within the family there is a duty of mother, father and siblings to understand that they must hold themselves in a responsible manner.

There is a need for a development of what we have lost a lot of—respect for persons. There needs to be a considerable amount of vigilance by teachers, the public at large, the churches, neighbours, social services, all areas that might identify persons who appear to be having difficulties probably due to something damaging in their lives which, of course, if it is incest, is also against the law.

The last point in this Motion is in regard to sex with an imbecile. Again, I think it is a very sick person, a very lame person, a person who does not have much respect themselves or society. However, it does happen, and there are instances in our society as well.

I can support the increased penalties in this law that the Motion is asking for, but do not think we can believe that we have solved the problems of these occurrences simply by adding ten more years or 20 more years, or even life. When someone is spending a lifetime sentence, someone else is waiting out there to do these things. It comes to instilling of values, of respect in individuals towards other individuals in

every way we possibly can. Having given my views, I support the Motion.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I rise to offer a few words in relation to this Motion. A number of perspectives have been put forward by Members on this side of the House. We have heard the sociologist, fundamentalist, religious and perhaps some other categories of perspective offered. I felt I should say a few words in general, which relates to the purpose of sentencing; the situation in relation to sex offenders, and the matter mentioned by the Second Elected Member for Bodden Town, in relation to how the section of the Penal Code that deals with defilement can, I believe, in its current form adversely impact the lives of young people in situations where the boy and girl are of similar age and maturity. However, the section makes criminal the conduct of the male when these two young people who are perhaps boyfriend and girlfriend are discovered to have had sexual relations.

First, to deal with that last point, I should say that I am not for one moment seeking to advocate premarital sexual relations, or sexual relations between very young boys and girls. However, there are certain realities that have been around since time began. The Second Elected Member for Bodden Town referred to these physical drives. We must accept that these things have happened, and are going to happen. We must ask ourselves whether it is morally right, whether it is fair to criminalise the conduct of a young boy, making him guilty of a criminal offence, have it on his record through the early years of his adult life when in fact the young girl with whom he had the relations, with whom he carried on the conduct which is criminal, agreed with him to carry on this conduct. She is free from any culpability, and that cannot be right.

While the Motion and the Government Bill do not seek to address this aspect of section 132, I bring it to the attention of the Second Official Member and to all Members of this House that we give consideration to this when coming to amend this provision.

I will deal briefly with the issue of sentencing and sentencing policy. Sentencing should have a number of effects. It should reflect the gravity of the offence which has been committed; it should serve as a deterrent to others who may be tempted to commit the offence; and whether we wish to accept this or not, it is meant to reflect the outrage of the community and to affect some form of retribution. Whatever we may think we are, this evolved species called humanity, there is something deep within the breast of most, if not all of us, that requires that when something bad is done to one of us, whoever perpetrated that evil deed must be made to pay; that is the way we feel. There are few, if any among us, who at some point

have not felt this kind of distasteful passion, this almost blood lust. That is the way the human creature is made.

The Second Elected Member for Bodden Town referred to the terrible case of incest between a father and a very young daughter. As he quite rightly pointed out, I do not believe I have ever felt such a degree of moral outrage in this community. It is that kind of a situation where we hear all members of this community crying out that ten years spent in jail is not enough. We feel that we must do something to this individual who has preyed upon his own flesh.

So, while I share the views of the Third Elected Member for George Town and the Second Elected Member for Bodden Town, about whether or not increasing the sentence is going to have any deterrent effect at all, I believe that sentencing must reflect those views of this society that feels that outrageous conduct, such as the case I just referred to, must be subject to harsh punishment. Since the only means we have of punishing these individuals is incarceration, that that incarceration needs to be of substantial length.

Other jurisdictions have registers of sex offenders so that when a sex offender has been convicted before the courts, his name is published and everyone knows the gravity of the offence of which he is being convicted, the object being they can then guard themselves and their young children from this sort of predator.

In this jurisdiction that is difficult to operate. Almost inevitably, to disclose the name of the sex offender in this small community would mean also disclosing the name and identity of the victim. In the most serious of these cases, word tends to spread like wildfire, to create this sort of system. I believe that while it might prevent these predators from preying on other young people, we have to balance that against the deleterious effect that disclosure of their identity will have on young people whose lives have already been tragically impacted by what has happened to them. I believe we should give thought to this system to see if there is some way we can resolve that dilemma and at the same time prevent predators from repeating their awful acts within this community.

I can close by saying that in general terms I support the objective of the Motion. I hope we can arrive at a situation that addresses the concerns that I and other Honourable Members of the Backbench have outlined about these provisions and that the Second Official Member will respond to our concerns when he speaks. Thank you.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I rise to give my brief contribution to the Motion before us dealing with amendments to the Penal Code (1995 Revision).

I would first like to put into perspective the various proposed amendments and the significance thereof.

I would characterise the proposed amendments into three main categories: first, section 132 (3) dealing with the defilement of girls. That then goes into two subcategories being under age 16 and over age 16. Secondly, section 144(1), which deals with incest by males. My good friend took the point of females being left out, that too goes into categories of under and over 16 (taken against the background of the committee stage of the bill). Third, section 133(3) dealing with the defilement of idiots and imbeciles. This does not go into a division of categories but deals with all ages in that particular category.

If we look at the current law dealing with 132(2) & (3) we will see that it states, "**Whoever unlawfully and carnally [those being the operative words] knows any girl under the age of sixteen years is guilty of an offence and liable to imprisonment for seven years.**" If my understanding is correct, these amendments propose to raise it for age 12 to 16 to 12 years, an increase of five years.

In section 132(1), as the law currently exists it reads, "**Whoever unlawfully and carnally knows any girl under the age of twelve years is guilty of an offence and liable to imprisonment for fourteen years.**" The proposal is to take that to 20 years, an increase of some six years.

If we turn our attention to the section dealing with incest by males, section 144(1), it states, "**Any male person who has carnal knowledge of a female person who is, to his knowledge, his granddaughter, daughter, sister or mother is guilty of an offence and liable to imprisonment for five years.**" The proposed amendment seeks to take this to life for those under 16, and for those over 16 to 20 years, both significant increases.

We are all cognisant of the fact that carnal knowledge is that knowledge which includes sexual intercourse, and incest is sexual intercourse between persons who are closely related in accordance with the law.

The last resolve of motion 16/01 dealing with defilement of idiots or imbeciles, section 133 says, "**Whoever knowing a woman or girl to be an idiot or imbecile (and I would hope this would go for boys as well), has or attempts to have carnal knowledge of her under circumstances not amounting to rape (which we see a definition set out in section 125 of the Penal Code and the penalty in section 126), "but which prove that the offender knew at the time of the commission of the offence that the woman or girl was in idiot or imbecile is guilty of an offence and liable to imprisonment for two years.**" I am happy to see that the proposal will now increase that by some eight years to an aggregate term of maximum imprisonment of ten years.

If we briefly look at sections 125 and 126 to get a perspective of the terms "carnal knowledge" and look at the root sexual offence, being rape, we would

see that the definition of rape in our Penal Code says, **“Whoever has unlawful carnal knowledge of a woman or girl without her consent or with her acquiescence if such acquiescence is obtained by threat or force or use of force by means of threats or intimidation of any kind; or by fear of bodily harm, or by means of false representation as to the nature of the act, or in the case of a married woman, by impersonating her husband, is guilty of an offence of rape.”** And in section 126 it carries the punishment of life imprisonment.

We see these three categories are but deviations of what I term the mother of the sexual offences. Therefore, it is no simple matter that the sentences are much less. However, I would say that I appreciate and to a large extent agree with the sociological and perhaps psychological input that was offered by the Third Elected Member for George Town. As I will attempt to show, although I am of the view that sentences should be a deterrent, we must not forget the important fabric of the social process if at all we hope to achieve what we set out to do in these sentences.

It is my view that the proposed amendments to the Penal Code will provide a substantial improvement by way of increasing the term of imprisonment if by increasing these sentences as proposed if that in itself would act as a deterrent and if the end result would be that the prospective offenders would stop it and also the end result would be that we would irradiate this awful category of offences from our society. However, we all know that would be looking for a utopia.

With these amendments one would hope that in the future the likelihood of these offences would be decreased. We live in the real world and to take such a simplistic view would not be in the best interests of what we are trying to achieve here today. I believe the traditional attitude is that crime is essentially a moral wrong. From the evidence given from the Bible by my good friend the Second Elected Member for Bodden Town, he integrated this into his submission.

Although we have moved into an era where it seems not GQ (if I can use such terminology to refer to morality) and being in the House at the same time I respectfully submit that if we go back to that same good Book we will see that not only were these set out as offences, but indeed appropriate and oft time reasonable sentences and punishment was so associated. I can say that the amendments coming here today do not come near to what was set out in the Old Testament and parts of the New Testament.

Suffice to say, these proposed amendments, when approved, will set the maximum penalty. Therefore, there is built in an inherent discretion for the judges to base on the various circumstances (except for the category of under 16 which will give life as in the case of rape) to look at the circumstantial and direct evidence to ensure that justice is carried out and that it appears to the public at large to be carried out in particular to these sexual offences.

We are not here today proposing minimum offences, but we are allowing judges who are appointed through His Excellency the Governor to use their experience and knowledge and collate from around the Commonwealth and elsewhere ensuring that our community here in the Cayman Islands is protected. We also allow them to integrate such intelligence that perhaps may not be privy to us at the time of making legislation, hence the reason I can support that discretion as being put in, as is traditionally the case to do.

Where there is a statutory maximum it is normally reserved for the worse case scenario. Therefore, the judge has a range of options within that maximum sentence. Most feel that the punishment must be equal to the sentence. Others are often content to rely on the concept that the suffering should follow a wrongdoing. In other words, they must serve time for the crime. I am of the view that the ultimate justification of any punishment is not a deterrent, but indeed the emphatic denunciation of the community for the crime.

Many feel that severe sentences are used to mark public revolutions. That is, for the law to be effective, the citizens must feel that the law is protecting them from criminals in our society. I feel these proposed amendments are attempting to satisfy by a sufficient punishment and to reflect the public's desire for vengeance against the wrongdoer. There has been reference to recent offences in this category and the large public outcry. Rightly so, I believe that victims of these heinous sexual offences should feel justified and that the perpetrator does not go free and there is some restriction on his or her liberty. We must look at the whole picture ensuring that while they are incarcerated there are appropriate reform courses or programmes in place at Northward, or elsewhere, so that when they come out they will not face a vicious cycle and be back through the revolving door at Her Majesty's prison.

We cannot therefore then deny that the social process is an important element in criminal law which reinforces and upholds the moral sentiments of the community that favours the promotion of virtue here in the Cayman Islands and discourages the pursuit of evil-doing.

I believe that not only should sentences be a deterrent but the question could also be posed as to how any such sentence could have the effect of reforming the sexual offender. It is my view that although reform is very essential, very significant, and important, I however believe that if there is a conflict between reform and punishment, that punishment must prevail and at the same time be reasonable and fit the crime. It cannot be done as a matter of ad hoc and just for any type of political reasons at all.

I believe that when we look at the offence of incest, it does not in any way depend upon the deficiency—and I so term it because when you need to depend on the consent of a woman for such a heinous

crime, that, in my view, is a deficiency in the law. With incest, consent is not required. The offence of incest is sexual intercourse between persons within a specified degree of sanguinity.

Not only does incest present a dilemma of being morally wrong, there is also a practical reason why incest should not be tolerated in any form or fashion. Just taking a quick look back in our own Caymanian history, we can see that when there is sexual intercourse between relatives too close, as set out in 144(1), there is an inherent genetic risk and if there is an offspring, traditionally referred to as retarded or deformed persons, they suffer for their entire lives because of this incestuous relationship.

It has been proved in most of our six districts that such sexual intercourse between close family members causes social problems. Although incarceration is not the total answer, I believe the proviso must be put in place, as the Third Elected Member for George Town said, that we must come to grips with these crimes to see how else we can augment what we want to achieve by programmes within the prison.

I would also like to go on record as thanking the Cayman Islands Ministers Association and the many other members of the various churches who take their time day after day, year after year, going into the prison with the hopes of getting to the root of the problem, which I submit is a heart problem. No matter how much money government spends, whether this one or one in the future, unless there is a fundamental change of the perpetrator's heart we will be spinning our wheels. Nonetheless, we can not just throw our hands up and take a passive approach and do nothing. We can support this process by lending our support to the support groups in our community and also do as governments have in the past by giving these organisations sufficient financing so this can be achieved. It is much better to get them at the time they are incarcerated when there is optimism for remorse. Perhaps we can better sit with them as a captive audience and listen to them, talk to them on a one-to-one basis and hope to point them in the right direction.

Although there is great outcry from a personal perspective as well as a community perspective, the perpetrator is also some mother's child. I do not believe we should write off any individual, but must constantly assess the situation and see what can be done to prevent a reoccurrence in the future. If the powers to be feel that increasing it to much longer sentencing is the only way to do it, I could not in good conscience support these amendments. However, I believe I am safe in saying (from what I have heard so far) that this is an attempt to move a mode of deterrent, to send a signal to the community that we will not tolerate this. However, they are prepared to look at the social process to create a better community within the Cayman Islands.

I believe that although the sentences do not necessarily prevent nor decrease the occurrence of these sexual offences, at least we know for X amount

of years the offender will be at Northward Prison and from a very technical standpoint will not be a risk to the victim and/or family. Hopefully he will also have time for reflection with a view of changing his behaviour with the aid of others within the prison as well as the community as a whole.

The increase of the penalty is but one piece of the very necessary puzzle. Nonetheless, I am of the view that it is a very important part of the puzzle. No, it is not an absolute solution because the moral element must be married to the social element if we are going to find a solution to this problem.

I also believe that regardless of what the community might now be saying, the only real solution is absolutely true repentance and godly sorrow. Although society seems to be running from that aspect, it has been proven by many secular organisations that when this is applied, we can truly see a transformation not only of sexual offenders, but of other offenders within our community. We can not only punish them, but reform them to be good law abiding citizens within society.

I do not believe that they should attach themselves to religion merely for sympathy, but it must be a genuine and fundamental transformation within the individual if we are to see change.

With those words, I thank the Movers for being so bold so as to deal with this, and ask them to keep an open mind in solving the dilemma of these hideous crimes. I also appreciate that there would be other social and moral ramifications to help complete the whole picture.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Last call.

If not, does the Mover wish to exercise his right of reply? The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you.

Before I get too far into my winding up, I made a few notes of what the Third Elected Member for George Town said as far as imprisonment of these offenders, and what it would cost government to keep them there. While that is a consideration, I do not feel it is something we can put a price on when it comes to the misery and shame that the victims suffer.

What about the self-esteem of the victims, their physical and mental well being? These are values that we cannot put a price on. Also, we have to remember that these adverse effects are a result of the current perceived inadequacy of the Penal Code, not of the changes proposed by this Motion.

At this time I would like to thank my colleague, the Second Elected Member for West Bay, for seconding the Motion. I would also like to thank all Members who support it. I would hope that these amendments would help to make our Islands a safer place in which to live. I thank you, Mr. Speaker.

**The Speaker:** Before putting the question on Private Member's Motion No. 16/01, that in allowing wide parameter on the debate on the Motion I am quite cognizant of Standing Order 37(1) which says, "**It is out of order to anticipate a Bill standing on the Order Paper by debate upon a motion dealing with the subject matter thereof.**" I felt that the two were so important that they be referred to. I felt it my duty to allow it.

I would also like to say it was the request of the Third Elected Member for George Town, in accordance with Standing Order 24(13) "**If a motion embodies two or more separate propositions, the propositions may be proposed by the Presiding Officer as separate questions.**" I will agree that this be posed as three separate questions.

So, the question before the House is that Private Member's Motion No. 16/01 be passed. I shall now take the first resolve section: "**Be it resolved that Government consider increasing the available term of imprisonment in the Penal Code (1995 Revision) section 132 (3) to twelve years for victims between the ages of 12 and 16, and 20 years for victims under the age of 12.**"

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

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**Mr. Cline A. Glidden Jr.:** Mr. Speaker, may we have a division please?

**The Speaker:** Certainly.

**The Clerk:**

### Division No. 9/01

**AYES: 13**

Hon. David F. Ballantyne  
Hon. George A. McCarthy  
Hon. D. Kurt Tibbetts  
Hon. W. McKeever Bush  
Hon. Edna M. Moyle  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden Jr.  
Mr. Alden M. McLaughlin, Jr.  
Mr. Gilbert A. McLean  
Mr. Anthony S. Eden  
Mrs. Julianna Y. O'Connor-Connolly  
Mr. V. Arden McLean

**NOES: 1**

Dr. Frank S. McField

**ABSENT: 4**

Hon. James M. Ryan  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Mr. Lyndon L. Martin

**The Speaker:** The result of the division 13 Ayes, 1 No. The first resolve of the Motion has passed.

**AGREED BY MAJORITY: BE IT RESOLVED THAT GOVERNMENT CONSIDER INCREASING THE AVAILABLE TERM OF IMPRISONMENT IN THE PENAL CODE (1995 REVISION) SECTION 132 (3) TO TWELVE YEARS FOR VICTIMS BETWEEN THE AGES OF 12 AND 16, AND 20 YEARS FOR VICTIMS UNDER THE AGE OF 12.**

**The Speaker:** Second Resolve: "**Be it further resolved that Government consider increasing the available term of imprisonment in the Penal Code (1995 Revision) section 144 (1) to life for victims under the age of sixteen** [and it is my understanding that that has been changed to thirteen, that is agreed] **and twenty years over the age of sixteen.**"

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

**AYES.**

**The Speaker:** The Ayes have it.

**Dr. Frank S. McField:** Can we have a division Mr. Speaker?

**The Speaker:** Certainly.

**The Clerk:**

### Division No. 10/01

**AYES: 13**

\*Hon. David F. Ballantyne  
Hon. George A. McCarthy  
Hon. D. Kurt Tibbetts  
Hon. W. McKeever Bush  
Hon. Edna M. Moyle  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden Jr.  
\*\*Mr. Alden M. McLaughlin, Jr.  
Dr. Frank S. McField  
Mr. Gilbert A. McLean  
Mr. Anthony S. Eden  
Mr. V. Arden McLean

**NOES: 0**

**ABSTENTION: 1**

\*\*\*Mrs. Julianna Y. O'Connor-Connolly

**ABSENT: 4**

Hon. James M. Ryan  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Mr. Lyndon L. Martin

**\*Hon. David F. Ballantyne:** Mr Speaker, on the basis that the resolve refers to life under the age of thirteen, and twenty years over the age of thirteen—Aye.

**\*\*Mr. Alden M. McLaughlin, Jr.:** Mr Speaker, I wonder if the resolve section could be made clear that it is victims under the age of thirteen, and twenty years over the age of thirteen, as the Hon Second Official Member has indicated. I believe that when the question was put, it was "victims under the age of thirteen and twenty years over the age of sixteen."

**The Speaker:** I will correct that. If that is the wish of the House, the figures "sixteen" in both places have been changed to "thirteen."

**Hon. W. McKeeva Bush:** Right.

**\*\*Mr. Alden M. McLaughlin, Jr.:** Mr Speaker, on that basis—Aye, Sir.

**\*\*\*Mrs. Julianna Y. O'Connor-Connolly:** Mr Speaker, because I was on official business on Friday, for clarification was there a motion made to amend this resolve?

**The Speaker:** That was the discussion, yes.

**Hon. W. McKeeva Bush:** Yes.

**\*\*\*Mrs. Julianna Y. O'Connor-Connolly:** And a vote taken on the motion?

**Hon. W. McKeeva Bush:** Yes, we are taking it now.

(pause)

**\*\*\*Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, my vote is for "sixteen," as written: it is Aye. If that is not the position, then I would vote separately. That is the only reason I am seeking clarification.

**The Speaker:** In the moving of the Motion and the reply by the Honourable Second Official Member, that amendment was accepted by the House.

(pause)

**The Speaker:** If the House wishes we can certainly put another vote on it.

**Hon. W. McKeeva Bush:** No, I do not think so, you had already done it.

**The Speaker:** The result of the division is 13 Ayes, one abstention, four absent. The second resolve passes.

**AGREED BY MAJORITY: BE IT RESOLVED THAT GOVERNMENT CONSIDER INCREASING THE AVAILABLE TERM OF IMPRISONMENT IN THE PENAL CODE (1995 REVISION) SECTION 144 (1) TO LIFE FOR VICTIMS UNDER THE AGE OF THIR-**

**TEEN AND TWENTY YEARS OVER THE AGE OF THIRTEEN.**

**The Speaker:** Moving on the third resolve, "**BE IT FURTHER RESOLVED THAT section 133 of the Penal Code be amended by increasing the maximum penalty from two years to twelve years.**"

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THIRD RESOLVE SECTION PASSED.**

**The Speaker:** I declare that Private Member's Motion No. 16/01 Amendments to the Penal Code (1995 Revision) all three resolve sections passed. The Motion has passed.

**AGREED: PRIVATE MEMBER'S MOTION NO. 16/01 AGREED BY MAJORITY.**

**The Speaker:** Is it the wish of the House that we continue with Government Business at this time?

[interjections]

**The Speaker:** I will entertain a motion for the adjournment if that is the wish of the House. The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

## ADJOURNMENT

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 11 am Wednesday, due to the presentation that the Minister of Education—

**The Speaker:** If I may, the Minister of Education asked for 11.30 am. That is what he wrote me concerning this, but whatever motion ...

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports?

**Hon. Edna M. Moyle:** Mr. Speaker, now that we have our act together, I move the adjournment of this Honourable House until 11.30 am Wednesday.

**The Speaker:** The question is that this Honourable House do now adjourn until 11.30 am Wednesday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED UNTIL 11.30 AM WEDNESDAY, 27 JUNE 2001.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**27 JUNE 2001**  
**2.03 PM**  
*Fifth Sitting*

*[Prayers read by the Honourable Minister responsible for Education, Human Resources and Culture.]*

**The Speaker:** Please be seated.

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** I beg leave of the Chair to express and voice apologies to you and Honourable Members and the press for the late start of the Sitting. You know, Sir, I received your permission to delay proceedings until 11.30 am as a result of a youth presentation held earlier in the morning. I did not anticipate proceedings being delayed for a longer period.

**The Speaker:** Government Business, Bills. In accordance with Standing Order 58, I call upon the Honourable Second Official Member to move the withdrawal of the Criminal Procedure Code (Amendment) (Sentencing, Indictment and Incest, Etc.) Bill, 2001.

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

#### THE CRIMINAL PROCEDURE CODE (AMENDMENT) (SENTENCING, INDICTMENT AND INCEST, ET CETERA.) BILL, 2001

*Withdrawn*

**Hon. David F. Ballantyne:** Thank you.

In accordance with Standing Order 58, I hereby move that The Criminal Procedure Code (Amendment) (Sentencing, Indictment and Incest, Etc.) Bill, 2001, be withdrawn as it has been replaced by an amended Bill which appears as item 2 on the second part of the Order Paper.

**The Speaker:** Thank you.

The question is that in accordance with Standing Order 58, The Criminal Procedure Code (Amendment) (Sentencing, Indictment and Incest, et cetera.) Bill, 2001, be withdrawn. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE CRIMINAL PROCEDURE CODE (AMENDMENT) (SENTENCING, INDICTMENT AND INCEST, ET CETERA) BILL, 2001 WITHDRAWN.**

#### SUSPENSION OF STANDING ORDER 46(1), (2) AND (4)

**The Speaker:** Bills, First Reading.

I would ask for the Suspension of Standing Order 46(1), (2) and (4) to allow these Bills to be taken.

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I move the Suspension of Standing Order 46(1), (2) and (4) to allow procedure on these Bills, the reason being a delay in the gazettal of the Bills, as I understand it, which is being addressed. This Motion is necessary to comply with Standing Orders.

**The Speaker:** The question is the Suspension of Standing Order 46(1), (2) and (4) to allow procedure on these Bills. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 46 (1) (2) AND (4) SUSPENDED.**

**The Speaker:** Bills. First Readings.

#### THE PENAL CODE (AMENDMENT)(INCEST) BILL, 2001

**The Clerk:** The Penal Code (Amendment) (Incest) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

#### THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL, 2001

**The Clerk:** The Criminal Procedure Code (Amendment) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.



**THE POLICE (AMENDMENT) (INTIMATE SAMPLES) BILL, 2001**

**The Clerk:** The Police (Amendment) (Intimate Samples) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

**THE COURT OF APPEAL (AMENDMENT) (PROSECUTION APPEALS) BILL, 2001**  
(Deferred)

**The Clerk:** The Court of Appeal (Amendment) (Prosecution Appeals) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I rise to intimate and move that the Court of Appeal (Amendment) (Prosecution Appeals) Bill, 2001 not be proceeded with at this juncture. The Bill has received further consideration and is intended that provisions the Bill was designed to deal with should be modified, which may well result in a fresh Bill coming to the House. On mature reflection, it is considered inappropriate to move ahead with this Bill for that reason, and a Bill making alternative provision, probably by way of the Attorney General's reference for an opinion on a point of Law, will be brought to the House in due course.

**The Speaker:** Well, then, are you proposing a withdrawal or a delay to a later sitting?

**Hon. David F. Ballantyne:** At this juncture I would prefer to simply delay the matter with a view to withdrawing it and replacing it at a later date. It may be that it is capable of amendment. It may be that it would be better to withdraw it in its entirety; but it will not be proceeded with in its current form.

**The Speaker:** I shall put the question that the Court of Appeal (Amendment) (Prosecution Appeals) Bill, 2001 be deferred. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: BILL DEFERRED TO A LATER SITTING.**

**THE EVIDENCE (AMENDMENT) (SPOUSES, EXPERTS, FOREIGN CONVICTIONS, ALIBIS, RIGHT TO SILENCE, ET CETERA.) BILL, 2001**

**The Clerk:** The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, et cetera.) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

**THE JUDICATURE (AMENDMENT) BILL, 2001**

**The Clerk:** The Judicature (Amendment) Bill, 2001

**The Speaker:** The Bill is deemed to have been read a first time and set down for a second reading.

**THE JUDICATURE (AMENDMENT)(COSTS) BILL, 2001**

**The Clerk:** The Judicature (Amendment) (Costs) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

**SECOND READINGS**

**THE PENAL CODE (AMENDMENT) (INCEST) BILL, 2001**

**The Clerk:** The Penal Code (Amendment) (Incest) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I wish to move the Second Reading of a Bill entitled The Penal Code (Amendment) (Incest) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. David F. Ballantyne:** Thank you.

The Penal Code (Amendment) (Incest) Bill, 2001, as the memorandum of objects and reasons states, has as its purpose an increase in the maximum penalties for the crime of incest.

Accordingly, the Bill proposes that section 144 of the Penal Code be amended by repealing the present five year maximum sentence. Instead, where the victim is below 13 years of age, the maximum penalty will be life imprisonment. For victims 13 years or over, the new maximum penalty will be twenty years, not the period of ten years in the proposed Bill, by virtue of a proposed committee stage amendment.

Attempted incest will increase from the present two year maximum to ten years in respect of a victim under 13, and for attempts on persons 13 and over to seven years. Thus, the maximum penalty for incest in relation to a victim under 13 will be life, which corresponds with the position obtaining in the UK. It should also be said that the penalty available as a maximum where a woman commits incest would increase from two years to ten years.

As the House is well aware, by virtue of the private Member's Motion to which the Government has

acceded, the opportunity has also been taken in accordance with that Motion to seek to increase the penalties for defilement and similar crimes. These take the form of committee stage amendments which have been circulated and which I will attempt to summarise.

The main provision is in section 132 which will be repealed and the amendment shown on the committee stage amendment substituted. In effect, the only real substantive change is that the penalty for defilement of a girl under 12 will increase from a maximum presently of 14 years to a maximum of 20 years. An attempted defilement of a girl under 12 remains unaltered and will continue to carry a maximum of ten years.

Anyone defiling a girl between the ages of 12 and below 16 years will be liable to an increased penalty from the present seven years to a new 12 year maximum.

Section 133 of the Law, which deals with defilement of a female who is not of full mental capacity, will be liable to a penalty increased from the present two years to a maximum of 12 years.

Lastly, it is proposed that the penalty available for indecent assault on a boy under the age of 14 years would increase from the present five years to ten years as a maximum.

I listened with interest to the debate on the Motion and realised the limitations of the Law as well as any other mortal, in the sense that the Law itself cannot necessarily modify behaviour. These penalties are intended to provide adequate sentencing powers to the courts. It is not an answer to the problems and it is not intended to do any more than equip those dealing with such matters when they arise with the ability to impose the appropriate length of sentence.

Other reforms, I have no doubt, are necessary. Hopefully, they may follow on mature consideration. There will always be cases, unfortunately, where there is no alternative other than a lengthy custodial sentence. The important point I think is that the court has discretion. While I certainly am in support of alternative sentencing, the court needs to have substantial sanctions available.

Given the debate on the Private Member's Motion, I trust the House will consider that the issues have been fully ventilated. The limitations of amendments to the Law are accepted, but insofar as we are able to increase penalties which appear to be somewhat out of date, or out of line, it is, in my submission, appropriate that this occur. I would, however, emphasise the willingness of my portfolio to look at the wider issues represented by the Penal Code and the criminal justice system, taking advice from all concerned, including the judiciary, and say that we should be open to the possibility of change which I have no doubt will be further advocated in matters before this House.

This is no attempt to represent a complacent position. Far from it! These matters are severely trou-

bling and I understand from the debate the sincerity with which the views put forward are held. However, in my respectful submission, we should do what we can when we have the opportunity. These are initial measures that will, at least, provide the opportunity for the judiciary to have at hand the option of suitable sentences for suitable cases.

Thank you.

**The Speaker:** The question is that a Bill shortly entitled, The Penal Code (Amendment) (Incest) Bill, 2001, be given a second reading. The Motion is open to debate.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, the notice by the Attorney General states that certain committee stage amendments will be made to this proposed Bill increasing sentences for crimes committed. Somehow, the way in which the Law regards punishment must be in sync with what we consider to be our collective understanding of the problems that create antisocial and criminal behaviour. This should embody some type of position or philosophy as to how we intend to remedy these malfunctions in our social system.

For too long, different government agencies, (not just in the Cayman Islands, but elsewhere), have not been aware, and when they were aware they did not make this obvious as they went about creating policies and enacting Laws.

After the riot at Northward Prison, we, as a country, might have concluded that warehousing our young Caymanian people in this penal institution was not only costly but deadly dangerous—not just to the inmates, but to prison and police officers and the wider society. It is interesting that we had learned something from the riots at Northward Prison, yet, at the same time, we went back to trying to solve the problems of criminal behaviour in the same old fashioned way. This was using restraint, power and submission, in order to achieve compliance. In other words, once we find that an individual has offended the norms of society by committing a criminal act, the philosophy has been that the problem should be corrected by seriously penalising the individual who committed the act. This has normally been done by incarceration. So, we imprison the individual and during the period of imprisonment try to make that individual unhappy by withdrawing rights and privileges so that he or she will not want to go back to prison again.

We have only to look at the records which are available to us to see that the cycle is not that way. Those who end up in prison, continue to go to prison. Even if we gave them a four-year sentence, by the time they have finished their "career" as convicts they have done 35 years. There are people in the prison now who are 35 years old. They have been in Northward perhaps 13 times already. The length of the time spent there does not seem to be meaningful in terms of readjusting their character, their understanding of

themselves, and their understanding of the wider society with all its responsibilities. As a matter of fact, it can be proven that the longer a person spends incarcerated in a prison, the more the person retrogresses. Therefore, at the end of the day, he is even more incapable of abiding by the norms and Laws of a given society.

Are we, as responsible legislators, to feel good about ourselves because we have this ultimate power to make legislation to command judges to be able to, in their discretion, give sentences to the maximums that we are here contemplating? Are we as legislators so sure that we can make the Laws and then use discretions within the judicial powers?

In cases where the judiciary exercises its liberal, perhaps English, consciousness regarding sentencing, we turn around and criticise them because we say they are not using the maximum sentence; they are talking more like Frank McField and not believing that to put people in jail longer will be a solution to the problems. The politician feels okay because he has provided his constituents with his part of the solution, which is putting those convicted in jail for longer periods.

We are speaking about a specific type of criminal offence. Many of us are perhaps more emotive when it comes to sexual offences. That probably has a lot to do with our hypocrisy, the way we have dual standards in regard to sexuality and morality. We can very conveniently establish the so-called rigid societal standards and then, as individuals, apply and tolerate other standards.

For instance, in talking about sexual offences, all we have to do is visit the many bars in our country to see the behaviour exhibited, the types of persons employed there to sell alcohol and perhaps other types of commercial products. There are persons who question my being here, my sincerity. There are some younger persons who, when I speak, would prefer to somehow degrade the level of my conversation. However, I stood up in this country in 1977 and 1978 and 1979 and said that we needed to begin at the beginning. The beginning was in the family if we were not to have social breakdown and criminal crisis. Many people, at that time, thought I had found fault with rapid development and I did not want to agree with it.

Today, I am again saying that we do not want to build an army of alienated, criminalised, incarcerated Caymanians because the majority of criminals in this country are Caymanian. Who else is going to commit the offences you are talking about, if not our Caymanians? How do you really feel about them? Do you truly show your love and concern by punishing or by going back and trying to find exactly where the mistake might have occurred in trying to find some collective solution to these problems?

I predict that crime will not decrease but that it will increase. My prediction is that we will have to build more prison cells without increased sentencing. If we are increasing the sentences while the crimes are in-

creasing, we know what that means—we have to be prepared to vote money to build more prison cells.

I hope when the time comes to build more cells at Northward Prison that the Members who vote for this Bill will be prepared to vote another \$6 million to \$8 million. Of course, the more prisoners there are, the more of a security problem you have within the prison. There will be the need to segregate the categories of prisoners because of the risk factors that will be triggered because of overcrowding.

There are people who talk about liberalisation and people who are soft on crime. There are some people who really do not understand violence. I know violence, Mr. Speaker. I have had violence visited upon me. I know how it hurts. I know what it is to dish it out too. I am telling you though, that I have a heart. I know that nothing can be accomplished by that type of attitude. Violence cannot provoke a desirable reaction in a human being.

In Europe today there are calls for a much more humane approach to sentencing and rehabilitation. In America there is a more frontier approach, *'let's execute them, and keep them like slaves.'* America, of course, has a history that can sustain that type of attitude towards punishment because the majority of the people they are punishing are Black Americans. These people are ethnic minorities, not part of the ruling group unlike when we are talking about our own Caymanians. What you do to yourself is completely different from what you would do to other people. That is the truth.

In England, Germany, France and other countries the realisation is that, in the case of violence against an individual, you have to have the ultimate solution. That is the eradication of the individual. If you do not eradicate that individual or group they will come back and eradicate you. If we are going to use the violent inhumane system of incarcerating our people, we are only going to make them harder and more capable of winning a violent battle against us should they declare war against our society. All we have to do is take a look at Jamaica and see how crime is looked into and dealt with in that country. We see that once you go down that road of thinking you are going to get maximum results for maximum penalties—then you are lost.

There are those who will say we are only stressing the maximum now because we intend to be looking at alternatives and the other types of solutions. Philosophically and practically it shows that we are still anchored to that old ideology whereby we can produce changes in people by chaining people. That is not true because the longer the chains stay on the animal, the more aggressive the animal becomes. The more unwilling the animal is to cooperate and the more willing the animal is to fight and ultimately die if that be necessary. I know the feeling!

There are those who need to know that when they are judging people, incarcerating people, or stealing people's lives from them, those same people

are listening to them. They are looking at them and taking note of all these things that are going on. This is a very small society. We need to exhibit that Caymanian caring and sharing and responsibility.

It is hard when we have people doing the things they are doing in our society today. It is hard to believe that our own people could do certain things that are done. A lot of us were in denial for many years thinking it could not be Caymanians because Caymanians could never do things like that. After all, Caymanians are not a violent people, they are peaceful.

I was at Northward yesterday seeing a lot of peaceful people playing football. It was sad to think that some of these kids will be in jail for the rest of their lives. They will know no other experience. I told one prisoner that Northward is so small in the Cayman Islands and the Cayman Islands is so small in the world, why should he confine himself to this very limited experience? I have always said that prison needs to be more like a school because the people who end up in prison are not ending up there by choice. People do not choose to go to prison, even though they may choose to do the crime.

I believe that we have to concentrate on working with the judiciary and other agencies to find constructive solutions to the breaches in social order and morality in the Cayman Islands. I believe we sent the signal from this Legislative Assembly that we wanted the judiciary to actively contemplate ways and means to create possibilities for alternative sentences. We wanted them to also look at some of the lengths of these sentences. We thought that if you sentenced a person to prison for a particular time it means that person's particular cell is for life. In other words, you might as well cross that cell off because you will not be able to use it.

When you get to sentences like 14 years that is for life! That is one generation for that cell, so you need to build another one. You cannot wait, because then you will be overcrowded. Go out and build a cell, do not let it back up on you! Make sure your pocket-books are heavy and make sure that you are willing to spend some money to build some other blocks.

I believe part of the problem in the country is not with the amount of time we allot for a particular crime, but the fact that we are not able and capable of bringing people to the justice system where they can be tried. What are we doing about that? Where is our responsibility there? I guess we will do that at a later stage. First we create the sentencing and then we will try to deal with some of these problems. Well, I am not so sure that is the way government should work. I think you are putting the cart before the mule. We have in our vernacular a better way to say it, but that would not be parliamentary!

If we are dealing with sexual crimes, we have to understand that there is a particular philosophy when we are dealing with sexuality. Why is it that when we are dealing with the question of sexuality that we see the woman as being the embodiment of purity and the

male as being something completely different? We have purity and we have animal. Animal goes after purity, gets purity, offends morality and gets in trouble.

We know that the world has developed differently and we are not as carried away by that kind of dogma any more because women out there talk about gender equality and so on. An equal degree of responsibility is somehow contemplated by gender equity. There has to be an equal amount of responsibility for whatever happens.

If there is supposed to be an equal amount of responsibility, what happens then? Are you telling me it is assumed that if a 15 year old girl has sexual knowledge of a 15 year old boy, it is the 15 year old boy's knowledge and not the 15 year old girl's? How do we come to that point? How do we come to maintain this type of discrimination and prejudice and false assumption in our legislation?

Law is about more than drafting. Law is about more than dotting the i's and crossing the t's. Law is about being consistent, understandable and acceptable. The world is changing. Cayman is rapidly changing. We have already cases of 15 year old girls, and 13- and 14-year-old girls being consciously—consciously—involved in the act of prostitution. We have role models for them walking the streets that we imported here. Are we going to find another male victim to incarcerate? This does not show equal responsibility.

There is also a degree of responsibility that lies with the parents of these girls which this Law seems to be so bent on protecting. We have to make sure that girls understand their sexuality because we are not talking about rape in the sense that any force is being used to cause any female girl child to comply with any boy child or adult male. We are not talking about force.

We are talking about emotions and reasons and morality determining the acts. Then, when there is a lack of morality, you jump in, take the male and punish him by incarcerating him in prison. He then becomes an additional problem to you, if not by committing sex crimes, but by committing other crimes.

I could go on about this, but I will not. I am just making the point that there are lots of things to think about besides immediate gratification. I might be gratified somehow by agreeing to harsher punishment. However, I might be more useful to society if I speak about the breakdown in morality rather than the results of the breakdown.

I know that the Government has listened to me. I can tell in the debates by certain Members who began to incorporate the challenge to look further than at the sentence. I think we are a responsible group of Parliamentarians. I am not crying down the Parliamentarian for trying to think a problem out. All I am saying is that history has already proven that you cannot succeed by using violence against people. People will become accustomed to the use of violence and the

only thing you will gain is stubbornness, resentment, hatred and retaliation.

In speaking to some of the inmates at Northward Prison yesterday, I can give you this message. They said that there is no point in Members of the Legislative Assembly not seeing what I am trying to say because the prisoners understand what I am saying. They can articulate much better what I am saying because they know it from experience. They can testify exactly how much punishment has caused them to change their bad habits. They can also testify how much counselling and coming to grips with the problems that caused them to offend, has helped them to be better people.

If a person goes to Northward for two years and is able to rehabilitate himself in two years, I do not see the point in keeping him there for four, seven or ten years simply because we think that is what the penalty should be. The length of the penalty should depend upon the results the community wants.

The community wants its sons back. Mothers want their sons to be at home. Even mothers who are offended by not taking good care of their children in the early stages when they were susceptible to a lot of these bad practices. They want their children back. We want a whole community, a healthy community with a healthy moral consciousness. We are not going to get that with violence and alienation against those very large numbers of our own people.

People complain that when ex-prisoners come out of prison nobody wants to give them a job. You hear Members of the Legislative Assembly up in arms about employers that do not want to give them a job. This is because, in a lot of cases, they might not necessarily be good workers. Maybe there is not enough work for them to do while in Northward. If you are going to put them in jail for a longer time, and then when they come out they are useless, you are talking nonsense again. It is going to be at your expense again to make sure they have some kind of livelihood because you have caused people who had no life skills in the first place to lose what little life skills they had by being incarcerated for a long time.

We know that, although these penalties are maximum penalties, when you move the maximum you are moving the way the judge is going to sentence - upwards. If you put the maximum at 13 or 20 the judge is going to move the sentence upwards. He is not going to stay at the beginning of the sentence. He is going to go more towards the middle of the sentence. The sentencing will be increased as a result of increasing the maximum. Obviously, that is the desire, otherwise we would not be going through this exercise in the first place. Let us not say we do not want to increase and that it is at the discretion of the judge. We are the ones making the legislation to increase the length of sentences.

It is not that I am less for good than other members or less for protecting the modesty of a woman or young girl. The modesty of a young girl will most likely

be maintained in circumstances, of statutory rape or defilement. If the young girl does not consent, even though she is not the legal age, it would depend very much on how she is brought up. The kinds of values and ideas she is taught. The way she feels about her sexuality as a part of herself and not something that you can do and then clean yourself up and say you are okay. It is part of your conscience, your soul, your spirit, your total being. We need to communicate that to our adult society.

The way in which adults regard sex as being nothing more than a physical act, will be seen the same way by children. If we regard it as something that is important, wholesome and sacred, then they will not play around to the extent where they allow somebody older than them to have this type of relationship with them.

I can conclude because I think I have said much on the Private Member's Motion. I believe I have tried to make sure that people understand I am willing to vote by myself in this House. I will do that at any time it is necessary to give the general public an indication that I am firm about reason. I cannot see how this is bringing an improvement. It is confusing the philosophy we were trying to achieve by putting stress on rehabilitation, minimum sentences and alternative sentences. This was in order to give the penal institution the possibility to carry out reforms without being adversely affected by large numbers. I am saying that we need to work on other alternative methods of dealing with crime before we begin to start increasing penalties.

Thank you for allowing me to debate something that has already been debated.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I have listened with great interest to the very able debate of the Second Elected Member for George Town—

**The Speaker:** The Third Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The Third Elected Member for George Town. I keep offering him my seat!

*[Members' laughter]*

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

We are again debating this age old dilemma of balancing the almost primitive need for society to extract its pound of flesh and its punishment. This is in circumstances where grave crimes which society ab-

hors and finds particularly repugnant and immoral have to be dealt with. We always struggle in these circumstances in deciding quite how to deal with offenders.

The Third Elected Member for George Town put forward the view that incarcerating people for long periods of time rarely serves any rehabilitative purpose. I could not agree more with that proposition. Indeed, the latter spoke about the need to look deeper for the reasons why people perpetrate these crimes. He also spoke about the attendant need, when long periods of incarceration are imposed, to build more prisons.

I was reminded of the African fable in which the chief who often went down to the river in the morning to bathe. He was a good chief and well regarded. He went down as usual to the river to bathe and found a baby floating in the river. He retrieved the baby from the river and took it back to the village. It did not belong to anyone in the village. The villagers looked after it and cared for it. The next morning the chief went down to the river to bathe again and found two babies floating in the river. He retrieved them, and took them back to the village. They did not belong to the village but the people looked after them.

The next morning the chief went to the river to bathe and he found four babies floating in the river. He took them back to the village. They did not belong to the village but the villagers looked after them and cared for them. This went on for some time until soon every house in the village had babies which did not belong to the village but were looked after.

The resources of the village became increasingly strained. The chief, who was a wise chief, called his council, which was a wise council, to discuss this matter of grave importance. The suggestion came that they should build a big house in which to place all the babies not belonging to the village. Their plan was to put some of the women of the village in the house to look after the babies.

Someone said it would have to be a very big house and they did not know how long the babies would keep coming. Finally, one of the elders asked where the babies were coming from. They said they were coming from up the river. So, he said 'why not send a party up the river to see where these babies are coming from and why they are coming?'

The other members of the council said they did not have the time, it would take too long to go up the river, it would be too difficult and they did not know what they would find when they got up there and that it would be much easier to build the big house.

In many ways that is what we have done in the Cayman Islands for perhaps the last 30 years. We never seem to have the time or the resources to go up the river to find out where the babies are coming from and why they are coming down river and we keep building a bigger and bigger house.

I am hopeful. I have always been an advocate of alternative sentencing and getting to the root of the

problem which is buried deep in the social turmoil of this community. This is the result of rapid development, immigration and a host of other complex problems that I will not attempt to articulate this afternoon.

I wish to make it plain that I do not believe for one moment that sentencing people to longer periods for any crime serves much of a rehabilitative process. On the other side of that coin, particularly in instances where we are talking about sexual relations with young and innocent victims, we are dealing with the containment of predators. This Bill, as I understand it, is not seeking to increase sentences of imprisonment for victimless crimes. We are talking about circumstances in which victims are preyed upon in many instances by older males.

As I indicated before, sending that type of individual to prison for long periods of time is going to do nothing in my view to rehabilitate that individual. It will, however keep him and his predatory ways off the streets for the length of that incarceration.

These kinds of sentences and instances are there and need to be there to register the community's reproof, abhorrence, and repugnance of this kind of behaviour as well as to protect society from predatory individuals. Increasing the maximum will give the judge dealing with the matter the discretion to give longer sentences for those cases that cry out for long and difficult punishment.

I am not sure what can be done in terms of counselling or alternative sentencing other than incarceration when you are dealing with the type of predatory behaviour to which I am referring. I am no expert in that field, but I have been around the system for nigh on 20 years now, both at the courts and in private practice. I have heard many, many discussions about sentencing, its purpose and what it really achieves. I have yet to hear any convincing means of rehabilitating sex offenders.

I do not have the magic solution. I believe there is merit in giving to the judicial system and judges who will hear these matters and who have the circumstances of the individual case before them, the ability to impose longer sentences where they believe the circumstances warrant it. I do believe that sentencing is important to society as well and society needs to feel that there has been some redress for the terrible wrong that has happened. Society needs to know that its disapproval of that type of conduct has been registered and noted. That may be primitive, but it is an inherent part of human nature and of society's consciousness. It is a factor that we cannot ignore when dealing with this Bill.

Society believes it must extract its pound of flesh. This is especially so where the offence is one of a sexual nature, one which is exploitative, one which victimises the young and steals from the very young girls in the community their innocence and their wholesomeness. While I understand the limitation of any legislation passed by this House, I recognise how very limited the effect it will have on the psyche of

those prone to commit these offences. I believe that, on balance, we should give to the court the discretion for longer sentences. This Bill seeks to do just that.

On that basis, I give it my support. Thank you.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for West Bay

**Mr. Rolston M. Anglin:** Thank you.

We have now heard debate on the exact same Bill. While final analysis of each in my view is as different as night and day, we can agree with a lot of what both Members from George Town stated.

I would also like to agree with The Third Elected Member for George Town. He has touched upon a fundamental weakness in the way society looks at boys and girls, males and females. The way we tend to use tradition in convincing ourselves as to which sex is more wholesome.

I think we can all agree that, in bringing the Motion which preceded this Bill, we are now able to look at language within our Penal Code. Indeed, as we read the Laws on our books we see they were written mirroring the times in which they had their genesis. That is logical.

When we look at our Penal Code, we see under section 132- defilement, acts committed against girls; the Law being written on the basis that it had to be the male that caused the offence.

Other Members spoke of the fact that, when looking at section 132 and thinking of sexual predators, we can all agree on stiffer penalties. When we change the scenario and start talking about two consenting teenagers, we then begin talking about something that is very different; not from a sin point of view, but from a real life-changing point of view.

This Law is basically saying that once there are sexual relations between consenting teenagers under the age of 16—and I stress ‘teenagers’—that it is automatically assumed that the boy is the one who has committed a crime. We would be fooling ourselves if we sat here and did not say that, in a lot of these instances the girl has as much, if not more, to do with instigating the relationship. We cannot sit back and look at lofty ideals and values which are not obtained by the great majority of the people and expect to use that as the measuring stick for everyone.

I say that because, as was the case on the Private Member’s Motion, I too would like to call on the Honourable Second Official Member in any further reviews to look at these matters. This would ensure that, when we pass legislation, we do not have blatant inadequacies in it. That, in itself, would be an inadequacy.

However, I would like to re-emphasise that this inadequacy has been sitting on the books for many years. It was not this Bill or the Motion preceding it that brought this inadequacy about. The word we heard so often is “whosoever” unlawfully and carnally

knows any girl. It has always been there. Having said that, let me now say that I am proud to be associated with the Motion preceding this Bill. At least, it has also allowed us the real and distinct possibility of removing or correcting a deficiency which has been noted.

When speaking on this particular Bill, I, too, would like to say that I feel crime will increase in these Islands. However, the crimes we are looking at here are very different from what the majority of the prison population in Northward Prison is there for. We have always had knowledge that the majority of prisoners are there on drug related offences, either possession with intent to supply, simply possession or some related crime, usually stealing, theft, burglary, to support their drug habits.

I join with the two Members from George Town in saying that we need alternative sentencing. We have seen a great increase in the sentences handed down for drug supply, possession with intent to supply and importation of drugs. We have not seen a decrease in drug importation and selling in this country, but that has nothing to do with the Bill before us.

If we can start talking about alternative sentencing for drugs and drug related offences. If we can start to have meaningful rehabilitation of drug offenders, (some 80 percent of the prison population my information tells me) then the profile at Northward Prison would change dramatically.

I find it difficult to accept that any of us who have visited Northward Prison can have a realistic expectation that Northward Prison is able to rehabilitate anyone. My idea of rehabilitation is predicated on one basis. That is, the prison in which we incarcerate people must come close to mirroring the outside world, but more importantly, the lifestyle accepted as society’s norm. If we lock up young men and women and all they do is get up and eat, talk to each other, hang about, and do nothing constructive, how can you go into that setting for six months, one year, ten years, and be expected to come out and go to work and come home and spend time with your family? It just does not make sense.

It is no surprise that we have such a high rate of re-offending. This Bill is talking about predatory sexual crime, stealing people’s futures, robbing people of their humanity. I believe in caring and sharing as well, but I am sorry and I make no apology for it. Caring and sharing stops when a man rapes his daughter and his granddaughter.

When you look at the 1991 Police Report and see that a 16-month-old baby was sexually assaulted—I make no apologies! I do not share and care then.

Now the Christian in me tells me that we cannot give up on any life. I agree with that. I will say that the caring and sharing within the community stops right there. I can sympathise over the drug user. I can have sympathy in wanting to try to help rehabilitate their lives. I can have sympathy for the young offender who makes a mistake because of peer pressure. I can

have a high level of remorse towards that individual and can see a great need for rehabilitation. However, when it comes to sexual predators, I do not think there is a country on the face of this earth that has found any real solution. Many people are castrating them. Maybe that is what our Motion should have been talking about. Then we would not have been talking about putting them in jail and building more cells and incurring more money and taxes.

I believe from the feedback I have received on this Bill that the general public of these Islands want their children safe and away from sexual predators. I agree with the Third Elected Member for George Town, that crime will increase. Fortunately, that has nothing to do with this Bill and the types of crime we are talking about. Drugs and drug related offences are what are going to cause a future riot in Northward Prison.

One other matter I want to touch on is the business of parole. I do not think that prisoners should just be paroled on good behaviour. What is good behaviour? How does that correlate with being fit and ready to come back into the society you have offended? I could do anything at Northward, keep cool, stay out of trouble and get a third knocked off my sentence. Does that have any relation to my ability to come back into society and make a meaningful contribution?

Northward has to be a disciplined facility. If it is not how can we expect inmates to come back out and cope and survive? In terms of maximum sentences available here, I would hope that the judiciary would continue to sentence people based on the crime committed and not simply arbitrarily move the bar up and sentence people longer. I think it calls into question the integrity of the justice system. For vicious crimes, especially incest, increasing the length of sentences allows judges more flexibility when deliberating over each case. It is my view that the judiciary will look at each case individually and utilise the new options to pass sentences the way society feels fit and proper.

I am sure that when we go through the Penal Code of that old belief where men are dogs and women are guiltless will have to be rectified. We know the world we live in. We must accept that the truth is otherwise.

There is such a cancer out there which has been with us for years. We do not sit down, get serious and talk about the real issues and about how we are going to move forward as a community. There is one thing I will try to do in my time here, if God spares my life, I will bring and second these kinds of motions to stir up uncomfortable debate. Therefore, we can move forward and progress as a people. We must talk about the uncomfortable issues.

I give my support because we are talking about sexual predators. These people are going out of their way after young girls. I mention, especially incest which in my view is the most despicable act, which is having sex with boys and girls, with granddaughters.

We must be tough in those instances. We are not talking about a victimless crime.

I support the Bill and I thank you.

**The Speaker:** Before calling another speaker, is it the wish of Members that we take the afternoon break? We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.34 PM

#### PROCEEDINGS RESUMED AT 3.59 PM

**The Speaker:** Please be seated.

Debate continues on the Second Reading of The Penal Code (Amendment) (Incest) Bill, 2001.

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you.

So much debate has gone on that I will make my contribution nice and short for fear of repeating most of what has already been said. Suffice it to say that I support the Bill and the Motion. I did not speak because I saw no need to speak twice.

Much has been said about increasing sentences and the effect it will or will not have on crime. It is unfortunate that the sentences in these instances do not fit the crime and this is an opportunity to correct that. I guess one may very well overlook the fact that there is such a thing as presumption of innocence. One is not sentenced to life until found guilty.

There was also talk about women being predators and no provisions being made for those. That is true. In today's life there are many young teenagers who can be mistaken for being much older. Of course, if that can be proved in a court of Law I would assume that the person would be innocent. The Penal Code makes provision for that.

The Third Elected Member for George Town talked about 15 year olds having sexual relations with each other. There are some concerns about that. Are we going to send one teenager away forever? The definition of "life" means life—when you die. That is a serious concern that needs to be addressed. Those children are probably most likely keeping company with each other more than with adults.

The Second Elected Member for George Town said that this is about adults knowing the age of their victim and going ahead and doing it. More importantly, it is about knowing that it is your child too, or your sister. We know of many cases of incest where the hands of the court were tied and what was considered reasonable sentencing was not available. I support separating predators from victims, particularly when it comes to a daughter, especially a young daughter.

We heard of cases involving victims as young as 18 months. We heard of an incident maybe a year ago with an eleven-year-old and her father. There was outcry from the whole country. Some cried "Hang him!" "Lynch him!" "Shoot him!" I agreed. I shared those same thoughts with the rest of the country.



Unfortunately, we understand what happened with capital punishment. This was not to the liking of a lot of people in this country, but such is the case. Therefore, we cannot hang anyone anymore, except in the case of treason.

I believe from a moral standpoint that, wherever you are from, if you had a choice between murder and incest, particularly with young children, I am sure you would choose to let the murderer go and kill the predator of a young victim. I am sure there would be no question in anyone's mind concerning that.

I appreciate that this is a small community. I also recognise that the people convicted of such acts also recognise they were doing wrong. They must pay the price. Sometimes the price is extremely weighty. That is the price we pay and that is the price anyone proved to have committed such acts must pay.

I think it is disgusting, particularly when parents molest their own daughters. When I was a child I heard of it, so it did not start today. I do not believe it is as prevalent as it was in years gone by. Nevertheless, that is no excuse.

There is another reason why I support an increase in sentence for this type of crime. This is because, if the victim's family does not feel that justice has been served, then they will go and extract their little bit of justice too. More than likely, it will result in a family feud when one kills another. I believe that, as responsible legislators, if we put in place stiff enough penalties, it will serve as a deterrent and the victims' families will feel justified in knowing that the predator will not see the light of day until their children are over that embarrassment.

Anyone who takes away the innocence of a child should be hung. The Second Elected Member for West Bay spoke about castration. Well, I am going to add a twist to that—we need to do it publicly.

I strongly believe in 'an eye for an eye and a tooth for a tooth'. This is not about someone that does not know the difference between right and wrong. It is all about sexual urges. Why can't they go to the single bars and get consent? Certainly, prostitution is against the Law in this country, but they can buy plane tickets and go to some other country. There is no excuse. These may be tough things to say, but I am sure the country understands by now that I say tough things. I make no excuses! The people of the country must understand that if they call for something the legislators respond and they must accept it. There was quite a hullabaloo about this case. There were petitions, press conferences and today the Law has come into being and it would be foolhardy of us not to support it when the country has asked for it.

I support it. I trust that the next one we find who unlawfully and carnally knows any girl under the age of 13, will not be seen in society—not during my lifetime anyway, nor the victims! It is bad enough taking away the innocence of a child, but it is even worse to make that child live with the person who took that innocence away, particularly when they come out of

prison and go back to the same house. That is very probable in this society. These people must be separated. They must also understand that there is a presumption of innocence. This is not about someone being charged, this is about someone being found guilty. Who is going to oppose the State disposing of an individual found guilty beyond a shadow of a doubt? We must understand the presumption of innocence. No one is guilty until proved guilty.

Many times women are not considered predators. In a lot of instances that is the case. Therefore, I challenge the Second Official Member and his team to also amend that section of the Law. I support the Bill before the House.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** After hearing the last two speakers, I do not think I need to say much more. I am a hard-liner when it comes to crime. I feel that the Bill we are now debating was not put in place with the intention of affecting 15 year olds having sex, but it was driven by the community's grave concern of brutal sex acts such as incest and rape.

People who commit these acts have a choice. They make a decision to commit these acts. I have no sympathy for whatever happens to them when they are sentenced by Law. If you break the Law, you must suffer the penalty. My job here is to protect law abiding citizens, not a handful of hardened criminals. My job is to legislate for 39,750 people and to see that they are protected within the framework of the Law, not a handful of people at Northward Prison. The tragedy is that there is not a lot of deterrent at Northward.

This morning a number of us attended a symposium. What came through loud and clear is the lack of discipline in our society. This indiscipline is now being manifested in a handful of our youth. We must stop sending confusing signals to our youth. It is high time we stopped being soft on crime. Until we stop pussy-footing with hardened criminals, crime will continue to explode in these Islands. I have no problem with putting people causing the abuse that took place in recent times away for a long time. If the sentences could be harder, I would support that.

I have no problem with rehabilitation. However, some of these people are not easily rehabilitated. I am sorry that I cannot support rehabilitating someone who has ruined the life of a child. Those young people are scarred for life. How inhumane!

I will draw my discussion to a close by drawing the attention of the House to when the death penalty was abolished. If you check prior to when the death penalty was done away with, how many murders and other serious crimes were committed in these Islands and compare that explosion—especially in murder—since that time. There is no deterrent!

It is our job to be hard on crime. In the area of drugs, when it comes to pushers and importers, I have no sympathy with them either. They should be put up there for a long period of their lives. They are killing our children and I have no sympathy for them. I support the Bill before the House.

**The Speaker:** It is now 4.25 pm. I do not know if any Member would want to begin his debate. If not, I would entertain a motion for the adjournment of this House.

The Honourable Minister of Communication and Works.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Monday.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Monday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.27 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM THURSDAY, 28 JUNE 2001.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**28 JUNE 2001**  
**10.26 AM**  
*Sixth Sitting*

*[Prayers read by the Third Elected Member for George Town]*

**The Speaker:** Please be seated.

Proceedings are resumed. Item 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for the late arrival of the Honourable Third Official Member, the Honourable Minister responsible for Education, Human Resources and Culture and from the First Elected Member for Cayman Brac and Little Cayman

I recognise the Third Elected Member for George Town.

**Dr. Frank S. McField:** Thank you for giving me the opportunity to publicly invite Members of the Legislative Assembly to the Cayman Islands National Cultural Foundation production of my play, *Playground*, at the Harquail Theatre this weekend, the last weekend of the play.

Members are probably familiar with the need we have to promote things Caymanian. We also, would like to receive some value for the money that the Legislative Assembly annually votes to the Cultural Foundation, in the region of \$350,000 per year. I think all Members would enjoy the play and I understand that it will also be performed on Cayman Brac. I also hope I can be there to see some of your nice people at that time.

Thank you.

**The Speaker:** Moving on to Questions by Honourable Ministers and Members. Question 65 is standing in the name of the Second Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 65**

**No. 65: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Health and Information Technology who is financially responsible

for an adult who has been sent off the Island for drug abuse treatment, but who has also been deemed by the Mental Health Officer to have a chemical imbalance.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Whether the condition is a psychiatric problem or a substance abuse problem or a combination of both, the adult or family is expected to pay for treatment unless a financial assessment has determined that the individual is "indigent" in which case the Cayman Islands Government will cover the expenses. Often the Government will advance payment to the treatment provider and a repayment plan is arranged for the individual or his or her family.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say if the family is not able and the individual is not deemed indigent, who then stands financially liable?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The answer states that the adult or family is expected to pay for treatment unless a financial assessment has determined that the individual is "indigent." In the case where the adult or family is responsible or prepared to pay and the individual is not indigent, the family would have to bear the burden of the liability.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I thank the Minister for that answer, but I was really seeking to find out if the person is not deemed to be indigent and the family is not financially capable, what would happen in that case? The person would then be an adult. What happens if the family just cannot pay?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** By its very definition, "indigent" suggests that the person is unable to pay. So, if the person is not indigent, by that same definition it would follow that he would be in a position to make some kind of financial arrangement, either through himself or his family.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** The question is also talking about the person being mentally incapable of making a decision but is not indigent. I would like to know what would happen in the case where the family is not willing or able to pay, the individual is not indigent, but at the same time not in a position to be making the decision?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I think I know what the Member is driving at. If the patient is unable to make a decision and the family is not prepared to pay, even though the patient may not be indigent... who pays? Well, it has been the Government's policy that our patients would not suffer. Some arrangement would have to be made if, for instance, it is well known that the patient has funds available, but because of his condition is unable to make a decision. It would be expected that a member of the family would have to reach some decision or make some arrangement.

Our position is, since some \$46 million is owing to government, to continue adding to that would be a major mistake. We have to be very firm with family members of any patient referred to ensure that if they can pay they will pay.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say whether or not, before the person is sent off the island for treatment, they or their families actually sign an agreement to repay the Cayman Islands Government?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Yes, that is the procedure required.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Honourable Minister say where we send patients for psychiatric help? Do we have any indication as to how many people are

actually off island receiving psychiatric treatment at this stage?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am informed that the acute patients are referred to facilities mainly in the United States. The chronic medium- to long-term patients are placed in a residency in Jamaica.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Honourable Minister say how those facilities are decided upon and what monitoring is done from our standpoint to see if they are still acceptable for us to be sending our patients to? How often is that monitoring conducted?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Prior to a patient being sent to a facility, it would be visited and also monitored on a periodic basis by the psychiatrist.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Getting back to the issue of persons being sent off with a substance abuse problem, can the Minister say what success rate they have had in regard to recidivism?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am informed that the rate of success is not really remarkable, but that patients referred to facilities in the Bahamas have done very well indeed, approximately six of them. There is, however, a degree of recidivism.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Honourable Minister can tell us now that Caribbean Haven is operational, do we have seen any reduction in sending drug abuse patients overseas? Is it hoped that the Caribbean Haven will reduce that in the future?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The Caribbean Haven is mainly concerned with substance abuse problems. No referrals have been made overseas for treatment in regard to those patients involved. They are not involved with the psychiatric side of the patients.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I asked earlier for an indication of the number overseas now both for psychiatric and drug problems. I am not sure the Minister has that information, or if it is something he will have to get for us.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I think they number something like eight overseas now for the dual diagnosis of psychiatric ... the mental problem, substance abuse, both being linked together with those patients.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 66, standing in the name of the Second Elected Member for West Bay.

#### QUESTION NO. 66

**No. 66: Mr. Rolston M. Anglin** asked the Honourable Minister responsible for the Ministry of Health and Information Technology what is the purpose of the Information Technology Strategy Unit (ITSU) (i.e., what is its mandate).

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The Mission and Objectives of the Information Technology Strategy Unit are as follows: Mission Statement—To develop and implement an e-business and information technology strategy that optimises the economic and social development of the Cayman Islands.

Key Objectives for 2001:

1. To provide policy advice to the Minister on the development and implementation of a National Information Technology Strategy based on the recommendations of Vision 2008 Strategy XII and a national strategy for e-business as a means of achieving economic diversification.
2. To develop information technology and e-business related policy, technical standards, regulations and draft legislation, including the new Telecommunications Bill, a data protection bill, regulations under the Electronic Transactions Law 2000 and information technology aspects of freedom of information legislation.
3. To develop and implement a marketing strategy for the international promotion of the Cayman Islands as the offshore e-business jurisdiction of choice.
4. To promote e-business and information technology awareness in the public and private sectors.

5. To assist with negotiations that will result in the provision of state-of-the-art telecommunications at competitive prices.
6. To establish and operate an appropriate regime for the regulation of e-business in accordance with the Electronic Transactions Law 2000 and other relevant legislation.
7. To provide specialist consultancy to Ministries, Portfolios and Departments.
8. To maintain a National Hurricane Preparedness Plan in print and on line on behalf of the National Hurricane Committee.
9. To negotiate the transfer to Government of the responsibility for the Cayman (KY) Internet Domain and the subsequent management of the domain.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate the date of the formation of the Information Technology Strategy Unit?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The Unit first came into being in 1997. I would just provide some additional information. The International Telecommunications Strategy Unit (ITSU) was made responsible for the terms of reference I just read, with effect from January of this year. Prior to that, its responsibility was the development of national and public sector information technology strategies.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister outline any achievements reached so far by the unit?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I think it would be helpful if I provided some further background information which would also cover the question being asked.

The director of the Information Technology Strategy Unit was the leader of the Vision 2008 round table that developed Strategy XII, which dealt with information technology of the national strategic plan. The plan still forms the basis of the National Information Technology Strategy (NITS). Significant progress has been made on the implementation of that plan and I will just read those:

1. It was recommended (and has now been implemented) that the Minister of Information Technology be appointed (which is me).
2. All government departments involved in computing, telecommunications and e-business, have been placed in the Ministry responsible for information technology and is ably assisted by the ITSU.
3. The basic legal framework for the development of e-business has been established with the passing of the Electronics Transaction Law 2000, and the Computer Misuse Law 2000.  
I will go on to say that the director of the ITSU was really the main driving force behind preparing these pieces of legislation.
4. The director of ITSU is chairman of the joint public/private sector e-business advisory board. The board has established four subcommittees to address particular areas of e-business development: legislation, marketing, infrastructure and human resource development.
5. The legislation subcommittee is currently drafting a new Bill to replace the existing Telephone/Radio/and Broadcasting Laws.
6. They will move on to consider the regulations under the Electronic Transactions Law, the need for stand alone data protection legislation to augment the existing provisions in the Electronic Transactions Law and revise existing legislation on intellectual property rights, copyrights and trademarks.
7. The infrastructure subcommittee has submitted its first report, the implications of which are currently being considered by government.
8. The marketing subcommittee is about to submit its local and international marketing plan to government. (This is being supervised by the director of ITSU). Requests for proposals for design and hosting of an e-business web site and for professional marketing services to assist government and the board with its marketing efforts will be issued within days.
9. The human resource subcommittee has been working with the Ministry of Education on IT training issues and my Ministry and the immigration board are examining the implication for immigration policy. (Again, the director of the ITSU has been the driving force and my advisor in these areas.)
10. There have been ongoing discussions with Cable & Wireless about their costs and range of services and I am shortly to announce details of the appointment of a telecommunication advisory committee to examine the company's most recent proposal and to recommend the way ahead. I have also been able assisted by the director of ITSU in formulating these policies.
11. Serious negotiations have been taking place between government and the present administrative and technical contacts for the Cayman Internet

domain. I am optimistic that these will be successfully concluded in the near future with the mutually agreed transfer of control of the domain to government.

I would have gotten very little done if it had not been for the untiring efforts of the director of the ITSU in all these areas.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Minister say whether there is a telecoms expert in the ITSU?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Government is now in the process of obtaining the services of a telecom expert. The expert in the ITSU is in the area of information technology generally, and particularly e-business and computers in other areas of information technology. We are specifically recruiting a telecommunications consultant to assist government in making a decision in this very important area.

I have just appointed a telecommunication advisory committee comprised of individuals with vast amounts of experience in telecommunications work. They will also be advising me in this matter.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Honourable Minister say whether the former communications officer involved in negotiations prior to the ITSU director has been replaced or is he working with the director of ITSU as part of this group? What is his role now?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The telecommunications officer is a member of the e-business advisory board. He is available to me when and if I require his advice in these matters. I have consulted him on a number of occasions.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** The Minister mentioned that the director was the roundtable leader for strategy 12 in Vision 2008. In looking at the 2008 document, I noted he was also the *advisor* to the Vision 2008 roundtable. The Minister also mentioned that he is also the chairman of the main board in regard to information technology and e-business. What is the logic of having one person, one bureaucrat, guide so heavily? Why do we not have a private sector person

as the chairman just so government gets another point of view? That is no disrespect to the director; it is just the way I like to see things work.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I appreciate the Member's honesty, but things do not always work the way we like to see them work. We have to be practical. There are really not a lot of people with the knowledge and experience of the director of telecommunications. That is why he was selected not only by me, but by the Minister in charge when the committee was first formed to be the main advisor. The Minister himself chaired the first committee, but I did not feel I was knowledgeable enough in the subject of e-business to chair the committee. I did not feel it was the right policy for me to do it. Therefore, I got somebody with the knowledge and experience to do it. There are not a lot of people readily available either in government or the private sector with the sort of background of the director of telecommunications.

I would say that I would be happy to advise the Member, give him a list of the people on this committee, because they are all individuals with varying degrees of experience in e-business and telecommunications.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In the key objectives of TSU, number 2 states, "**To develop information technology and e-business related policy, technical standards, regulations and draft legislation, including the new Telecommunications Bill, a data protection bill, regulations under the Electronic Transactions Law 2000 and information technology aspects of freedom of information legislation.**"

When can we expect that legislation to be brought to this House?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The Telecommunications Bill is now in the process of being formulated. The legislative subcommittee of the e-business advisory board is dealing with this as we speak. I hope to be able to get the first draft of that as soon as possible. I am not sure of the exact date. I have just been told that it should be ready within the next few weeks.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Getting back to information technology. Can the Honourable Minister say when government and its departments are going to be on board with e-business themselves? That is, allowing

the citizens of this country who so desire to transact business with the Government via the internet, considering that Cable & Wireless has some 8,000 internet customers on the islands. That is a significant customer base.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I think it is true to say that the Government has been paying very serious attention to the Government side of information technology. We are now looking into the possibility of setting up a system whereby, in the not too distant future, we can have much of our information on line. Also, we are considering a Cayman Inc. web site that will be a central point for information where the Chamber of Commerce will also use that and their own. This will also be complementary to the web site that will be set up by the tourism department.

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

*[Moved by the Honourable Minister for Health and Information Technology]*

**QUESTION PUT: AGREED. STANDING ORDER 23 (7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** The Second Elected Member for West Bay. I am going to have to limit this to three additional supplementaries.

**Mr. Rolston M. Anglin:** The Minister stated that this unit has been in existence since 1997. I would have thought that by now that things like companies being able to pay the company register electronically would have been in place considering the amount of business government does through that and how you could then re-deploy civil servants into other areas. I wonder too in regard to the Motion I brought calling for Government to look at the possibility of having things like the Laws available for sale online, having things like the *Hansard* available for sale on line... can the Minister update us as to what progress has been made?

**The Speaker:** I think this question is somewhat outside of the substantive answer, but if you wish to answer it you may, Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is a very good question, even though I agree it is outside, but I will try my best to give the Member a reply.

To suggest that because the ITSU came into being in 1997 and the fact that certain matters are not in place and hinting that perhaps it has not functioned as



effectively as it should, is not the case. I have read the key objectives of the ITSU and what they have done. I think it would have been humanly impossible to have accomplished more within that time.

Just to further inform the Honourable Member, government has a web site established. It is not yet ready for use by the public, but it is available to the Ministries on a test basis. It is the intention that in time companies and other information required by the public will be available through the web site and government's e-business.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say why a web site had priority over objective number 5, "**To assist with negotiations that will result in the provision of state-of-the-art telecommunications at competitive prices?**" What is the status of the negotiations with Cable & Wireless or bringing in someone else to get those competitive prices?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is not correct that the e-business has taken priority of the web site over the telecommunications subject. I think it is more correct to say they have been working in tandem. They are working side by side.

In regard to the progress of the telecommunications discussions, we are in discussions with Cable & Wireless. We are looking at the best way forward in regard to competitive prices mainly for the sake of e-business. We realise that, in the absence of competitive prices, e-business will not have a chance against its major competitors. We are looking into this.

I am in discussion now with Cable & Wireless. We have just established a telecommunications advisory committee that will also be advising me in matters to do with our discussions with Cable & Wireless. We are very much involved in this process., Very soon we should be able to create a report and make a public statement on our position.

I would also add that I have agreed to speak at the Chamber of Commerce meeting on 11 July, at the Wharf when I will be giving my vision for e-business in the Cayman Islands. At that time I will also be making comments on the Ministry's position in regard to the telecommunications subject.

**The Speaker:** Final supplementary, The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Would one of the mandates of the Information Technology Strategy Unit to try to move the Government and the Legislative Assembly into a more paperless world? Many Members spoke about the possibility of connecting up to a domain or web site to get access to *Hansards* and documents on line to try to eliminate some of the stress caused to

staff Members here in providing information. I am not sure that would be a function of the ITSU or the computer services department since they both fall under the Minister.

Can the Honourable Minister say if any research or progress has been made on moving us into that paperless age? If so, what progress has been made?

**The Speaker:** Again, this is outside of the substantive question, but if the Minister wishes to answer, he may.

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The Government web site is not really the responsibility of the ITSU. That is the responsibility of the computer services department. The e-government is being directed by computer services. I think in 1998 or 1999 ITSU and the computer services department were also responsible for the Y2K preparation which also took up a lot of the time of the director of ITSU as it did with computer services.

On the point raised regarding the objectives to move forward to a paperless world, I think that is the main objective of the e-government being directed through computer services with assistance from ITSU. I think it is true to say that the conventional way of doing business not only in government but in the private sector is fast being replaced by technology and that much of the paper transactions will be done electronically. That is in the pipeline.

**The Speaker:** In the absence of the Honourable Minister responsible for Education, Human Resources and Culture I shall place Questions Nos. 67 and 68 at the end of Question Time, according to Standing Order 23(3). Hopefully he will arrive by that time.

Question 69, standing in the name of the Elected Member for East End.

#### QUESTION NO. 69

**No. 69: Mr. V. Arden McLean** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what is the current status of the Government Information Services' (GIS) Journal.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The programme has been off-air since the beginning of the year. Government Information Services (GIS) is in the process of filling this post which became vacant since 31 January. The job was immediately advertised. Applicants were interviewed in March. Three Caymanians applied for the post, one of whom was selected. Following several months of negotiations, we were advised during the week of 11 June that the candidate has declined. GIS

is now reviewing the situation for further action to have this post filled.

### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say if the other two Caymanians were also suitable and if so, the process cannot be sped up to see if one of these other two would take the job?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I said that GIS is now reviewing the situation. Yes, the unit is looking at the possibility of filling the post with one of the other two candidates. Obviously, the candidate selected was the best candidate. GIS is reassessing the situation.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In view of the importance of this journal, can the Honourable Member give us an undertaking that this will be started back before the end of this year? Will the equipment they currently use also be used in the broadcasting of the Legislative Assembly?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** As soon as we can recruit another person, we hope to have the GIS Journal back on the air. I would just like to say for the benefit of Members and the public that while the GIS Journal is not in operation, we have had some electronic media projects done utilising other staff. I might just mention that there have been videos and radio spots done for the sports department, the Cayman Carifta Athletic Team Awareness and Support; recording of various government department events, for example the Youth Parliament and others; involvement in training workshops for civil servants; new packages in support of human rights symposium for local and Caribbean dissemination; and something on hurricane awareness.

While the journal is off, we are trying as best we can to substitute something. I take the point the Member has made and I give an undertaking that we will... I do not want to say the end of the year. I would like to think we could get it back on line before that and we are working very hard to get the journal back. I know it is very popular and agree that it is very educational. People have learned to look forward to it and it should be back.

The issue of the use of the equipment for broadcasting the Legislative Assembly, I would like to look

at that before I give an undertaking. I take note of what the Member has said.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** When was GIS informed that the candidate had declined the offer? Can the Member say whether or not GIS would look at any salary package to see if it is in standing with the industry level?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It was during the week of 11 June that GIS was advised of the fact that the candidate had declined. I am not sure if the person advised personnel and then GIS.

Could the Member please repeat the second part of the question?

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I was making an enquiry as to the use of the word "declined" and making the observation that perhaps it implied that there was an offer, hence a decline. If so, was GIS looking at the situation to see if the salary package was in keeping with the industry standards.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am not aware of the reason the candidate declined the offer. Whether it was the salary package or for other reasons, I am not at all sure there was comparison with industry standards in terms of the remuneration. The former employee was well trained; very experienced; and the salary package was attractive. Any offer made to a candidate would be based on the person's experience and training.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** It appears that the First Official Member is saying that perhaps the reason for this Caymanian declining the job was that the pay package or benefits were changed. If that is the case, would the Member say?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I do not think that was what I was saying at all. I said that I thought the package was attractive. I do not know the reason why the candidate declined to accept the appointment.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Member state that the package has not been changed? Was the same offer made to the previous employee of the GIS Journal also made to the Caymanian who applied for the job?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am not able to say whether the package was changed. What I can say is that any offer will be based on a candidate's training and experience.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Member say then in making an offer, what is the amount of training that is expected for someone in this particular position? Is it the training that is important or the person's ability to do the job? If it is the person's ability to do the job, then what does the pay have to do with the person's training? You are actually paying someone to do a job.

**The Speaker:** I think we are getting somewhat outside of the ambit of this question. However, if the Member wishes to answer he may. The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** All posts in the public service have a job description that sets out the training and experience required for the holder of the post. When a post is advertised it will reflect what the job description carries. Obviously, there will be people who apply from time to time who may not have the requisite qualifications or experience, but may in some other way feel they are able to do the job. Then an interviewing panel of the Public Service Commission (PSC) is set up and candidates are interviewed and the best candidate is selected. I do not know what more I can add to it than that.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank McField:** Could the Member say whether or not the department of his portfolio is committed to seeing a Caymanian fill this post? Would the department hire a foreigner to fill this position if that person was considered to have better qualifications than the Caymanian who applied for the job, was offered the job, but obviously refused to take it for the amount of money offered, or the two Caymanians who applied but were not short listed? Are they looking for some-

one outside these qualifications? Would they be willing to hire someone from someplace else to find the qualifications?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my belief that as long as we can find a suitably qualified Caymanian then that person should be employed. If we are unable to find a suitably qualified Caymanian and we have to hire a non-Caymanian, then I think it has to be done.

There were some non-Caymanians who applied for the post, but they were not considered. The fact is a Caymanian was selected as the first choice, even though that person has now declined.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell us what kind of commitment government has to training any of the staff in the GIS in relation to this same discipline by sending them overseas to some school?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** A member of the GIS staff is currently overseas in training. That individual will not complete training until December 2002. Once that person has completed training and returns I think we will have a person in house who can carry out the duties ably.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say whether or not we have Caymanian cameramen within GIS? If not, what is being done to train and recruit those?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe that the current camera operator is Caymanian. I stand to be corrected, but I believe I am correct.

**The Speaker:** Are there any further supplementaries? If not, I would ask that a motion be made to postpone questions 67 and 68 standing in the name of the Fourth Elected Member for West Bay, due to the absence of the Honourable Minister responsible for Education, Human Resources and Culture.

The Honourable Minister for Planning, Communication and Works.

**Hon. D. Kurt Tibbetts:** Unfortunately the Minister is still in conference and has been delayed. He just sent a message down. Given the circumstances I ask that

these two questions be put forward to the order paper for tomorrow.

**The Speaker:** In accordance with Standing Order 23(3) we will defer questions 67 and 68. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTIONS 67 AND 68 POSTPONED UNTIL FRIDAY 29 JUNE 2001.**

**The Speaker:** That concludes Question Time. Maybe this would be a good time to take the morning break. We shall suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 11.32 AM**

**PROCEEDINGS RESUMED AT 11.59 AM**

**The Speaker:** Please be seated.

Item 4 on today's Order Paper, Other Business Private Members' Motions. Private Member's Motion No. 12/01, Public Decency Legislation. To be moved by the Second Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker I think that it is the intention of the Leader of Government Business to move that Private Members' Motions be suspended to continue the Second Reading of the Penal Code (Amendment) (Incest) Bill, 2001.

Can I have a minute to call him please?

**The Speaker:** Yes, but this is what the Order Paper says. (Pause)

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you.

By consensus the Members are content to continue with Government Business today to put it all behind us before we go back to the Private Member's Motion. I would ask to suspend the relevant Standing Orders. I apologise for not having the opportunity to speak with you prior to this, sir.

**MOTION TO SUSPEND STANDING ORDER 14(3)**

**The Speaker:** The Motion is that we proceed with Government Business, although today is Thursday. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 14(3) SUSPENDED TO ALLOW GOVERNMENT BUSINESS TO TAKE PRECEDENCE OVER OTHER BUSINESS.**

**The Speaker:** Moving on to Government Business, Bills, Second Reading. Continuation of debate on the second reading of The Penal Code (Amendment) (Incest) Bill, 2001.

Does any other Member wish to speak? Final call, does any other Member wish to speak? If not, would the Mover care to exercise his right of reply?

The Honourable Second Official Member.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READINGS

##### THE PENAL CODE (AMENDMENT) (INCEST) BILL 2001

*(Continuation of debate thereon)*

**Hon. David F. Ballantyne:** Thank you.

Let me say at the outset that this Bill does not purport to do any more than it sets out to do, namely, increase the maximum penalties available in relation to certain types of criminal behaviour. I listened, as we all did, to the contributions to the debate on the Bill, for which I am grateful because I think it helps to see the whole issue in context. I am also conscious of the debate that took place on the Motion which preceded the Bill which also canvassed a number of issues.

I am aware too that there is a further Motion dealing with public decency legislation which may involve looking at some kinds of sexual offences. Depending on the outcome of that Motion, it may be that there will be an opportunity to assess the fairness with which the system operates. Presently in relation to young persons, (which was mentioned both in the debate on the Motion and the Bill), the liability of young males compared with young females the system was said to be deficient.

I would be willing to support a discussion of those issues in whatever forum is considered appropriate, to look at the possibility of alternative disposals or treatment for sexual offenders. It will be based more on an attempt to understand the reasons for the behaviour with a view to it being challenged where possible. I say all of this without wavering from the thrust of this Bill, but trying to take proper account of what has been said in the debate on these issues.

No one can be complacent, no one can be content. Sentencing comes at the end of the day in relation to matters that have caused concern to the system and which have been prosecuted. I noted it was submitted that the Laws must be in sync with our understanding of social problems. That is not always the

case, as we well know and some Laws are well out of date and would merit reform. I believe that we should not just be revising but also reforming Laws.

However, in relation to the Bill, it was partly in response to wide public reaction by petition and in my opinion the incest amendment was brought, not to clamp down, but to reflect the attitude of society generally.

There is little doubt in my submission that a five year maximum for incest is inadequate as a maximum. For example, when some allowance is made for a guilty plea, possible parole at one-third of sentence served, and remission of one-third for good behaviour, it tends to dilute the effect of a sentence of that margin.

I would also say without seeking to be provocative, that we all have choice. Those who elect to engage in this type of behaviour need to understand what will be the possible consequences. They need to know that they are exposed to the available penalties. I also say that those who cannot help themselves need help and they should get it. However, the Law still holds them accountable unless they are not legally responsible for their actions.

It is not in my view a reason to fail to have in the Law adequate provision for sanctioning unacceptable social behaviour for circumstances where there is no viable alternative but to impose a custodial sentence. That is not to exclude humanitarian considerations because in my view there is nothing inconsistent with supporting the kind of reforms that were discussed. Reforms which are healthy and undoubtedly are worth promoting for the treatment of offenders, while at the same time providing serious sentences for serious crimes.

Therefore, I agree that rehabilitation is a proper objective, but so is punishment and protection of the public. There needs to be an alternative to the possibility of retribution by person taking matters into their own hands and some of these issues do give rise to a great deal of feeling, understandably.

To be effective, therefore, penalties are required to be credible. Some measures are, of necessity, but so is the effect on innocent victims. To get the balance right, we need to be able to ensure that the human rights of victims are respected and the courts who are entrusted with dealing with these matters are enabled to judge that balance in a particular case.

In my view, it is not possible to generalise. Each case must be looked at on its merits and according to the circumstances, the gravity of the offence-the mitigating circumstances. There needs to be discretion. There needs to be a range of sentences available which is adequate to cater for the range of circumstances.

In a way, society speaks through the sentence and we have to allow that to happen.

I am grateful for all the contributions, all of them valuable and all of them having a place. I trust that the Motion itself having been carried that the Bill enjoys

the support, as I believe it does, of the House. Other measures which can and should be taken in due course will follow and will also have the support of the Second Official Member.

Thank you.

**The Speaker:** The question is that a Bill entitled, The Penal Code (Amendment) (Incest) Bill 2001, be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PENAL CODE (AMENDMENT) (INCEST) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Second Readings.

#### **THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL, 2001**

**The Clerk:** The Criminal Procedure Code (Amendment) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David Ballantyne:** I beg to move the Second Reading of a Bill entitled, The Criminal Procedure Code (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. David F. Ballantyne:** Thank you.

This Bill seeks to amend the principal Law, which is the Criminal Procedure Code (1995R). It contains four main provisions to which I will attempt to speak in order.

Clause 2 seeks to amend section 6 of the principal Law to empower a Summary Court in certain circumstances to commit an accused person to the Grand Court for sentencing where the Summary Court is of the opinion that greater punishment or a longer sentence should be imposed to protect the public from serious harm by the accused person than the court has power to impose.

I need to amplify on this in order to explain the purpose of that provision and put it in context.

The way in which a case is tried depends on the kind of case it is. There are three categories of case under the Criminal Procedure Code, category A, B and C. Category A cases can be tried on indictment only and therefore for the Grand Court. Category B cases are what are colloquially known as "either way offences" which can be tried either on indictment or in the Summary Court. Category C offences are those which can only be tried in the Summary Court.

This provision is mainly intended to address either way offences, although it is not presently so worded. There are certain committee stage amendments that will clarify this. An "either way offence," or a category B offence, can only be tried in the Summary Court if both the Crown and the accused agree. In other words, if the accused elects to go to the Summary Court on an either way offence the Crown must also agree to that happening. That does happen from time to time.

This provision, which exists in the United Kingdom in a way I will endeavour to outline, is intended to empower the magistrate to remit a case where the magistrate, not the Crown or anyone else, considers that the powers available to the magistrate are insufficient to deal with the circumstances before the magistrate. You will recall that the magistrate has a maximum sentencing power of four years.

The circumstances in which this may happen are that there should not be an unfettered discretion on the magistrate to simply remit any case to the Grand Court for sentence. To try an either way offence summarily needs the consent of the prosecution and the person charged. If the Crown takes the view that a matter is serious it should not consent to the summary trial of an either way offence, it should insist that the matter go on indictment.

It seems wrong to me, in principle, that summary matters should be referred to the Grand Court for sentence. If a person is charged with a category C offence, they have a reasonable expectation that they will be dealt with in Summary Court. I stand by that position. I think that is right. I think if this House decides that an offence should not be a category C offence but an either way offence, it can decide that by law in which case the matter can either go to the Summary Court or the Grand Court, depending on the election made and whether the Crown agrees.

That leads me to say that generally where it is considered a crime merits greater punishment than the magistrate considers, she has power to impose. In my opinion that should apply to an either way offence only with one exception (which I will mention a little further on) will be proposing a committee stage amendment to the effect that this power is only available where the offence in Summary Court is an either way offence and also where the accused is not under 18. Both of these safeguards are contained in the United Kingdom's legislation, and I have had a good look at it. For reference, the UK legislation is The Magistrate's Court Act (1980), § 38.

I would ask you to note also that there are two possibilities contained in the proposed amendment. One is that an offence or a combination of that offence and other offences associated with it is so serious that greater punishment should be imposed. That is one set of circumstances contemplated. The second set of circumstances that a longer sentence is considered necessary by the magistrate to protect the public.

Now, I am proposing that we qualify that by saying that this should only apply in relation to violent or sexual offences. Those are the cases where the protection of the public would primarily arise. That reflects the terms of § 38 of the UK legislation. So, these words are proposed to be added.

I would also inform the House that, according to Blackstone's, these measures are normally invoked in the following types of circumstance. When an offence, or a combination of offences, is considered serious for example the instances I am able to point to are, when the magistrate becomes aware, at the end of the proceedings, of serious previous convictions; and secondly, where the accused himself asks that further offences be taken into account. Those are the two instances where the power to commit would appear to be most usually exercised.

In relation to the protection of the public, the UK provision confines the power of committal to violent offences and sexual offences. I think that makes sense, particularly in the light of the conversations we have had in debate on these types of issues.

It should also be noted that the court, which has the power to commit for sentence, reserves that right for itself. It is not for the Crown to say. It is not for the prosecution—it is the magistrate and the court itself. It should also be understood that the Grand Court by means of this power to commit, is not to be obliged to impose a larger sentence. I will also reflect that in the context of a proposed committee stage amendment.

The Grand Court, in my opinion, has to have the power to consider whether the magistrate was right to make the committal to the Grand Court, and have the freedom to decide the appropriate sentence. For this type of situation, the procedure in the Grand Court would be similar to that following a guilty plea on indictment. As you will remember, this will be confined to either way offences.

That makes the case, in fact, for confining this part of it to either way offences. There is one exception. That is the real circumstance which the Solicitor General has referred us to whereby a conviction for a summary offence, a category C offence in the Summary Court, by itself occasions a breach of a Grand Court order. Let us say a community service order or a probation order. In these circumstances, if the Summary Court deals with the individual, the individual is still liable to be dealt with by the grand court for the breach of the grand court order. It appears to those of us who have the responsibility for advising on this, and I think certain others with whom we have consulted, that it makes sense and the judiciary are in support of the magistrate having the ability to commit the individual to the Grand Court so that all matters pertaining to that individual can be dealt with at one and the same time and that would be a third possibility. That would be the only instance where a summary offence could result in the individual being committed to the grand court. It would not be because of the summary offence, it would be because of the convic-

tion for the summary offence in the opinion of the magistrate causing the individual to be in breach of a grand court order for which they would be required to be dealt with in any event by the Grand Court.

All that would happen is that the whole package would move to the grand court and it would deal with the individual based on the breach of the order and for the matter which occasioned the breach.

An amendment is also proposed to the effect that nothing in this section would require the Grand Court to impose a greater sentence than the magistrate could have imposed. The Grand Court, therefore, can look at this afresh. There is no obligation to grant a longer sentence. In addition, the Chief Justice may issue practice directions regarding the exercise by the Summary Court of the power to commit for sentence.

I have had the opportunity of discussing these amendments with the Chief Justice. He is of the view that they appear to him to be sensible and appropriate, but, of course, subject to the views of this House.

These are my comments on the power to commit. This is not a power that is expected to be used regularly, but it is a power that has been found necessary where circumstances require it. In relation to powers of sentence and combination of offences and in relation to the sexual and violent offences, it would only apply to either way offences. The only summary matter to which it would apply would be where that summary matter had occasioned a breach of a Grand Court order and therefore it would make sense to deal with all such matters together. That is the first part of this Bill.

The second part seeks to amend the principal Law by providing an accelerated procedure known as a Voluntary Bill of Indictment. This is to be achieved by inserting a new section, 106A to the principal Law to provide that a person may be tried before the Grand Court by the direction of or with the consent of the Grand Court. An indictment under this new section would be preferred in accordance with the rules set out in the fourth schedule.

The current position regarding preferring an indictment, (that is a bill setting out charges to be dealt with by the Grand Court) is that where the person is charged for a serious offence, he has to first go to the Summary Court before the magistrate where a preliminary inquiry is conducted. That can either be in short form, in which case the statements are taken as read, but are available in long form where the evidence is given *viva voce* and the opportunity for cross examination is available. Or, indeed, there can be a combination where the defence wished to test a particular issue.

Thereafter, if a *prima facie* case is made out, i.e., a case to answer, the accused has to be committed to the Grand Court to await trial. The way the Law presently is, the committal is to the next sitting of the Grand Court. So, if the Grand Court happens to be sitting at the present moment, it is not possible to commit that individual to that sitting of the Grand

Court. That is my understanding of it. Therefore, there is a delay occasioned.

Members will appreciate, because of the visiting population here, from time to time it arises that an occasional visitor will be accused of a serious offence and may wish to dispose of the matter based on the strength of the case by pleading guilty rather than going through a lengthy trial. As matters stand, that person would have to go through the preliminary inquiry procedure and return in due course to be dealt with in the Grand Court. There is no means of accommodating that person to have the matter dealt with expeditiously. Instead, there has to be a preliminary inquiry and the person has to await the next sitting of the Grand Court.

Therefore, the proposal to allow a voluntary bill of indictment would allow that individual to accelerate the process and would also allow the Attorney General to do so provided that a court agrees. This is not a power conferred upon the Attorney General. It is a power of the court to direct.

The witness statements, along with a written application, would be submitted directly to a judge of the Grand Court who could authorise the preferring of such an indictment and thereafter the accused would be dealt with directly by the grand court as soon as is convenient. Thus the indictment would be preferred with the consent of a judge of the Grand Court.

This procedure would also be available where the magistrate refuses to commit an accused to the Grand Court. It would be possible to allow an application to be made to a judge in effect to review that decision.

These amendments would bring our practice in line with the UK and I am told most other Commonwealth jurisdictions (and I can refer you to the UK Indictment Procedure Rules (1971)).

That is the second element of the Bill.

The third element of the Bill is to increase the schedule containing the penalties. These are consequential amendments necessitated by the amendments to the Penal Code and you should find when we get to the committee stage that the amendments to the Criminal Procedure Code will correspond to the amendments we have discussed to the Penal Code.

The final amendment is to change the offence of false accounting from a category C offence to a category B offence and therefore able to be tried either way.

These are the contents of the Bill together with the proposed committee stage amendments. I understand that there may be some apprehension about the nature of the power to commit for sentence by the magistrate. I would, however, point to the fact that this has been in operation in the UK for some 20 years and not caused any undue difficulty that I am aware of. I would also advert to the fact that if we incorporate the provision for practice directions to be given by the chief justice, the whole matter will be under judicial control.

There are some circumstances where the gravity of a matter only emerges at the end of the day. In these circumstances, it may be right to have the ability to refer such a case to the Grand Court. In addition, it may also be that the accused himself wants matters to be taken into account and there is the final position of the summary offence occasioning a breach of a Grand Court order which would make sense in terms of disposal of all matters in relation to the individual at the same time by the grand court.

The other measures I think are self-explanatory. If Members have any questions or issues, I will try to deal with those in the course of the summing up.

Thank you.

**The Speaker:** The question is that a Bill entitled, The Criminal Procedure Code (Amendment) Bill, 2001 be given a second reading. The Motion is open to debate.

For Members' information, the green paper circulated to me is the paper that was withdrawn. That is not the one we are debating. I would ask that Members refer to the white paper, which says, "A Law may be cited as the Criminal Procedure (Amendment) Law, 2001."

The Floor is open to debate. The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

Before commencing my debate on this important Bill, I would like to express my gratitude to the Honourable Second Official Member for giving Members the opportunity to consult with him and express our concerns about clause 2 of the Bill.

I gather from his remarks in moving the Bill that he has taken on board all of my concerns. I should also point out at the beginning, for the benefit of the draftsmen, in the Memorandum of Objects and Reasons, the paragraph that refers to the objects of clause 2. It indicates that this amendment is to empower the Summary Court to commit an accused person to the Grand Court for sentencing, which I think is a bit misleading. Clause 2, in fact, proceeds on the premise that there has been a plea of guilty, or a finding of guilt, so at that point, when the Summary Court would commit to the Grand Court for sentencing you would be dealing with a convicted individual and not an accused person.

My concern in relation to this proposed amendment arose mainly because in the beginning I was unable to perceive the rationale for the proposed amendment. As the Honourable Second Official Member outlined, in these islands there are three categories of offence: Category A cases which can be tried only on indictment and relate to very serious matters such as murder, rape and the like. Secondly, Category B cases which can be tried either in the Summary Court or the Grand Court on the election of either by the accused or the Crown. Thirdly, Category C

offences, which can only be tried summarily in the Magistrate's Court.

I had some difficulty initially in understanding why, if the accused and the Crown chose to have a matter disposed of in Summary Court, and having pleaded guilty there (where there is a sentencing limit, except in relation to drug offences, of four years), why at the end of the process should the accused be subjected to the possibility of having this matter elevated to the Grand Court where a greater sentence could be imposed? It really was that principal concern that motivated my consultation with the Honourable Second Official Member.

As he indicated, he has seen the force of that concern, which was also expressed by the Elected Member for East End. As a result, we have a notice of the committee stage amendments circulated. This limits the circumstances in which this provision can be applied to situations that are triable in either the Summary Court or the Grand Court, that is B offences. This is further limited to cases involving violent or sexual conduct, save where there is a breach of an order of the Grand Court. In those circumstances the Summary Court would have the jurisdiction to commit that matter, notwithstanding the offences of a summary nature, to the Grand Court for disposal.

With those concerns having been addressed and those limitations having been placed on the provision, I am able to support that aspect of the Bill. Indeed, having spoken also with the Solicitor General, I can see circumstances in which both the Crown and the accused person, or the counsel for the accused, could proceed to elect trial in Summary Court on the basis that this was not an overly serious matter. During the course of the trial and evidence adduced, it becomes apparent that there are very aggravating features to the particular offence. For instance, in the case of assault occasioning actual bodily harm. During the course of the trial it becomes apparent that the injury to the virtual complainant is significantly more serious than initially perceived by the Crown. One could see why in those circumstances the magistrate might feel their ability to only sentence to a maximum of four years would be inadequate to deal with the gravity of the offence.

All in all, I am now satisfied, given the proposed amendments to this Bill which will occur in committee stage, that the amendment is warranted, that it is not oppressive as I had earlier perceived, and that it should command the support of Members of this Honourable House.

I can indicate without going into the details (as the Honourable Second Official Member has adequately addressed these) of the other proposed amendments to the Law contained in this Bill. I give those proposed amendments my support as well.

Thank you.

**The Speaker:** The Third Elected Member for George Town.



**Dr. Frank S. McField:** I suppose if laws were to be made by lawyers and judges alone, there would be no need for people like me, who obviously have no legal background. The reason why we have decided to submit ourselves to a social contract is because as human beings we feel that even the technicians who deal with the legalistic issues will remember that in the development and advance of these issues, we have to take into consideration what people will allow themselves to be subjected to, or what people will submit themselves to.

I see the changing of laws as an evolution of the social contract. Therefore, it is always important to pause and reflect on what the changes might be able to achieve, whether or not they will make that relationship healthy or whether it will retrogress the inherent trust which people must have in those who make the laws and in those who administer justice through these laws. There is no justice without law! God forbid, we should have to rely on the conscience of persons in those professions.

Courts are very expensive institutions. When we go there we have advocates to speak to the judges on our behalf and we have to have the money to be able to pay. If we do not have that, we are in lots of trouble. The advocates will not go in to address the honourable privileged judges unless they can get their piece of the action as well. Those of us who have studied history know how this system has evolved. Though we have great trust in it, we need to trust it like Americans trust the Constitution of the United States of America—as long as it does not suppress their inalienable rights.

My experience in seeing magistrates operate in England is that usually in a lot of cases they are not trained persons, they are not trained in Law. They have clerks that sit next to them and give them the kind of legal advice they need in order to make correct legal rulings. Magistrates are conceived as having an additional function because of the common-law concept existing within British jurisprudence.

Here in the Cayman Islands we do not sit magistrates on our Benches without experience in most cases. The question could therefore be, why is it that we cannot change the sentence the magistrates can make and move that up to be more than four years, rather than continuing to have that kind of class division saying the magistrates can go this far and the Grand Court judges are able to take it from there?

There is a certain amount of trust that we give a magistrate in order that the magistrate can no longer impose sentences greater than four years. Also, there is a certain amount that we entrust in the Grand Court system where the judges are supposed so be more learned. We in Cayman have employed magistrates, and we see that we have many here... Judge Ramsay-Hale would be a good example of a magistrate who, when you listen to her rulings and her deliberations, you know you could trust her to be able to sen-

tence persons for longer periods than four years if necessary.

Although the UK might have given us the experience in terms of the change whereby when we come to the end of a case and guilt has been proven and the magistrate feels society would be best protected by a stiffer sentence. The fact that they are limited to the four years would mean that they would be allowed to send it to the Grand Court and the Grand Court would therefore . . . I think I am understanding the Honourable. Second Official Member correctly when he says the Grand Court would then have the option to consider whether or not it took the case and if there was an occasion for a stiffer sentence. That would mean that the Grand Court should actually try the case again. I am thinking, if that is the case, that we are spending more money to achieve a result we might achieve simply by moving the sentence maximum up in Summary Court.

If the Grand Court judges are not going to try the case again and are just going to take the recommendations from the magistrate in Summary Court and make the additional sentence based on those recommendations, is that fair?

If when the Second Official Member replies he would say if it calls for the case to be passed on and be tried again, or if it would be that the Grand Court judge would look at the recommendations and notes of the trial and make a decision based on that.

I still think that there needs to be more attention paid to the part talking about longer sentences so that we are not only talking about longer sentences regarding certain sexual offences. That is, we are also talking about restructuring the judiciary in such a way as to allow for longer sentences to be possible in cases where the magistrate feels he or she cannot impose more than the maximum four years, and where the Honourable Second Official Member would be saying that experience has proved that society could be best protected with longer sentences. The philosophy of longer sentences seems to be running through the threads of these amendments.

I am saying there could be cases, I am agreeing there might be cases where these considerations are to be made and could be made and if made could benefit society. However, there should be so few cases that the increase in the maximum sentences used by the magistrate would be one way of rectifying this.

The other way would mean that the prosecution in certain cases should be able to bring its case with full knowledge and that the knowledge of the case or the offender and the danger of the offender to society should not be something that is explored in the prosecution but in the investigation stage.

If we are talking about using the courts to substitute for policing and the role in which policing plays in safeguarding and protecting the public; and I believe we need to concentrate a bit more on improving training and the efficiency of that institution. If the case is

brought to the judge and it takes the judge to decide whether or not this individual is a serious threat to society, something is wrong. That should be detected at the policing stage, not at the trial stage.

Again, if we find that the category of the crime means that it must be tried in Summary Court but it would not receive the type of penalty that we want it to but will in Grand Court, then we should change the category of the crimes.

I am not really sort of in favour of just going through the reforms because they exist in other jurisdictions. I am not interested in prolonging the length of time a person must spend in the courts being tried, because it costs them. We must be considerate of what poor people can pay to defend themselves in court, because they, unfortunately, are the persons who end up in the courts in most of these instances.

I feel that when the Honourable Second Official Member gets up to reply, he might very well be in the position to clarify these questions. However, I take offence to the fact that somehow the changes in our systems are not being justified by consensus, not just in this Parliament but more so outside this Parliament.

As a result of the reflection of what is being done in other jurisdictions like the UK; where I suspect the reason this particular problem is handled in this way in terms of making the changes is simply because of the way magistrates and Magistrate Courts, Summary Courts, have been conceived within their legal system. Since they work differently here, I believe it would be appropriate to find some amendment to this criminal Penal Code procedure. Those would reflect the actual structure we have and the fact that we do have competent magistrates on the bench here in the Cayman Islands. That will probably remain the case for many years to come.

We could definitely take advantage of their knowledge, save ourselves some money because the courts cost the people a lot of money and we have to pay taxes for the court. Although we want justice and efficiency in terms of getting offenders into trial, into prison and out again, we want to make sure that the courts do not become oppressive to the people simply because they cost so much to maintain. That is about all that I will say at this point regarding this because I believe there are a couple of other matters I would want to talk to, but I do not want to 'steal the thunder' from the First Elected Member for Cayman Brac and Little Cayman. If it is okay, we could go to lunch now to give her a little more time to contemplate.

**The Speaker:** We shall suspend proceedings until 2.30.

**PROCEEDINGS SUSPENDED AT 12.58 PM**

**PROCEEDINGS RESUMED AT 2.35 PM**

**The Speaker:** Please be seated.

Debate continues on the Second Reading of The Criminal Procedure Code (Amendment) Bill, 2001 be given a second reading. The Floor is open to debate.

The Elected Member for East End.

**Mr. V. Arden McLean:** Having listened to the Second Elected Member for George Town articulate his position, I also had some concerns and discussions with the Honourable Second Official Member. Besides those, I still do not feel overly comfortable with this Bill, even though he has given us the assurance that it will be somewhat restricted to particular areas and offences. Particularly in the case of sexual and violent offences and in the case of the breach of a Grand Court order and then an offence committed thereafter which would constitute a 'C class' offence.

My initial concerns were that the judicial system would be getting a double whammy out of the individual. That I found quite unfair because if we have given jurisdiction over a particular offence to a magistrate, then we must trust the magistrate's judgment. That was my initial position and my initial thoughts on it.

Having heard the Second Official Member, and the Solicitor General whom I also consulted with, it appears that there are other issues they have been running into problems with, particularly if the magistrate had no idea of previous offences. Once the accused is found guilty that is when the magistrate has access to previous offences that the individual was found guilty for and served sentence. It may very well be that there is a need to apply a much larger sentence in the interest of the safety of the general public which is the reason for the laws.

However, as the Second Official Member said, it is for 'B class' offences anyway. My deep concern is that because the prosecutor and the defendant have the right to elect to go to Summary Court or Grand Court, I think that is a position where the prosecutor has the onus placed upon him to oppose the defendant electing to go to Summary Court.

I would like to think that the prosecutor would have more relevant information to decide whether or not this individual is dangerous to society, or the chances of his recommitting such acts. Then the prosecutor should be very diligent in those areas and ensure that he applies for the grand court trial. We cannot in all fairness allow the prosecutor to have that choice and then give the choice to the magistrate again in all cases to send that convicted person up for a higher sentence by the grand court.

My big concern is: What kind of commitment can we get that this provision will be exercised judiciously? There is no forthcoming commitment. We cannot decide here for a magistrate whether the magistrate is going to exercise it judiciously or a prosecutor.

I hear the Second Official Member when he says it will be for violent and sexual offences. Well, even that is a comfort. However by the same token, who is to say that this is going to be the end of this process? I have heard from the Solicitor General. He drew an

illustration for us of an individual causing grievous bodily harm with a baseball bat by hitting someone in the head. It is not of a serious nature while the case is going on and then the judge postpones sentencing to get information relating to the victim and finds out it is of a much more serious nature. That is, in cases where an individual may have elected to go to Summary Court and pleaded guilty.

I can appreciate that after the individual has pleaded guilty there is reason to believe that the case is more serious than originally thought. To some extent, I agree with the Third Elected Member for George Town when he spoke about increasing the jurisdiction of the magistrate in sentencing. The problem with that is that we would not have the situation where the Magistrate would do one class of sentencing and the Grand Court the other because they would all have the same sentencing ability.

I believe there has to be some separation, particularly when the cases in the majority are for poor people who cannot afford to elect to go up to the Grand Court where they may get an opportunity to be heard by their peers. Therefore, they have to rely heavily on the Magistrate's Court. In a lot of instances it may be that the accused decides to go because he knows there is a lesser sentence. However, there is also the probability that he or she would have elected to go to Grand Court because of the chance to be heard by his peers and might get off much easier. There has to be a line drawn where the magistrate can rule over a domain that it should not be questioned.

I do not know how it is going to go across with the magistrate in regard to their abilities. They have all these abilities unlike the magistrates in the English courts. These are all qualified experienced lawyers who have elected to sit on the Bench. What will it say of their abilities? What will it say to the general public? That we do not trust the magistrates to enforce the Laws legislated? I have some concerns about it, even though it is going to be restricted to certain areas and certain offences.

I would like to publicly say that I trust the Solicitor General, that he will use this in a most judicious manner. However, he is not the only one involved. There are other people who may very well misuse it for their own benefit, their own whim and fancy because they overlook having the case carried to the Grand Court.

I have some concerns, and I trust the Honourable Second Official Member will address those when he replies. On section 106A concerning an indictment in the Grand Court, where instead of a preliminary inquiry we can make application to go straight to the grand court, the Second Official Member spoke of instances where visitors come to the country and commit an offence, and then want to leave and get it over with in a hurry. Unfortunately, I did not get the opportunity to discuss this with the solicitor general or with the Second Official Member, but I have some concerns about that too.

We heard of a recent case, and I know the Second Official Member made a statement in this House in the last meeting concerning erosion of the trust the public must have in the judicial system. This one I fear may very well add to the erosion because in the previous one where court was convened on a Sunday... I understand the visitor coming to this country and wanting to have a speedy trial. Morally I believe that is wrong. Residents who live here year round, Caymanian or otherwise, have to wait for due process. I dare say if this is an attempt to correct one individual, or a few individuals, this is not the way to do it. The way to do it is to inform those individuals of their error as opposed to legislating laws to assist them. We cannot afford for a few individuals to contribute to the erosion of what the general public sees as justice, and then come to legislate laws to assist those few individuals and justify their actions. I have some concerns with that and I trust that the Second Official Member will discuss it in his reply.

I think we all subscribe to maintaining the confidence in the system. If we do not have that then the system is useless. We must all have sufficient confidence in the system, which we have had, that justice will be served. It may not be necessarily swift, but it will be served. This is ensuring that it is swift, but in my opinion giving the opportunity to correct previous mistakes. I do not know if that is in keeping with confidence in the system. We all heard the uproar in this country concerning that particular case and I trust this will not add to that.

I would like to hear the Second Official Member address some of the issues that came by way of this Bill. I am sure that the Solicitor General will undertake to ensure that this will be carried out in a most judicious manner. We cannot swear for the judges or anyone else, but if there is an open door, one has an invitation. We have to ensure that that door is never open too wide to give the prosecutor an unfair advantage, leaving the defendant grasping for straws. Even after he has been accused he should be presumed innocent.

I look forward to the Second Official Member addressing those concerns I have.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna O'Connor-Connolly:** Thank you.

I rise to make my short contribution to the Bill presently before this House. Much of what needed to be said has already been said. Nevertheless, I wish to speak to a few points.

In looking at the Memorandum of Objects and Reasons, particularly clause 2, although I note that an attempt has been made with notice of committee stage amendments, I still wish to speak briefly on this aspect.

It says that "**Clause 2 seeks to amend section 6 of the principal Law to empower a Summary**

**Court** [or what we more commonly know as the Magistrate's Court] **to commit an accused person to the Grand Court for sentencing where the Summary Court is of the opinion that greater punishment or a longer sentence should be imposed to protect the public from serious harm by the accused person than the court has power to impose."**

I note there is an attempt for a proviso under the committee stage amendment that would limit it to offences triable either way and by also saying the person should be 18 years or older. That takes care of the normal exception of the children not being caught up in this provision by a further attempt to restrict it by having it applicable to the case of violent or sexual offences.

Although those attempts are commendable, I am still of the view and subject to being further pursued by my learned friend, the Second Official Member. However, this can be in some way interpreted as either limiting or to an extent ousting the jurisdiction of the Magistrate's Court.

I would tend to take the point of the Third Elected Member for George Town in that it is my understanding that in the majority of the cases the magistrates in the UK are slightly different. Presently, the three magistrates that we have are all very capable persons, all trained attorneys. I believe I am correct in so saying.

If there is a situation where it is felt there are circumstances that the penalty might not reflect the public outcry and in this case the violent or sexual offences, then perhaps one may wonder why we were not attempting to increase those powers if at all possible.

I would not want to acquiesce to any position or concept where it would be seen that the magistrates are not capable of dealing with it, or that we would not wish to give them extended powers. Perhaps the Honourable Second Official Member would say whether or not the judicial system, be it the Grand Court or the magistrates were briefed or asked for opinions by the way or have they consented to this. Perhaps I would be even more persuaded of that when the actual vote comes. As we all know this is a very small community and the courts have always been held in an extremely high regard. Anything dealing with liberty and natural justice, I am always willing to err on the side of caution, rather than proceed with haste. I would be grateful for that information.

I note also that the Memorandum of Objects and Reasons goes on to deal with the offence of incest and says, **"An attempt by a man to attempt incest will now carry a penalty of seven and five years of imprisonment, depending on the age of the girl."** It further goes on to say, **"the penalty for incest by a woman has been increased from two to ten years."** The five and seven years is dealing with the offence of attempt and the main offence will carry twenty years. However, I just wondered, whether it is equitable now that we have entered into the realm of gender sensitivity in all areas of government and the

private sector, to have a woman who would be deemed to have committed incest under section 145 to attract a maximum of ten years, while according to my understanding the male would attract a maximum of twenty years. Perhaps it is softening after many long years for a bit of sympathy on the side of the woman.

Be that as it may, I also have some difficulty and this does not necessarily arise from the pending amendments, but from the actual section as written under the existing Penal Code which dealt with incest by a woman, namely section 145. If I may be permitted to read that, I will so do.

It says, **"Any female person of or above the age of 16 years, who permits** [and I take this in the literal meaning to be "consents"] **her grandfather, father, brother or son to have carnal knowledge of her, knowing him to be her grandfather, father, brother or son as the case may be is guilty of an offence."** I wondered if the time had come for an amendment to the word "permits" as that can easily connote consent. As we know, with incest, the element of consent bears no relevance in the majority if not all of the cases. It would make the dilemma even more obvious if it were to be interpreted that the female were the passive person in this type of relationship with her grandfather, father, brother or son, yet by being so affiliated would attract ten years. Perhaps some cleaning up can be done with that in due course.

The other concern I had related to the first schedule; which is now also being sought to be amended by changing the offence of false accounting from a category 'C' to a category 'B' offence. Having taken a few minutes to look into the matter, I spoke to my friend, the Honourable Second Official Member, who expressed his concern that there was an amendment back in 1998 which changed it. I have been unable to find the actual Green Paper that would have set out the memorandum, but I did have a look at the *Hansard* which did not take it any further, but mainly mentioned the sections in Committee stage.

I also had an opportunity to look at what the Leader of Government Business said when that amendment was coming nearly two years ago. Again, there was nothing forthcoming.

In his summing up, I would be particularly interested to find out why just a short two years ago we sought to change the mode of trial from one category to another and now we are reverting back to the previous position. I would be comforted if I am told it has nothing to do with the abolishment of the common law offences and the Dual Criminality Act and all those other things we have been bombarded with in the past few years. It would certainly make me sleep a bit better tonight if I am told it is just an innocent transfer back to the original mode and nothing less.

Again, I have a concern with the omission, whether by intent or otherwise, in the schedule to the Criminal Procedure Code where we were doing quite

nicely making various amendments with increasing the terms of maximum imprisonment. However, when we came to indecency between males, it remained at two years. Perhaps this can be explained away by the fact that there is a pending Motion by the Backbenchers dealing with public indecency. Perhaps it would be more time for consideration, public consultation, so that with this very controversial and perhaps sensitive area in light of the White Paper and Order in Council back in December, that it can be dealt with more expeditiously. If that is the reason, then I have no problem dealing with it in that way.

Having had all those concerns, I also wish to thank the office of the Honourable Second Official Member who obviously had to work some long hours to put these amendments together so soon after the Motion brought by the Backbench. I commend them because, as I said in my contribution to the Penal Code amendments, while it is not a 100 per cent solution to the problems of sexual offences we are faced with in our jurisdiction, but it is another piece of the puzzle in coming to an equitable solution to these matters.

I still believe that now that we have increased the sentences to be more in line with what the public's legitimate expectations are, that we should now look at the existing programmes within the various institutions to ensure that they have been moulded or motivating the inmates once duly incarcerated. When they return (if not there for life) they do so as wholesome individuals who have through the imprisonment and have been somehow reformed. So that they will return devout to our community and not get into the dilemma of the revolving door at Her Majesty's Prison Northward.

Like the Third Elected Member for George Town quite clearly stipulated, it has a cost element that trickles down to the proverbial man on the street. We should take due care to ensure we are getting our money's worth once such persons are incarcerated and that when they come back we will have done all within our power to ensure that these persons would have had a good chance at reformation.

In conclusion, I would say that that does not change my position. If there is at any time a conflict between the punitive element and that of reformation, when it comes to matters that are violent and sexual offences, the reform element must give way to the punitive element so that our community can continue to have ample confidence in our justice system. We are already known worldwide for the integrity it maintains, the job that is carried out in an admirable way by the legal department and the Honourable Second Official Member. It is often not an easy job to not only be able to make the legislation but to also have to see that it is administered. On behalf of my constituents, I wish to thank them for carrying out their duties in a most judicious manner and for effecting safety within our community.

I thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I think I am obliged to reply, Mr. Speaker, and I am quite happy to do so. I am also obliged for the helpful comments that have arisen in response in debate.

It is important to get these matters right, as far as we are able to do so. It will never be perfect, but it will be as good as we can get it. The contributions made in debate and the informal discussions and consultations all helped to serve toward that end.

In particular, I would like to commend the committee stage amendments to the House that have now been circulated and which evidence the absorption by me, the Solicitor General and others of the points made by Members. Including the area of concern of committing persons from the Summary Court to now be limited to only either way offences and only to persons who were not under 18 other than the single instance of a Summary Court conviction for a category C offence which caused a breach of a grand court order where it makes common sense. I submit, to have the Grand Court deal with all those matters rather than the magistrate.

I want to deal with the issue of the competence of the magistrate. This is nothing to do, in my opinion, with the ability of the magistrates, for whom I have the highest regard. They are able judicial officers and they carry out very wide ranging functions. They have sentencing powers which in certain instances can go up to 30 years, if my memory is right, for a second or subsequent drugs offence of a certain kind.

These sentencing powers are very substantial and out of the ordinary. The ordinary and general sentencing power of magistrates at present, are four years. It was increased from two to four not too long ago, within the last few years.

The difficulty arises when the magistrate and I emphasise the magistrate—nothing to do with the Crown. I am representing the Crown as is the Solicitor General and all the law officers who appear in prosecutions. Yes, they have a say as to which court the matter would go into. They can insist that it not go to the Summary Court, that it go to the Grand Court in the sense that it needs the consent of the Crown, it was an either way offence, as well as the accused to go to the Summary Court.

However, no system is perfect. So, no system will necessarily assess in advance the true seriousness of a matter. That may only emerge in the course of proceedings and it may only emerge at the end of the proceedings if, as the Member indicated, the concern arises because of previous convictions, for example. Those are not known to the court until the end of the case because of the presumption of innocence.

Equally, an accused person may ask the court to take other matters that are pending into account. The court may think, *'Well, if I do that, and these other matters in themselves are quite serious and might merit the kind of maximum sentence that I have, my powers are not adequate.'* I want to emphasise that the assessment is not by the Crown, not by the Attorney General or the Solicitor General or by Crown counsel. The assessment of whether the powers of the court are adequate is made by the court itself—not on any application by any person. It is not a question of the Crown behaving judiciously in raising this issue, the Crown would not raise it; it would only be if the court itself felt that its powers were inadequate. This is where I come to the point.

I believe and I agree with you that the competence of the magistrates here is every bit as good and probably better than the general level of competence in the UK where lay magistrates are possible. I am not decrying the magistracy in the UK, but I accept that magistrates here are competent. For that reason, they are better qualified to make this assessment than their counterparts would be in the UK. It would be exercised in a discretionary way consistent with their competence.

In addition to that, provision has been made for practice directions to be issued by the Chief Justice to give guidance to magistrates as to the way in which these powers are to be exercised.

Let us assume that the magistrate gets it right, and it is right that a longer sentence should be imposed. The Grand Court may agree or disagree would impose a sentence. If that sentence is in anyway unfair, there would be a right of appeal against sentence to the court of appeal. So, it does not just end there. We are talking about a system not individual parts. Therefore, I feel reasonably confident that with these amendments and I accept that they are appropriate. I would not have put them forward if I did not think that and in response to concerns that have been mentioned I think we have a reasonably safe basis upon which to proceed. It relies, as you do, on the competence of the magistrates.

This is a matter for them, not for anyone else. If a magistrate does not think that their powers are insufficient (if you do not mind the double negative), the magistrate will simply deal with the matter, only if the magistrate is of the opinion that the powers are insufficient. I should say that it is not just—I want to make it clear—for violent or sexual offences, that is one limb of it; it is also the offence, or the combination of offences, is such that the magistrate feels the powers are inadequate. I hope I made that clear. I just want to make sure I do make that clear in case there is any misunderstanding.

In the UK, and I am not going to hold that up as necessarily the rule, where this usually happens is where the accused asks for other matters to be taken into account or previous convictions make it necessary, or the nature of the crime, the violent or serious

nature of the crime as illustrated in the examples to which reference has been made. Yes, you could increase the powers of the magistrate, the general sentencing powers. However, that is already been done and I think, as the Member from East End indicated, it is necessary to maintain a distinction between the Magistrate Court sentencing powers and the powers of the Grand Court. However, this is not and I want to emphasise this, an issue of lacking any confidence in the competence of magistrates. It is precisely because we have confidence in their competence that the issue may be safely left to them. This is not a case of ousting jurisdiction.

The Magistrate will continue to make findings of guilt or innocence in the particular matter. The factual issues of the case will continue to be decided by the magistrate. The only issue the Magistrate may refer to is the issue of what is an appropriate sentence and even then only when the magistrate considers that the magistrate's powers are not adequate.

No, in response to what was said earlier, the Grand Court will not try the matter again. The person has already been tried. That would be double jeopardy. However, the judge will decide on the sentence.

As I have said, the safeguards in the system are such that there is always a right of appeal. That is what we fall back on when things do not go the way they should go. The way the system is structured is that the right of appeal favours the accused. We have marked time on another measure for that very reason.

There may be merit in considering a general further increase in the powers of the magistrate; it is a matter that we should not lose sight of and consider another day, given the competence of the magistrate. As it happens, I understand that at least 80 per cent of the business is handled by magistrates. They have the heavy end of it as it is. Increasing their powers would also, possibly at least increase that proportion.

It is always the right of the accused in an either way matter to go to the Grand Court. It should not be a matter of money that they are not entitled to go there. Legally it is available and as I understand it would be available subject to verification in all indictable matters. So, it ought not to be the case and if it is, it would merit investigation that a person could not afford to elect to go to the Grand Court on a given issue. The right to jury trial is a right that the Law protects as well and it is for that reason that the accused has the right to elect.

The election for the Summary Court is a right that the accused has, but in conjunction with the Crown. I understand the desire to have a line drawn between the magistrate and a rule that it cannot be questioned, but what I would say to that is that the findings of the magistrate are not going to be questioned. A finding of innocence would not be questioned; a finding of guilt would not be questioned. It would only be the level of the sentence if the magistrate herself felt that her powers were insufficient for one of the stated reasons to deal with it.

So, I am glad to hear that confidence exists in the law officers of the Crown. It is extremely important for the public confidence that that should be the case. We attempt to uphold the offices which we fill during the tenure of those offices in a way which befits the system and to act in support of the judicial system because to that extent we are part of it. However, the power to commit has nothing to do with any law officer as I have said.

The law officers have their part in helping to decide which court a case should be heard. However they are not omniscient, they do not know all the answers and at the end of the day we submit to the judiciary, all of us. That is why we have a judiciary and they are in the position to decide.

Although the Magistrate's Court has certain exceptions, the general rule is a four-year sentencing power. It is not for the Crown to apply to have that power declared insufficient. It is for the court. It is not the competence of the magistrates; in fact we are relying on their competence to make the appropriate assessment. In my submission, they are less likely to use that power because they are competent unless it is necessary. That would be my position.

If they are as qualified as they are, which I agree they are, then they are better equipped to make that assessment in the first place. It is only if we consider their powers inadequate. The magistrate still decides on guilt or innocence.

I want to touch briefly on the voluntary bill of indictment. There may be some understandable confusion about this issue that I would like to clarify. This has nothing to do with when courts sit, or when matters are heard except in the sense that it has to do with avoiding a preliminary enquiry where a preliminary enquiry is either unnecessary or is not desired by the accused.

A preliminary enquiry is designed to assess whether in fact there is a case to answer. If the accused accepts that there is a case to answer and wants the case brought before the Grand Court earlier than would otherwise happen, that cannot be done at the present time. This would allow that to happen.

The reason it cannot be done is that the commitment by the Magistrate is to the first sitting of the next sitting of the Grand Court—that might be weeks away, but it might be months away. The individual might want to have his matter dealt with. This is a procedure that would allow that to happen, but under judicial control. A judge would have to be satisfied that on the statements there was a case to answer and this matter should proceed in that fashion.

I do not believe it is for the Crown to make a submission that a matter should be submitted. That is not what the Law provides for. I believe if the court itself wished to have some guidance; it could seek that kind of guidance and in doing so would have to seek it even-handedly from both Crown and defence. I think if that was the case, the Crown and the defence would have an obligation to give a view. However, there is

no application procedure here and there is no means of making such a submission. That is why it is left to the court and to the court alone.

I believe that in the UK system the magistrate may call out for some assistance and guidance and the court is always entitled to do that. Everyone appearing in a court, and I do not mean to be using the opportunity to do anything other than clarify what happens; everyone appearing in a court in a legal capacity is an officer of the court. Their primary obligation is to assist that court even though they may be representing the Crown or the defence. Their first duty is to the court and if the court needs assistance in carrying out its function then the court is entitled to have it. However, I think that in matters of this kind we can reasonably rely on the competence of the magistrate and the exercise of the magistrate's discretion.

As I was indicating, the voluntary bill of indictment has nothing to do with whether a court sits at the usual time which in fact in the instance referred to was a bail application. This is about a preliminary enquiry, which is the normal process in which a case on indictment will go to assess whether there is a case to answer. It can take a considerable length of time in front of the magistrate. Some recent matters in January of this year took six weeks in front of one magistrate. I am not suggesting that is necessarily a case of this kind, but I am just indicating that it takes time to go through this process and also there is a cost attached to it.

If an accused person wishes to avoid either the time or cost and accepts that there is a case against him, he would have a means of having his case expedited and heard. It does not mean he is giving up. He can still go to trial. It does not mean it is just a guilty plea in the Grand Court, but it could mean that. It allows for that possibility and introduces flexibility which exists elsewhere and has proved to operate to the benefit of the system and not to anyone's disadvantage.

I hope I have been able to cover the points that were raised. I think I may have omitted to say something about the false accounting issue. I do not wish to go into the history of this, but in 1998 it was rendered a category C offence, which made it triable only in Summary Court. It is usually tried along with charges for theft. Charges for theft are either way and because false accounting is now a summary offence, it cannot be tried along with a charge of theft in the Grand Court. To make it either way would allow it to be charged and dealt with in the Grand Court.

On the issue of indecency between males, I do not plan to add to the considerable debate that has and no doubt will continue to run on such matters. However, I did take account of the fact that there is a motion concerning public decency to be debated on the Floor of this House. I realise that recent legislative impositions have perhaps caused the question to be asked if there is another or better way of doing this,

and I am quite willing to add my voice to that discussion.

I think that rather than seeking to increase penalties in this area without looking at the substantive issues would be only to deal with part of the question and the First Elected Member for Cayman Brac and Little Cayman is quite correct in saying this is not unintentional, it is expected that arising out of the Motion there may be a necessity to examine the provisions in the Law and to produce constructive and positive measures that will not offend human rights, but will more importantly, or as importantly, uphold the public decency legislation and standards of the Cayman Islands. The opportunity was taken to increase the penalty in relation to indecent assault on a boy under 14, but that is because there was such a glaring omission to leave that at five years, almost in the same category as incest.

The last topic that I want to say something about is ousting jurisdiction of the Magistrate's Court. I think I would look upon this measure coming back to the subject that has occasioned most discussions, as investing jurisdiction in the Magistrate. It is giving confidence to the magistrate to be able to decide whether or not in the particular circumstances the powers are adequate. I have every confidence that the magistrates will use these powers in their appropriate way and will be guided by the practised directions the court. The Chief Justice will no doubt issue in due course.

I am grateful to you for allowing me the opportunity to wind up this Bill. I am grateful to Members for their intelligent and constructive expressions of concern and suggestions. I trust we have a basis on which Members feel we can proceed.

Thank you.

**The Speaker:** The question is that a Bill entitled, The Criminal Procedure Code (Amendment) Bill 2001, be given a Second Reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL 2001 GIVEN A SECOND READING.**

**The Speaker:** Would this be a convenient time to take the afternoon break? We shall suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 3.35 PM**

**PROCEEDINGS RESUMED AT 4.03 PM**

**The Speaker:** Please be seated. Bills, Second Readings.

## **THE POLICE (AMENDMENT) (INTIMATE SAMPLES) BILL, 2001**

**The Deputy Clerk:** The Police (Amendment) (Intimate Samples) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David Ballantyne:** I rise to move that a Bill entitled The Police (Amendment) (Intimate Samples) Bill, 2001, be given a second reading.

**The Speaker:** Do you wish to speak to it?

**Hon. David F. Ballantyne:** Thank you.

On the face of it, this is a relatively straightforward Bill which, as the Memorandum of Objects and Reasons states, seeks to amend the Police Law (1995 Revision) to clarify the Law relating to the taking of blood, saliva, et cetera from a suspect. Section 25 of the Law is to be amended to provide for the taking of both intimate and non-intimate samples.

If we have regard to the Law, there are two definitions that are to be added to section 2 of the Law. The first definition is the definition of "intimate sample" which means a dental impression, or a sample of blood, seamen or other tissue fluid, urine or pubic hair, or a swab taken from a person's body orifice other than the mouth.

"Non-intimate sample" meaning a sample of hair other than pubic hair, which includes hair plucked from the root, a swab taken from a nail, or under a nail, saliva, or a footprint or similar impression of any part of a person's body other than a part of his hand.

The net effect will be to make it clear that any police officer may cause to be taken for use in the investigation of a crime and recorded in the registry of the force photographs, descriptions, measurements, intimate samples, non-intimate samples, fingerprints, palm prints, or other physical specimens of any person in lawful custody for any offence punishable by imprisonment whether such person has been convicted or not. On the acquittal of any person from whom samples have been taken, such samples are to be destroyed or handed over to the person concerned.

There is a further consequential amendment that except for samples of urine, intimate samples or dental impressions may be taken only by a registered medical or dental practitioner as appropriate. I think the Bill is self explanatory. The purpose of it is to ensure that the police have the full array of forensic testing available to them, including identification by DNA testing and there is no question in my submission that any of these powers are excessive as intimate samples require to be taken by only persons qualified so to do by the medical profession.

Accordingly, I submit the Bill for consideration by the House.



**The Speaker:** The question is that a Bill entitled The Police (Amendment) (Intimate Samples) Bill, 2001, be given a second reading. The Motion is open to debate. Does any Member wish to speak? Does any Member wish to speak?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, looking at the time of the day and taking into consideration that two or three Members of the Backbench wish to speak to this Motion, I wonder if more time could be given to go through it and discuss it with the Honourable Second Official Member. Subject to the Leader of Government, would it be in order to adjourn or move to some other business at this stage seeing that this is a very significant piece of amendment?

**The Speaker:** I am in the hands of the House.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr Speaker. The Government has heard what the First Elected Member for Cayman Brac and Little Cayman has said and certainly there would be no desire on our part not to allow Members to express via the debate their opinions on the Bill. So, with your permission, Sir, I would move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

## ADJOURNMENT

**The Speaker:** The question is that this Honourable House do now adjourn until 10 o'clock am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.05 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM FRIDAY, 29 JUNE 2001.**

**OFFICIAL HANSARD REPORT  
FRIDAY  
29 JUNE 2001  
10.25 AM  
Seventh Sitting**

*[Prayers read by the Honourable Third Official Member Responsible for the Portfolio of Finance and Economic Development]*

**The Speaker:** Proceedings are resumed.  
Item 2 on today's Order Paper: Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for late arrival from the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

I have agreed to recognise the Second Elected Member for George Town.

**STATEMENT BY MEMBER**

**RE: YOUNG PEOPLE**

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I thought that I should say a few words this morning in relation to our young people. As we all know, over the course of recent months, there has been much concern within the community about what is happening with our young people, the breakdown in discipline and demonstration of grossly antisocial behaviour. Most of us in the community have been left worried, frightened and almost helpless.

On Wednesday of this week, Members of this Honourable House and others witnessed a presentation hosted by the Honourable Minister responsible for Education, Human Resources and Culture and other members of the Education Department and Ministry. Collectively, we all left that event very, very depressed. There were a lot of ugly, harsh truths articulated, which needed to be articulated. However, that is not really the purpose of these words.

Last night a number of us, including the Leader of Government Business; the Honourable Chief Secretary; Dr. Frank S. McField, the Third Elected Member for George Town; the Permanent Secretary for Education and I, had the privilege of attending the graduation ceremony of the Red Bay Primary School. In the midst of all of these discouraging events that have transpired and the helplessness we have all felt, I thought that where there is a ray of hope, we need to acknowledge that. I must say that I do not believe I

have ever been so impressed with such a group of 70 young children (11 years old or thereabouts) who were so accomplished, so enthusiastic, full of promise and, very importantly, so very well behaved.

It left me and the others who witnessed that very delightful occasion with renewed hope. Certainly, in my case, it has reinforced my commitment that we must do whatever we can to root out the problems and antisocial behaviour demonstrated by a very small percentage of the student and young people population in this country. Therefore, the tremendous promise these young people and others like them have demonstrated can come to fruition.

I thought that where there is good, where we see demonstrated evidence that the young people in this country are still by and large a good, decent, hard-working group, we need to acknowledge that as well.

I thank you for this occasion to do so, Sir.

**The Speaker:** Moving on to Questions to Honourable Ministers and Members. Question 67 is standing in the name of the Fourth Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 67**

*(Postponed Thursday 28 June 2001)*

**No. 67: Mr. Cline A. Glidden Jr.** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture what is the projected enrolment at the Government Primary Schools for the upcoming school year.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The projected September 2001 enrolment at Government Primary Schools, as of 13 June 2001 is as follows:

| Primary School     | Present Enrolment | School Leavers | Projection | Projected Enrolment |
|--------------------|-------------------|----------------|------------|---------------------|
| John A Cumber      | 456               | 75             | 80         | 461                 |
| George Town        | 448               | 68             | 100        | 480                 |
| Savannah           | 307               | 54             | 57         | 310                 |
| Red Bay            | 447               | 71             | 124        | 500                 |
| Bodden Town        | 138               | 23             | 25         | 140                 |
| East End           | 129               | 22             | 10         | 117                 |
| North Side         | 75                | 9              | 15         | 81                  |
| West End           | 53                | 7              | 14         | 60                  |
| Creek              | 77                | 5              | 8          | 80                  |
| Spot Bay           | 48                | 9              | 8          | 47                  |
| Little Cayman      |                   |                |            |                     |
| Education Services | 2                 | -              | 4          | 6                   |
| <b>Total:</b>      | <b>2,180</b>      | <b>343</b>     | <b>445</b> | <b>2,282</b>        |

## SUPPLEMENTARIES

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I would like to thank the Minister for his very comprehensive answer. We see some of those primary schools creeping up to the 500 mark. Can the Honourable Minister say if we have a maximum operational level for the primary schools? If so, how close are these numbers to those maximums?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I thank the Member for bringing that to the awareness of the House. He is correct in raising alarm bells about these statistics. It gives me the opportunity to say that time is running out if it has not already expired for persons interested in having their children registered to attend Red Bay School for this upcoming school year. We want to cut off the ceiling at 500. At this particular time, we have three schools, Red Bay, George Town Primary and John A. Cumber, hovering at or around the 500 mark, which is the cut-off point for us in the education establishment.

We are aware of this and we are monitoring it as we do not wish for enrolment to rise above 500.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Seeing that is the case and one of those schools has already reached its ideal maximum, what alternate measures are available for students that might not be enrolled as yet?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** We have a number of alternatives. In the immediate, what the education authorities will be forced to encourage parents to do is register them in another district. The second more ideal but longer-term objective is being addressed in the medium-term financial strategy where we are making provisions for additional schools on a priority basis.

Members will no doubt realise that there are plans for the building and establishment of another primary school to be sited somewhere in the Spotts area. The Ministry is currently working on that. The original site has not got planning approval but we are investigating an alternate site where government owns land adjacent to Patrick's Island with a view to siting the school on what we consider the best site, bearing in mind demographics, accessibility, et cetera.

On the more immediate basis, we have added classrooms to Red Bay, Savannah and Bodden Town

to accommodate the complement beginning in September of this year.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say how the projections are carried out? Is it based on the actual enrolment to date, taken together with the average over the past number of years? Can he also give a breakdown of what number of this represents the Caymanian student population?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** These statistics are based on actual registrations plus a combination of our knowledge of the demographics based on past experience.

We have no statistical data available at this time as to what percentage is Caymanian. I would only say to Members that my information is that the vast majority of the students enrolled in the public school system in the Cayman Islands are Caymanians. I examined the statistics for enrolment in the private schools and was surprised to find the same thing obtained there also with perhaps the exception of one case.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I noted that the Minister did not read into the record the East End projected enrolment.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I accept responsibility for that. It was purely my omission.

East End enrolment is 129; school leavers 22; projected intake 10; for a projected enrolment of 117.

I can assure the Member that all these schools named all hold equal significance in my estimation but East End is more equal by virtue of the fact that I spent five of the best years of my life there as principal. So, it is no slight on East End.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I am glad to hear that. I know he spent some very good years up there in the beginning of his teaching career.

The Minister said he did not have the breakdown of Caymanian versus non-Caymanian in the schools. Can the Honourable Minister explain how it is possible that we do not have a handle on what is going on in the schools with regard to that data?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** We have that information available. It is just that it is not here with me at this time. However, I can get it and bring it to Members on Wednesday. In the meantime, of the total government and private school population of 6,234, Caymanian students accounted for 84 percent. This statistic ranges from about 92 percent Caymanian population in government schools to 74 percent Caymanian in the private schools.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say, using the methodology for the projection, what would be the projected estimate for enrolment when school commences? Given that information, would most, if not all schools be up to par with their classrooms?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Registration closed on 15 June. I would expect that the figures contained in the projected enrolments are acceptably accurate to this point. Do we have the facilities? Yes, we certainly have the facilities with the additions to Bodden Town, Savannah and Red Bay which were the crucial and possible crisis areas.

I would like to say that this Government put those as a first priority. We would expect that we have facilities to accommodate these enrolments.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** When we look at the numbers and see that the schools in the outer districts and Cayman Brac and Little Cayman have so few pupils, and then we see the numbers in the schools in Red Bay, Savannah, George Town and West Bay, what is the Minister doing to identify resources for the construction of additional schools in the largely growing district of George Town?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** We have the land, the plans and we are ready to start the Boatswain Bay Primary School. We are just waiting on the finances. We have plans and two possible sites for the Spotts Primary School. We just have to decide on which site to choose and await financing. However, to this point, we are ready with our contingencies.

I just want to bring something to Honourable Members' attention. Construction costs of government schools are significantly increased by the policy that government has to construct these schools to hurri-

cane shelter level. We believe, and I have been consulting with my Permanent Secretary, that the time may now be to examine the financial viability of this, particularly, as some of these schools are sited in communities where the standard of housing is really excellent. We calculate there already would be sufficient hurricane shelter space there without these schools. We are in the process of giving real detailed examination.

If we err, we prefer to err on the side of caution and build the expensive schools. However, I can tell you, if we did not have to do this, our money would be able to go further and we could get away with building schools just up to hurricane standard. There is a significant difference between hurricane standard and hurricane shelter type building.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say if we will see in the next budget the identification of funds for the building of these additional schools?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** We have three projected schools to come on line now: a third high school in Frank Sound and two primary schools mentioned before. Honourable Members will realise and appreciate that the priorities will be dictated and decided in the medium-term financial strategy. I leave the House with the assurance that we are doing everything to ensure that we are not caught behind the eighth ball. We are going through a system of prioritisation. As far as possible, the Ministry is going to ensure that we suffer no significant inconvenience.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** The Minister mentioned a site being considered in Patrick's Island. Can the Honourable Minister say if he has considered that this could be an area prone to flooding in hurricanes?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I thank the Honourable Member for that question and would like to assure him that a survey of the land has informed us that we can get a school sited on land which is above the flood plane. So, we would have to do a minimum of fill, if we decide on that site.

What is attractive about this site is that this is Crown land. If we can build on this land, the millions of dollars necessary to purchase lands could be put to-

ward the construction of the building and equipping of classrooms.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if the East End school will be upgraded to hurricane shelter requirements with funding for repairs and improvements reflected in the November budget?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** I would like to remind that Honourable Member that East End currently has two hurricane shelters. However, we have plans in the works to provide a hall for the East End Primary School. That Member brought to my attention recently the need to improve the canteen facilities and I gave him my undertaking that we were going to look at this. I cannot, however, promise that we are going to build up the existing East End school structure to hurricane shelter standard. I think that would be a bit far-fetched at this time. If I made such a promise, it would be an empty promise and it is not my nature to make empty promises.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Just to clarify, I am supporting the Minister in building schools that are not up to hurricane shelter standards. I believe that there are quite a few buildings that can serve that purpose. We need to ensure that we keep the numbers down. I am just saying that so the Member for East End understands that I am not going that way.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister say if the projected enrolment for the Little Cayman education service of an additional four students is at entry grade? Or are they more mature students?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** We are anticipating that only one will be at the entry level.

I want to take this opportunity to say that both the Ministry and the Department are monitoring this. Most recently, I went to Cayman Brac with the Permanent Secretary and the Chief Education Officer. We had a breakfast conference where we discussed the future of this budding institution. We are very concerned to contain it before it expands beyond what we think it should be. I would just like the Honourable House to know, particularly the Honourable Members from Cay-

man Brac and Little Cayman, it has the potential to become a white elephant. Although the services being offered are now essential and we are prepared to offer them, we do not wish it to grow beyond a certain point where it is not economically viable.

**The Speaker:** Moving on to Question 68, standing in the name of the Fourth Elected Member for West Bay.

#### QUESTION NO. 68

*(Postponed Thursday 28 June 2001)*

**No. 68: Mr. Cline A. Glidden Jr.** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture what is the procedure by which a student moves from the Alternative Education Programme back into high school classes.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddan:** When a student is first admitted to the Alternative Education Centre, that student would have been referred by the school and tested by the Educational Psychologist. A complete report on the student and the problem he/she has been experiencing is therefore available to staff at the Centre.

After a brief period of observation, programmes are designed to implement strategies and behavioural management techniques to remediate and modify the student's problem behaviours such that he/she will be able to fit back into the high school from which he or she came.

Baseline Data is compiled from observations made and the frequency and duration of appropriate and inappropriate behaviours are noted and graphed. After the intervention strategies have been implemented, this process is repeated and any changes either in terms of improvement or deterioration are noted.

At the end of each term, the student is the subject of a multidisciplinary case conference where all concerned professionals meet to develop future treatment and educational programmes. If, as a result of this meeting, where teachers' reports and recorded data of observed behaviour are considered, it is deemed that the student is ready to begin the reintegration programme, then a provisional timetable is implemented whereby the student will return to his or her respective high school for one series of lessons per week, for example: five lessons of English language or mathematics per week, et cetera.

The student's progress at the high school is continuously monitored by both the high school staff and the teachers at the Centre. Any decision to increase or decrease the level of reintegration is then jointly discussed and implemented.

When a student who is attending the Alternative Education Programme is settled and shows calm behaviour, the staff of Alternative Education Programme

will negotiate with staff at George Hicks High School to admit the student to some classes. This may extend to several classes per week. It may or may not include break or lunchtime. The student is transported between Alternative Education Programme and the school by the Alternative Education Programme driver.

If the reinstatement proceeds well, the student will be admitted to more classes until full readmission is accomplished. If there is significant poor behaviour by the student, he or she will be withdrawn from school for a time until it is decided that integration can take place again.

To date, this academic year, of the 17 students referred to the tutorial unit, 16 students have been successfully integrated either part or full time. Of the 12 students on roll at present, 10 students are undergoing reintegration. One student is in lock up facing serious charges and one student has been refused permission to continue reintegration by the Junior High School Principal (for serious aggressive behaviour). The level of mainstreaming varies from four lessons per week to 22 lessons per week out of a possible 30 lessons.

#### SUPPLEMENTARIES

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Can the Honourable Minister say how parents or caretakers of these children are brought into the way it is handled?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** It is my information that the parents attend the multidisciplinary meeting. In addition, they are invited and encouraged to come into the school to discuss their child's problem.

**The Speaker:** I would appreciate a motion for the suspension of Standing Orders 23 (7) and (8) in order that Question Time can continue beyond 11 am.

#### SUSPENSION OF STANDING ORDERS 23(7), (8)

*[Moved by the Honourable Minister of Health and Information Technology]*

#### QUESTION PUT: AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I assume that most of the supplementary questions that would have come from

the answer provided by the Minister were answered by the very detailed and shocking seminar held for Members on Wednesday. Can the Honourable Minister say what process is used for students who cannot be integrated back into the normal school system mainly because they walk out of the programme?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Where there is a serious or significant case, we go to a case conference with the Cayman Islands Marine Institute (CIMI). I am glad the Member asked this question because there is need for a more secure environment than we currently operate out of. For the effective administration and implementation of this programme, I hope we can come up in the very near future with these kinds of premises. Otherwise, we get some extreme cases that we are unable to tackle as diligently and successfully as we would wish to.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say how many children walk out of this programme and never return?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I do not have the detailed figures but I can assure the Honourable Member that it would not be a large number at all.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say how many children having been sent to the AEP have then had to be sent on to CIMI?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I would have to ask the Member for time to provide those statistics because it is kind of out of the ambit of the range of supplementaries for which we planned. I give an undertaking to get that information and circulate it to Honourable Members.

**The Speaker:** Are there any further supplementaries?

If not, we move on to Question 70 standing in the name of the Second Elected Member for Bodden Town who is not in the Chamber. Is he in the precinct?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** I do not believe the Member is here and I do not believe he knew that his question

would come up. May I ask that it be set down for a later time?

**The Speaker:** Certainly.

**STANDING ORDER 23(3)  
MOTION TO POSTPONE QUESTION NO. 70**

*[Motion moved by the Third Elected Member for George Town and seconded by the Fourth Elected Member for West Bay.]*

**QUESTION PUT: AGREED. QUESTION 70 POSTPONED TO A LATER SITTING.**

**The Speaker:** That concludes Question Time.

Moving on to item 4 on today's Order Paper: Statements by Honourable Ministers/Members of the Government.

Statement by the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**STATEMENTS BY HONOURABLE  
MINISTERS/MEMBERS  
OF GOVERNMENT**

**CHANGES TO TOURISM ARRIVAL STATISTICS**

**Hon. W. McKeeva Bush:** Thank you.

Mr. Speaker, as promised, I wish to apprise Members of this Honourable House of the current situation with respect to the changes made to the way the tourism arrival statistics are collected and analysed.

Over the past several weeks, the Departments of Immigration, Tourism and Computer Services have sought to upgrade the processes for determining visitor arrival statistics. This process first looked at the way data is currently collected and categorised by Immigration Department. That resulted in changes to codes being used. Now, there are only two codes that will contain tourism data, both of which correspond to the World Tourism Organisation (WTO) standards.

All data now being collected from Immigration conforms to the WTO definition for a visitor. This definition is based on travellers' countries of residence, purpose and length of stay, as declared to immigration officials when they enter the country. Our only modification to that definition has been to shorten the maximum stay from a year to six months.

Mr. Speaker, I wish to reiterate what I said in a previous statement and that is that I am pleased to report that, using the restructured categories of immigration data, we are now able to provide visitor numbers for January through May 2001 that are accurate. For the year 2000, the numbers have been cleaned and also conform to WTO standards.

Previously released numbers for 2000 were 406,620. The cleaned figure is 306,143. 2001 arrivals now completed through May 2001 show an increase of 4.2 percent over 2000 in arrivals from the markets within which the DOT (Department of Tourism) has marketing representation.

Mr. Speaker, this effort has taken time. The time taken has allowed the Departments that have worked together to not patch the system but rather identify the issues and then develop long-term solutions that will allow future decisions to be made against accurate data that conforms to international standards.

Beyond this review of the system, Mr. Speaker we invited representatives from the Caribbean Tourism Organisation (CTO) to come and demonstrate for us a tourism performance reporting software system that they have designed and which is in use in some 12 Caribbean countries.

This software is called the Caribbean Tourism Organisation Management of Information System and has been designed to do the following three things which will greatly assist the Cayman Islands in managing its tourism industry:

- 1) Improve the ability of our destination to manage and develop a sustainable tourism industry;
- 2) Enhance our ability to respond to the changing market environment in which we now operate; and finally
- 3) Strengthen our information infrastructure and enhance the management of our tourism statistical data.

We have focused on the performance module at this time which will be the vehicle used to produce our future tourism arrival statistics.

I was able to see a demonstration of the system along with the Acting Permanent Secretary. We were very impressed with what we will be able to get from this system. Obviously, the system will only be as good as the data which is run through it and hence our concern to get the interface with the Immigration Department's processes right from the onset. Mr. Speaker, I am appending to this statement a colour copy of the front page of the performance module of the system to show Members what are some of the possible reports which the new system will provide.

The system can provide some 400 different reports. These reports provide a wide range of information on tourism matters. One particular area of interest within the performance module is the reports which will display numbers of persons who listed themselves as staying at particular properties for a specific period which we may want to review information on with respect to the collection of the Tourism Accommodation Tax.

This will be a very useful Report in the management of the Tourism Accommodation Tax which is once again being assigned to the Department of Tourism. Beyond the existing Report, which can currently be generated, is the ability to customise other reports as necessary.

The system has two other modules, that is the inventory module and the market intelligence module. The former allows for an electronic database of all accommodations, attractions and other elements of the tourism sector. Here again, various reports can be produced on this data. The latter module is the market intelligence module which will allow a wide range of marketing analysis to be carried, further allowing the department to demonstrate value for money within the various projects which are undertaken.

Immediately, our attention is focused on the performance module which will manage the processing of our arrivals statistics but once that is fully operational, we will initiate work with the other two modules.

Simultaneous with these efforts on the tourism side, Mr. Speaker, I am also pleased to advise that the Immigration Department is working with the Department of Tourism to redesign the E/D card as well as to move towards installation of new technology at the Owen Roberts International Airport, as further ways to modernise the data collection process by that Department. I further understand that the Immigration Department's staff is already being trained in the new procedures.

Mr. Speaker, these Islands are still developing and so are its record-keeping practices. These changes which have been made to the Immigration Department's categories of codes will allow us to obtain tourism statistics which are based on internationally recognised criteria for the tourism sector and hence become a credible planning tool for both private and public sector to utilise in the tourism planning process.

Thank you.

**The Speaker:** Do Members wish to ask questions?  
The Third Elected Member for George Town.

## SHORT QUESTIONS

*Standing Order 30(2)*

**Dr. Frank S. McField:** It appears that we have a very interesting point made by the Minister of Tourism in the last part of his statement when he says, "**These changes which have been made to the Immigration Department categories of codes will allow us to obtain tourism statistics which are based on internationally recognised criteria for the tourism sector and hence become a credible planning tool for both private and public sector to utilise in the tourism planning process.**" In other words, there seems to have been something wrong with the system of data collection. I think that is a very important revelation for us here in this House.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I do not know to what direction the Member is leading his remarks because he did not put forward a question.

**The Speaker:** The Third Elected Member for George Town, would you phrase that as a question?

**Dr. Frank S. McField:** Is the Minister now saying what had caused the inaccurate tourism arrival figures was the data collection process rather than any human error?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I am glad that he asked that because that is where I thought he was leading.

The category of codes and collection of data were not the only problems. Yes, there were errors or something worse! For years, management knew of it because they were informed, but did nothing about it. So, I do not know whether that Member wants to say it is an error or whether it was deliberate misleading but you can believe this: the Cayman Islands got a royal so-and-so for not having the right information and the wrong information having been given to the tourism industry.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** In the clean figures, there is approximately a difference of some 100,000. Can the Honourable Minister say what category the majority of these entrants would have fallen into if it were not into tourism?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** What was happening is that they were recording residents and work permit holders in the tourism figures. That is what boosted the tourism figures so high.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, who were recording these figures? Was it Immigration or Tourism?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Tourism, because they were the ones releasing the numbers. You know that when people come here, let us hope they come



through an immigration system at the airport. We all know that but the person who had the figures and released them was the previous Tourism Minister.

**The Speaker:** The Third Elected Member for George Town. I can only allow a few questions. This cannot continue as a debate.

**Dr. Frank S. McField:** It is not a debate; it is trying to get clarification.

I want to find out basically whether the categories of codes kept by Immigration is what we are talking about or the Tourism Department also keeps categories of codes. So, if someone is coming into the country and they make a declaration to Immigration Department, from my understanding, saying they are a visitor or a permanent resident, and then Immigration collects these papers. Who does the calculations? Who separates these papers into different categories, Is it Immigration or Tourism?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Let me see if I can make this Member understand that the last administration knew the figures involved were residents and work permit holders and they chose to send them out as tourism figures. Now, if that is not wrong, and if that is not clear, then I do not know what else I can say, Mr. Speaker.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Minister is saying that the DOT and Immigration Department are working together to redesign the Embarkation and Disembarkation cards, as well as moving towards installation of new technology at Owen Roberts International Airport. I have also had had trouble filling out these cards. So, can the Honourable Minister say that because of the problems experienced with these cards in the past, due to insufficient information available on these cards, if that is the reason why all these mistakes were made at the time of calculating the visitors?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I am not going to get into any debate as to how wrong the embarkation and disembarkation cards are. What we are trying to do now is make it more user-friendly. However, we can say that the information on that card is sufficient to say whether you are a tourist or not and whether you are going to be staying at a hotel, guest house or with family for the address part. So, I do not know where the mistakes came in.

Members of this Honourable House please understand this: The fact is that the previous administration knew that included in these tourist figures from New York, London and from all over the world were figures of residents and work permit holders. They allowed those figures to be produced on a quarterly basis. In fact, the Minister used to send them out, or the Department sent them up to the Ministry and the Ministry sent them out, or okayed them as if they were all tourist arrivals.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Tourism has been a very major part of the Budget and we all place Tourism as being one of the two pillars of the economy. Seeing the Minister has now said that the methods used for data collection conforms to the World Tourism Organisation standards (WTO), which I would assume we would aspire to meet seeing we are so dependent on tourism, what standards were used in the past to ensure the data was accurate? I would assume they would have employed some standard, and if not the WTO standard, can he say what if any they were complying with?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I do not know what system they were using, but it certainly was not WTO standards. They just seem to have recorded people coming in and that is where the problem is. Again, I reiterate, the problem lay in people knowing that persons who should not have been marked as tourists were included into the tourism figures. They did that to make themselves look good!

**The Speaker:** The Elected Member for East End. I can only allow two more questions.

**Mr. V. Arden McLean:** When the Minister says that residents and work permit holders were included as tourists, can he say that every arriving passenger in this country was considered a tourist?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** No, Mr. Speaker, I cannot say that. I was not there and I do not know. Certainly I can say what was I was told by the Department and that was, that permit holders and people who I guess have permanent residence were included in these figures. So, that is what shot up the figures.

**The Speaker:** The Elected Member for East End, a follow up?

**Mr. V. Arden McLean:** Yes, Mr. Speaker.

I am glad to hear that I was not considered a tourist in the Cayman Islands but it is unfortunate that we got to this point where people with permanent residency were considered tourists.

**The Speaker:** Please turn this into a question.

**Mr. V. Arden McLean:** Thank you.

I note that the Minister said there is a 4 percent increase up until May. Can the Honourable Minister say if that involves just arrivals by air? What is the increase or decrease in sea passengers?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** Yes. The new figures, the clean figures, are pure air arrivals.

**The Speaker:** Final question.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Just to try to clear up the codes and categories of passengers: do we have on the immigration form the term "tourist" or are we using the term "visitor"? Do we have such a term as "work permit holder"? I know we have the term "resident" but would the Minister say whether or not in his estimate it is possible that the work permit holder does not see himself as a "resident" and therefore might have listed himself as "visitor"? Might this not suggest that the confusion had to do with the design of the disembarkation card?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** I have listened to the Member twist his question round and round trying to get to the position he wants. That Member is quite capable of doing that on practically any issue. I cannot tell him any more than I have already said and he is not going to get me to say that yes, whoever he is trying to protect or trying to say did not do something, the evidence is there. The verdict has gone out. What else does he want? Mr. Speaker, I cannot give any more information on this, and I am certainly not going to agree with him.

**The Speaker:** At this time, we will take the morning break. We shall suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 11.30 AM**

**PROCEEDINGS RESUMED AT 12.30 PM**

**The Speaker:** Proceedings are resumed.

## **GOVERNMENT BUSINESS**

### **BILLS**

#### **SECOND READINGS**

##### **THE POLICE (AMENDMENT) (INTIMATE SAMPLES) BILL, 2001**

##### **THE EVIDENCE (AMENDMENT) (SPOUSES, EXPERTS, FOREIGN CONVICTIONS, ALIBIS, RIGHT TO SILENCE, ETC.) BILL, 2001**

**The Speaker:** I recognise the Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Speaker.

I believe we had reached the stage where I just introduced the Police (Amendment) (Intimate Samples) Bill, 2001 and debate thereon would have been due to proceed. In the interval, however, it appears to make sense, if the House is agreeable, that both the contents of that Bill and the contents of the following Bill, the Evidence Bill, might be the subject of informal discussion and consultation with Members so that they are as fully informed as they may wish to be about the background and reasons for these Bills addressing any concerns they may have in relation to them.

I think this would be a useful way of addressing these issues and, if the House is agreeable, I would therefore move that further debate on the Police (Amendment) (Intimate Samples) Bill, 2001 be adjourned and similarly that the second reading of the Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill, 2001 also be adjourned until the opportunity has been taken to have this discussion.

#### **MOTION TO POSTPONE PROCEEDINGS ON BILLS**

**Hon. David F. Ballantyne:** Accordingly, if the House is so minded, I would propose that we could move on to address the two Judicature (Amendment) Bills which appear to be relatively straightforward. Thank you.

**The Speaker:** It is my understanding that the question before the House is that we defer the Second Reading debate on The Police (Amendment) (Intimate Samples) Bill, 2001, and the Second Reading of The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill, 2001 for a later sitting to be further discussed by Members.

*[Addressing the Third Elected Member for George Town]* You had a question?

**Dr. Frank S. McField:** Mr. Speaker, I want to say that I am happy with the approach of the Government. It seems to give greater consideration to these types of Bills and I am very happy that this is now being considered on a different level.

**The Speaker:** I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED. FURTHER PROCEEDINGS ON THE POLICE (AMENDMENT) (INTIMATE SAMPLES) BILL, 2001 AND THE EVIDENCE (AMENDMENT) (SPOUSES, EXPERTS, FOREIGN CONVICTIONS, ALIBIS, RIGHT TO SILENCE, ETC.) BILL, 2001 POSTPONED IN ORDER FOR INFORMAL DISCUSSION AND CONSULTATION WITH MEMBERS TO ENSUE.**

**The Speaker:** Bills, Second Reading.

#### **THE JUDICATURE (AMENDMENT) BILL, 2001**

**The Clerk:** The Judicature (Amendment) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you.

I rise to move the Second Reading of a Bill entitled The Judicature (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it? Please continue.

**Hon. David F. Ballantyne:** Thank you.

The Judicature (Amendment) Bill, 2001 is one of two Bills seeking to amend The Judicature Law (1995 Revision). The amendments in this Bill consist of a proposed increase in the maximum fine payable by a juror who fails to answer a jury summons. The proposal is that section 11 be amended to increase the maximum fine from \$100 to \$500 to make it somewhat more meaningful.

The Bill also seeks to amend section 16 to provide that in a trial, on indictment obviously, for a money laundering offence, that the number of jurors, instead of the conventional seven, would in fact be 12. The reason is not to equate money laundering with murder, which might appear to be the inference. That is not the point; the point is that money laundering matters are very complicated and as a result of that liable to be very lengthy. Given the length of the trial, it

is thought that there could be a difficulty with jurors having to be on a jury panel for a lengthy period of time, perhaps as long as three months.

In that event, it is possible that for one reason or another—illness or other such reason—that jurors may fall away. If that happens midway through a complex and difficult trial, and the number falls below the minimum required, the only alternative would be to order a retrial, which would be an extremely expensive, time consuming and wasteful exercise.

The proposal, which has the support of the judiciary, is that the number of jurors at the outset be set at 12 but unlike any other trial, the number of jurors who could be foregone would be five. In other words, the jury panel could reduce by five. As long as seven remained, it would be sufficient to have a properly constituted jury. It simply allows for the possibility, as they have in the US, except by a different means, for alternate jurors. These are not alternate jurors, these would be real jurors. However, it would allow for the possibility of a number of them, for perfectly valid reasons, to fall away without the trial itself having to be reconvened. This is thought to be the simplest way of dealing with the matter and is entirely due to the length of trial contemplated.

As I mentioned earlier in one of our discussions, the Preliminary Inquiry in one of these money-laundering matters lasted six weeks. It was not a full Preliminary Inquiry either. It was in long form in the sense that all evidence was given but I do not believe it was the entirety of the evidence. If the Preliminary Inquiry took six weeks, it is not unreasonable to consider that the trial, which, of course, would be defended, might last for a considerable period of time.

There is a concern also for the welfare of jurors. They should not be put in a position where they sit on a jury and then require to be discharged and fresh jurors empanelled because the numbers fall below a certain minimum. There may be other possible solutions to this. Alternate jurors in the US are part of their regime, but this jurisdiction has never recognised alternate jurors. This relatively simple way of dealing with the matter may be a practical and sensible solution.

The final part of this is that if the number of the jury is reduced by more than five, then the court may discharge the jury before it reaches a verdict.

That is the simple explanation. There is absolutely no attempt to equate money laundering with murder or treason. In fact, to address that possible concern, it is proposed that we separate out these issues. Instead of amending, as the Bill purports to do, the clause dealing with the array for murder, would have a separate subsection dealing with the array for money laundering so there would be no confusion in anyone's mind that this had anything to do with those crimes. The proposal would therefore be that it would read: 'on trials for money laundering offences, which are defined under the Proceeds of Criminal Conduct Law in section 27(7), 12 jurors shall form the array.'

That is the proposal. It does not increase the odds against anything other than there being sufficient jurors at the end of the day still available to try the matter. I believe that is the simple and straightforward purpose of this Bill. However, I think it might be right to try to anticipate some questions in Members' minds, if I may presume to do that.

We call upon jurors to perform a public service. There may be an issue as to how easy it is for them to do that. If we look behind the issue of just increasing penalties for failing to appear for a jury, it may be that the issue of addressing an obligation on employers to facilitate the release of employees to engage in jury service should be contemplated so as to ensure that jurors are readily available. I am not suggesting that employers are inhibiting that but it may be one aspect.

Another aspect may be that some thought be given and I do not have a concluded view about it, but would be interested to learn the views of others, as to whether there should be an obligation to pay jurors during their service as jurors. When I say that, it may be that society should ask the employer to shoulder some of that burden to ensure that jurors do not lose out by virtue of engaging in jury service. This would need to be thought through and discussed. I only mention it because I think it is appropriate to look at this in the round. Jury service is a public duty performed as a public duty by persons in the community. Those persons, in my opinion, should not be disadvantaged by it. They are performing a difficult task. They are the peers before whom a person is tried, and it is appropriate that they not be financially disadvantaged.

Everyone has to give up something at some point in time for public service. I do not know as I stand here the best way of achieving this so I do not pretend to have instant solutions. I would not offer them to you in that fashion. However, others will have thoughts about this and, perhaps, we can give appropriate consideration as to how this can be addressed.

If there are any other issues arising from this, I will be happy to address them. We are trying to anticipate possible practical difficulties that could arise in the course of what would be rather lengthy trials.

It may also be that in due course consideration be given to an enlarged jury pool for other kinds of serious fraud cases. Those with which we are primarily concerned at the moment are complicated money laundering cases where it is necessary to prove the predicate offence as well as the offence which occurs within the jurisdiction here. There are aspects of this related to the Evidence Bill which I will be happy to explain when we have those discussions.

However, the proof of the predicate offence which occurs overseas has then got to follow by proof of money laundering which is in effect facilitating or concealing or otherwise being concerned in arrangements concerning the proceeds of crime. To show that the proceeds are proceeds of crime, you have to show that there was an original crime and you have to be

able to demonstrate that a money laundering offence was committed.

So, these are large-scale expensive undertakings which are not undertaken lightly. We would like to ensure that the system is capable of dealing with them. Thank you.

**The Speaker:** I think this would be a convenient time to take the luncheon break. We shall suspend until 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.45 PM

#### PROCEEDINGS RESUMED AT 2.40 PM

**The Speaker:** Please be seated.

The question is that a Bill entitled The Judicature (Amendment) Bill, 2001 be given a second reading. The Floor is open to debate.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** I am concerned about this Bill which increases the maximum fine payable by a juror who fails to answer a jury summons. The proposed amendment to section 11 increases the maximum penalty from \$100 to \$500. I feel that we are having amendments being made when what we need to proceed with is an overall understanding of the system of justice and the types of reforms in effect to make it updated and appropriate for modern times.

The whole idea of a trial by jury is a fundamental right which citizens should be entitled to, when charged by the State. It is being tested all over the world. It has been recognised that the expertise of jurors in many cases does not enable them to be useful to the persons relying upon them for an impartial view. Trial by our peers is rooted in the system of justice as well as the feeling that to somehow forego that would mean less justice, or a perception of less justice. I do not believe that would be so in all cases, especially when we are talking about money laundering crimes.

In a community like this one, I wonder whether trial by jury would not be best reserved for trials of members of the community who are involved in the types of offences the Second Elected Member for George Town has said demand "a pound of flesh" or where society is asking for punishment as a kind of indication that the collective consciousness has been offended. The community in traditional times had been involved in the judgment and, in a lot of cases, the punishment of offenders. The evolution of the jury system can be seen as being consistent with that development of society. In one sense, the jury system aids in maintaining the solidarity among members of a given society.

However, I do not suppose it would have the same effect when talking about commercial crimes on the level of money laundering. I believe jurors are a relevant part of the system of justice in commercial

crime cases on the level of people working in banks and being tempted to commit certain crimes. However, in cases of money laundering that go on for six months or for years, we are talking about a new problem the justice system has inherited as a result of the commercialisation of relationships. These problems are not going to be solved so easily by trying to stretch the usefulness of the jury system to the point where an individual can feel that justice exists in the system because he can choose to be tried by his peers.

The money laundering crimes are the result of other criminal acts committed in most cases by other persons. A person is charged with money laundering for having knowledge of these crimes committed by persons who had then given funds to him. The purpose, therefore, is to disguise and hide the funds in clean money so as not to reveal these funds were proceeds of criminal activities.

The commercial issues involved where one has to prove there were criminal activities committed to get funds which were then given to someone or some bank to launder, might very well go beyond what the average person could or should be expected to understand.

When dealing with sexual offences, murder, capital or punitive crimes, a lot has to do with how we perceive it. What makes a normal citizen able to participate in the trial has to do not just with his ability to weigh evidence but also to assist with sentencing.

The judge is relying upon the community, not for its ability to maintain a whole series of facts and figures. I believe it was originally intended that jurors would serve a completely different function than the lawyers and judges within the system.

What happens in a lot of the criminal cases I have seen is that defence and prosecution lawyers in the presentation of their case are competing for the emotional understanding and attention of the jurors. The judge is there to keep some balance, act as a referee and instruct the jurors as to the points of law.

I believe with money laundering we have gone into an age where we need to decide whether the jury system should be available in money laundering cases or whether it should be dealt with by just a judge who would have all the time in the world to make sure he understands the evidence presented. I believe rationally the fairest trial would be the result of the judge and advocates for the defence and the Crown being involved in this debate.

I think it is unreasonable to subject citizens who are obviously having difficulties in accepting the social responsibilities of being jurors in the first place to this additional burden. The need to increase the penalty from \$100 to \$500 means there is some flaw in the system. It means persons are not attending court according to their summons or presumed responsibility.

I repeat we also need to educate jurors as to the significance of the jury system. Sometimes, people get the right to vote then and end up on the jury list

but do not know what they are being called for. There is no attempt to explain to them. All of a sudden, they get the summons. However, nobody supports the system by educating people or explaining to them their social responsibilities. It is fine and good to increase penalties but why is it not explained to people about the usefulness of what they do?

The other thing is that it is hard for a lot of people to understand when they sit in court that everybody but them is paid. The lawyers, the judges, the newspaper people and the stenographers are getting their chunk of money but the poor juror is there doing a social good and getting absolutely nothing! Well, that is not easy for everybody to understand. That system will not continue to work unless we have the early education and the kind of education that shows persons the usefulness of performing such tasks.

Jurors in the Cayman Islands have always been criticised by people who come in and have not always got the results they wanted. It has always been said that if you choose Caymanians, which you normally do because they are the people on the election list, they do what they want and acquit people who should be found guilty. It is not heard as much today as it was back in the 1980s. It was also said that they came under a significant amount of social pressure.

We are experiencing a lack of interest in people serving as jurors. The increase in fines is just another way the State has to show that anytime it wants to accomplish something, it thinks in terms of punishment rather than education. I have a problem with that basic philosophical premise. We never hear the State coming to talk about educating people to make them more cooperative with a particular malfunction.

Malfunions in society are caused just like malfunctions in the body—the symptoms tell us that something is not right in the whole. When we see the need for an increase from \$100 to \$500 and people are not performing that particular function in the jury system, then people are not performing their social function in regard to the PTAs and other organisations as well. It indicates that there is a particular malfunction and a particular social breakdown. We should not try to fix part of it; we should try to fix the whole.

I believe that sitting in a courtroom for hours and hours each day, day after day, week after week and sometimes for months is very tiring. I have to give it to the people who become jurors. That is an amazing sacrifice. I congratulate all who have done it and have done it well. Sometimes, even to listen to the pace at which these lawyers speak is enough to put anybody to sleep! It is not necessarily because of the good lawyers; it is because the judges insist upon writing every single thing they say!

Even when they bring people in who can write for them, the judges still continue to write everything and therefore slow down the pace. I bet if we would be able to raise that tempo a little bit to the Perry Mason type of pace, perhaps a few people would be more interested to be jurors. It is not just the fault of the

poor citizens; it is partly the fault of the State which fails to believe it can be responsible for the lack of performance of the social contract.

I do not overly oppose what the good Honourable Second Official Member has brought. I am only trying to explore the problem we are being presented with in such a way that the different sides of the story do not get stifled by the need for us to agree. I know that I am not the technician in this case; this is not my forte.

However, I do believe that we need to not hurry legislation at this particular time especially when we know that the country will be going through very traumatic changes with regard to the way in which we position our thinking. It will be the result of the human rights legislation and it will be the result of our having to follow very civilised and democratic standards which would be imposed if they are not already in existence.

I believe that we need to not put more stress on the public than what already exists in that we are compelling them to be a part of a judicial system that might be at the end of its usefulness. I think that this Bill, like some of the others intended to be brought by Government, needs to be pulled back and given some additional consideration and time. The citizen should not always have to pay the price for the weakness in the entire system; the citizen is only part of the system. Thank you.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

I too have some of the same concerns the Third Elected Member for George Town has as to why jurors are not responding to their summons and then we have to increase the fines. I understand that \$100 may be a bit small and \$500 may very well be the case. However, I would like to look at it from a different perspective.

I believe that it should be considered an honour for any citizen of any country, including Cayman, to be a part of the justice process. However, it is going to be difficult for us to tell a citizen of this country that he must uphold that view when he is disenfranchised by coming to the courts to serve as a juror. It is my understanding that certain employers in this country will not pay their employees who are called for jury duty.

There must be some provision someplace that allows for that employer to be in contempt of court. I am challenging the Second Official Member to look into that and if necessary bring it to this Honourable House for adjustment.

No one should be disenfranchised. There are stories of citizens of this country being called to be jurors, who buy a ticket to indicate they are going away to try and get out of it. That is a serious matter. However, when you really look at this and think of one of the things said by the Honourable Second Official Member and the Third Elected Member for George Town about cases going on for three months and

imagine a citizen making \$2,000 per month with an employer who questions whether or not he should be paid, of course, it is easier to go and buy a \$300 ticket and try to get out of it! Or it is easier to pay the \$100 fine!. We have to examine what is causing this problem. I firmly believe it is rooted in the fear that our people go through concerning not being paid.

We go a little further and look under section 12 of the Judicature Law and it says, "**Each juror shall be entitled to an allowance of ten dollars per day for his attendance at court together with a travelling allowance not exceeding twenty cents for each mile travelled in order to attend . . .**" That must have been put in there quite a while ago when 20 cents really meant something in this country. I know today it does not, and neither does \$10. That is a stipend to assist perhaps with lunch and for fuel. I figure the furthest distance one would have to travel to reach the courts in this country would be from East End. So, if we figure 20 miles or thereabouts, then maximum we are looking at is \$15 per day. That can just about get us lunch and pay for some of the gas used. That has to be revised.

I believe the people of this country would love to participate in the justice system; however, they are not going to. Yes, I support the Third Elected Member for George Town when he says we should try to educate our people as to the value of being a juror and the need to have the citizens be jurors. By the same token that is not all there is.

We cannot allow our citizens to take the choice to pay the fines instead of going to court. It is a serious state of affairs in any country when the citizen can afford to pay the fine as opposed to being a juror. However, to the citizen it is worth it as he is being disenfranchised when he comes to support the justice system. I understand the \$500 but it is being used now to force jurors to come. That is what it would seem to the person who is being disenfranchised for being a juror, travelling all the way into George Town, wasting or spending long hours, many days, many weeks, and in a lot of instances, months, and then having nothing to take home to feed his family.

Employers in this country must learn that they too have a civic duty. Yes, we all do. However, it is time that we started looking at whether or not we can do anything to ensure that any employer, regardless of who he is, if he is taking away his employees' wages for the time they are doing their civic duty, should be brought up on charges of contempt of court, the same way the Third Elected Member for George Town spoke of lawyers who lengthen it out.

I also wonder why in this jurisdiction we do not have alternate jurors. I wonder if it is because it is too expensive but only paying \$10 per day is not very expensive. There would be no need to have the 12 jurors he is proposing for money laundering cases. I understand the need to have more than seven and in the interest of the country, I believe it is necessary to have 12 so that in cases of attrition when we have too

many getting sick or whatever the case may be, we do not fall below seven. Therefore, I understand the need for that in cases where we could be three months into a case and we fall below the required five and the case has to be aborted after much expense.

I have a little concern about the Memorandum of Objects and Reasons where it reads the number of jurors would be the same as murder and treason that is 12. That sends a message that should not be sent because the only thing left in the country to be hung for is treason.

In the case of the increase in fines from \$100 to \$500, I would like to ask the Second Official Member to consider possibilities of holding employers in contempt. I believe that looks at the root of the problem in the whole situation.

Perhaps at committee stage, the Second Official Member would like to move an amendment to section 12 of the Law to possibly increase the allowance for jurors from \$10 a day and 20 cents per mile of travel to a realistic amount. I trust that he will take that into consideration when replying. Thank you.

**The Speaker:** The Motion is open to debate. Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

Before I commence debate on the Bill before the House, I would just like to express my gratitude to the Second Official Member for indicating he would discuss with Members before proceeding with debate on the Police (Amendment) (Intimate Samples) Bill, 2001 and the Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill 2001.

These two Bills effect some fairly fundamental changes to the law of evidence and indicate a substantial policy shift in relation to these matters. I believe it is important that before debate ensues that all Members of the backbench are clear as to the Government's objective. Again, I express my thanks for affording us that opportunity.

Moving on to the Bill to amend the Judicature Law to increase the maximum fine payable by a juror who fails to answer jury summons, and to change the array of the jury in the trial of money laundering offences. It is remarkable sometimes how a seemingly minor amendment to a law provokes such deep and far reaching questions about the underlying basis for the law in the first place.

The system which gives to an accused person the right to a trial by a jury of his peers in the case of serious offences is an ancient one and one that came down to us by virtue of our British heritage. It is a cherished right and it can only work effectively if those who are summoned to be chosen as jurors do obey the summons and appear on the date fixed.

The Third Elected Member for George Town spoke about the proposed amendment which would increase the number of the jury in trials of money laundering offences. He wondered whether or not money laundering offences should be tried by juries because of the highly technical nature of these offences and because of the length of time often necessary to have these trials proceed and be concluded. That is a legitimate observation and one that has been made in relation to other offences such as fraud.

There are critics of the use of jury trials in these particular circumstances. However, to not permit trials of these types of offences to be dealt with by way of jury would require a fundamental policy change again. All indictable offences currently afford the accused that, shall I say, sacred right to have his fate determined by a jury of his peers. It may well be, as it has been made in other jurisdictions, that a policy decision should be taken that certain serious offences are triable only by a judge alone. However, I believe that is a debate for another day.

The point I believe has legitimacy, is the issue about remuneration of jurors, which was made by the Third Elected Member for George Town and by the Elected Member for East End.

When the Law was initially devised, it did not contemplate cases that carried on for months on end taking jurors away from the business of their ordinary lives for extended periods. I believe the Judicature Law dates back to 1975, and the Schedule to the Law that prescribes the honorarium paid also dates back to that time. Even then, I believe it was a nominal figure.

The reality is that many trials before the Grand Court now carry on for a substantial period of time. It is my understanding that the money laundering trial set to begin sometime early next year is expected to last for some months. In the case of jurors who have the misfortune to be empanelled for that trial, one can readily see that they will experience considerable difficulties if they are not paid by someone for the duration of the trial.

Indeed, I do believe this particular case is the principal motivation for the Bill before the House, certainly in relation to increasing the array of the jury in money laundering cases. The concern is because of the likely length of the trial there might be significant attrition. In those circumstances, I believe that Government should give careful consideration to finding a means to ensure that jurors involved in this trial, and others who follow, are reasonably remunerated for their period of jury duty.

I believe that to increase the amount payable under the Schedule to the Judicature Law in the long run will put a considerable strain on the public purse at a time when all and sundry know it is something the country can ill afford.

So, we come back to the social obligation. Jury duty is a service, an obligation that all in the community bears and that includes employers. I appreciate that it is not a simple exercise of simply saying em-

ployers should pay the employee for the duration of his or her jury duty because we have the case of the self-employed. A means will have to be devised for remunerating them. Quite a number in the community are self-employed. I can think of a number of painters, gardeners and others.

I accept and appreciate that there is not a simple solution to this, but I share the concerns of the two Members who have spoken about what we are seeking to do here, ensuring that people turn up for jury duty by increasing the maximum fine. I accept that unless people show up for jury duty, the jury system cannot work. The jury system is fundamental to the administration of justice in this country and so it must work.

However, before offering my support to this particular Bill, I would seek to extract from the Government an undertaking that the issue of the remuneration of jurors will be resolved prior to the commencement of the particular money laundering case, the Eurobank Case. I can perceive considerable financial difficulty and burden placed on those who have the misfortune to be empanelled in that case. They will be taken away from their daily jobs for a period of months. It is imperative that they are not disadvantaged as a result.

I hope the Second Official Member by the time he exercises his right of reply will have had an opportunity to canvass his colleagues on the Government bench and indicate whether or not the Government is sympathetic to that proposition. I believe that that proposition has the support of a number of the Members on this side of this Honourable House.

With those few remarks, I close my contribution to the debate on this Bill. Thank you.

**The Speaker:** I think this may be a convenient time to take the afternoon break. We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.31 PM

#### PROCEEDINGS RESUMED AT 3.59 PM

**The Speaker:** Please be seated.

Debate continues on the Second Reading of The Judicature (Amendment) Bill, 2001.

Does any other Member wish to speak? Does any other Member wish to speak? The Floor is open to debate. Does any other Member wish to speak? Last call; does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Speaker.

In view of some of the consequential issues which have arisen I think I should say a few words.

On the issue of education or training for jurors, I have in front of me the leaflet provided to jurors who

are summoned entitled *Explanatory Note to Prospective Jurors*.

It states: **“You have been summoned to serve as a juror by the Grand Court of the Cayman Islands. This leaflet gives further information and answers some of the questions you may have.”**

It details issues such as: **“Do I have to attend? You are exempt from jury service if you are in certain professions.”**

You are disqualified if certain things have happened like conviction **“for a serious offence and not received a free pardon”** and you **“should not be required to serve on a jury if you are over 60 years of age.”**

**“What if I am ill or have a holiday booked?”**

**“If you have reasons for not attending, you must write to the clerk of the court explaining why you are asking to be excused. You must attend unless the Clerk excuses you in writing.”**

**“What happens if I fail to attend?”**

**“You will be liable to a fine of CI\$100 each time you fail to attend.”**

Of course, this is part of the problem. The fine of \$100 has proved to be insufficient in terms of a deterrent to prevent people from failing to attend. In fact, anecdotally, it appears it is possible to encourage people to make arrangements to not be around and those arrangements to be cancelled and it be more economic to do that than pay a \$100 fine.

[Inaudible interjection]

**Hon. David F. Ballantyne:** I am being advised that I should be more specific. Of course, typically cautious, I did not want to spell it out but I will!

I am told, and it is anecdotal, that some people buy an airline ticket to go somewhere else, then make their excuses and thereafter cash it in and they only lose 10 percent on the ticket and do not leave the Island, of course, and do not get fined the \$100 either.

This is not satisfactory, if that is the state of affairs, but I suppose neither is the provision regarding payment for jury service.

**“Will I get paid for jury service?”**

**“You will get paid for each attendance at court, the amounts payable are CI\$11.50 a day if you live in George Town and CI\$12.50 if you live elsewhere on the Island.”**

**“When will I get paid?”**

**“You will be given a form to fill in at the end of your jury service. A cheque will be sent to you by the Treasury.”**

Well, I am sure everyone will be awaiting that cheque with eagerness. I do not mean to be flippant about it but in fact that is all the remuneration that is paid to a juror, it is clearly insufficient.

There are several other helpful tips about who is selected and what you should bring to court, and in general this is a very helpful leaflet including **“Can I ask questions when I am on the jury? Can I talk to**



**anyone about my jury service? What should I do if I know someone in the case?"**

I am told as well that there is a video that is shown to perspective jurors and I will table the explanatory note and if I can obtain the video I will also table that. However, the serious underlying issue here is whether the right to jury trial is going to continue to be supported by persons who turn up for jury service.

I note what has been said about the burden that jurors are expected to bear, and, in particular, lengthy trials. I am told it is the expectation that the employer would continue to pay the employee while on jury service and it appears that on some part that happens. However, there is no legal obligation in this jurisdiction, I understand, on the employer to do so.

I must say this is the first time in my experience of over 10 years as an attorney general in various places that I have been asked as a condition precedent of support for a measure to give an undertaking regarding the financial aspects of the implications of the Bill. I am not saying that there is anything improper about that. In fact, I have spoken with Government colleagues, in particular the Leader of Government Business and the Financial Secretary. The Government is prepared to give an undertaking that it will look into the question of remuneration of jurors with a view to try to ensuring – as I said in my opening remarks – that jurors are not financially disadvantaged by serving on juries.

It is important that we all do what we can to maintain the public confidence in the jury system. It is an ancient right, the right to jury trial for serious offences. When a Bill of Rights comes along, it will be even more important that that right is available and preserved.

There are instances now of very lengthy sentences which may be difficult to maintain in the face of a Bill of Rights as case law from the Bahamas and Jamaica has indicated.

Mention was made that payment for jury service should be made and failure to pay should be made a possible contempt of court. Alternatively, it may be possible to consider amending the Labour Law to impose some kind of obligation on employers. However, I think this is a burden which, in the opinion of the Leader of Government Business, ought to be shared and that employers and government both play their parts. I am inclined to agree with him. So, one possibility would be to look into some kind of equitable arrangement whereby government paid a part and employers paid a part. I think allowance would have to be made too for lengthy trials in all of this.

Regarding any analogy of money laundering with murder, I would only point out that money laundering carries a maximum penalty on indictment of 14 years. It is unfortunate that the Memorandum of Objects and Reasons appear to relate the two issues. However, the only relationship between them is the starting number of figures on the jury. For murder, I understand the law will permit only the loss of one juror

whereas with money laundering, because of the length of these matters, a potential attrition of up to five jurors would be available.

I think we all have an interest in ensuring that jurors who are the arbiters of fact in criminal trials appear and are positively not discouraged from appearing. Therefore, the surrounding circumstances are relevant and Government has, through me, given the undertaking regarding looking into the question of remuneration.

That having been said, the object of all of this is not just to secure adequate process in money laundering cases but to help to secure and support and improve the system of jury trial. I think that this is all that I wish to say at this juncture. If Members have any particular suggestions regarding the increase in the fee payable to jurors or the travelling allowance which we could incorporate at committee stage, then I believe, the Government would be right to consider uplifting the fees, in order to try to defray some of the expense involved.

I should point out to the House that practice in relation to payment of expenses or fees to jurors, varies. In the UK, the government there reimburses jurors for loss of income, but not entirely, only up to certain amounts depending on the profession of the juror. Nothing in the Cayman Islands compels employers to pay wages or salaries during jury service.

The Government sets a good example in regard that Civil Servants continue to receive their full remuneration when they serve as jurors. They do not suffer a loss of income. However, they do not also get the stipend mentioned under the law. So they do not benefit to that extent.

I think the principles have been elaborated in debate. I do not wish to prolong the matter. If there are any other issues arising which Members wish to raise with me in connection with the Bill, I will be happy to try and address them. In the meantime, I simply will conclude the debate on the Second Reading of the Bill. Thank you.

**The Speaker:** The question is that a Bill entitled The Judicature (Amendment) Bill, 2001 be given a second reading.

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

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**Mr. Alden M. McLaughlin, Jr.:** May we have a division, please?

**The Speaker:** Certainly. Madam Clerk, please call the division.

**The Deputy Clerk:**

**DIVISION NO. 11/01****AYES: 8**

Hon. James M. Ryan  
 Hon. David F. Ballantyne  
 Hon. George A. McCarthy  
 Hon. D. Kurt Tibbetts  
 Hon. Linford A. Pierson  
 Hon. Edna M. Moyle  
 Capt. A. Eugene Ebanks  
 Mr. Alden M. McLaughlin, Jr.

**NOES: 2**

Dr. Frank S. McField  
 Mr. Lyndon L. Martin

**ABSENT: 8**

Hon. W. McKeever Bush  
 Hon. Roy Bodden  
 Mr. Rolston M. Anglin  
 Mr. Cline A. Glidden Jr.  
 Mr. Gilbert A. McLean  
 Mr. Anthony S. Eden  
 Mrs. Julianna Y. O'Connor-Connolly  
 Mr. V. Arden McLean

**The Speaker:** The result of the division, eight Ayes, two Noes, eight Absentees. The Bill has accordingly been given a second reading.

**AGREED BY MAJORITY: THE JUDICATURE (AMENDMENT) BILL 2001 GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Reading.

**THE JUDICATURE (AMENDMENT) (COSTS) BILL, 2001**

**The Deputy Clerk:** The Judicature (Amendment) (Costs) Bill 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I beg to move that a Bill entitled The Judicature (Amendment) (Costs) Bill 2001 be given a second reading.

**The Speaker:** Do you wish to speak to it? Please continue.

**Hon. David F. Ballantyne:** I hesitate to suggest that this is a relatively conservative and modest measure. However, I believe it is in the sense that it proposes to amend section 24 of the Judicature Law to the effect that the calculation and taxation of costs in litigation should be matters entirely in the discretion of the court, in relation to civil proceedings in the Court of Appeal and the Grand Court.

It also provides that without prejudice to the general power to make rules of court, such rules may provide for regulating matters relating to costs of proceedings including the entitlement to cost, the taxation of costs, the powers of taxing officers and the powers of judges to review the decisions of taxing officers.

The courts under this Bill would have full power to determine by whom and to what extent costs are to be paid.

In any criminal or civil proceedings the court may disallow any wasted costs. Wasted costs are defined in the Bill as costs incurred by a party as a result of any improper, unreasonable or negligent act or omission on the part of any attorney or foreign lawyer or any employee of such person, or which, in the light of such act or omission, the court considers it unreasonable that that party pay.

In short, this Bill would allow courts to make rules and bring into line, as the Memorandum of Objects and Reasons states, with internationally accepted standards appropriate to a jurisdiction which engages in civil and commercial matters of an international financial nature.

This has been the subject of discussion by the Rules Committee and I therefore commend this Bill to the consideration of the House.

**The Speaker:** The question is that a Bill entitled The Judicature (Amendment) (Costs) Bill 2001 be given a second reading.

The Floor is open to debate. Does any Member wish to speak? The Motion is open to debate. Does any Member wish to speak? The Floor is open to debate. Does any Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

This Bill is part of the result of work of the Rules Committee which has taken more than a decade. The Rules Committee is now at a point where it is ready to issue new costs rules which will bring some commercial reality to the award of costs in the court when there has been a hearing and costs are awarded usually to the party which has succeeded in the application.

The current rules regarding the payment of party-to-party costs in the courts goes back to 1975. It is very basic and as it currently stands provides only nominal sums to be paid by the losing party in relation to these matters.

The new costs order, which is proposed, will give commercial reality to the award of costs and we will get to a point where costs actually mean something. Currently how things stand costs are not a factor in litigation, either in taking the decision to prosecute an action or to defend an action. It is generally considered that the costs which can possibly be awarded on the current scale amount to something between 20 to 25 percent of the actual costs incurred in the conduct of the litigation.

The purpose of the Bill before the House is to give to the Court of Appeal and the Grand Court the ability to make awards of costs entirely within the discretion of the court and further gives the court the ability to make rules relating to costs. The costs order to which I referred earlier will be one of these rules.

The matter has been the subject of more than a decade of debate and fundamentally it will affect the way litigation is conducted in this country. Parties now know that if they pursue some frivolous action and lose, the costs which will be awarded against them will be real costs. Matters as well as steps in litigation will be far more carefully considered before they are taken.

This Bill will give the basis for the making of the costs order proposed. It has been the subject of much debate within the legal profession and having been a part of that process and a member of the Rules Committee for some years, I am very happy that we have now arrived at the stage where we have a Bill before the court and hopefully if the ....

**The Speaker:** You said "court". I think you mean "House."

**Mr. Alden M. McLaughlin, Jr.:** Sorry, Mr. Speaker. I am reverting to my earlier life!

We now have a Bill before the House and if it sees safe passage, we will shortly be in a position where there will be a comprehensive costs order as part of the grand court rules which will bring commercial reality to litigation in this country. It will do much to enhance this jurisdiction's status, particularly in relation to the complex international financial litigation that is almost always before the courts these days.

With those few words I join with the Honourable Second Official Member in commending this Bill to this Honourable House.

**The Speaker:** Does any other Member wish to speak? The Motion is open to debate. Does any other Member wish to speak?

The Third Elected Member for George Town

We have almost reached the hour of interruption and I was hoping we were going to wind up. Do you wish to start? Or does the Honourable Leader of Government Business wish to move the adjournment of this Honourable House?

The Honourable Minister for Planning, Communications and Works.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Wednesday.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday 4 July.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.22 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM WEDNESDAY, 4 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**4 JULY 2001**  
**10.32 AM**  
*Eighth Sitting*

*[Prayers read by the Fourth Elected Member for West Bay]*

**The Speaker:** Please be seated.

Item 2 on today's Order Paper, Questions to Honourable Ministers and Members. Question 70 is standing in the name of the Second Elected Member for Bodden Town.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 70**

*(postponed Friday 29 June 2001)*

**No. 70: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology if Government is considering allowing another telephone company to operate in the Cayman Islands to create healthy competition in telephone services.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** As the Member is aware, Cable & Wireless Ltd, currently holds an exclusive license for the provision of telecommunication services to the Cayman Islands. It would be inappropriate for Government to consider allowing another telephone company to operate in the Cayman Islands until that situation changes.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say if Government is looking to change this contractual situation in any way to allow for competition in telecommunications?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Government from time to time has been approached by numerous companies that have expressed an interest in providing telecommunication services to the Cayman Islands in the event of liberalisation of that sector. Also, a Bill to replace the existing Telephone Radio and Broadcasting

Law is currently being drafted. The proposed Bill will provide, not mandate, the introduction of competition in telecommunication.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In the event the Bill becomes Law and does allow for alternative providers, would the Government be in a position to consider these without making changes to the present license held by Cable & Wireless?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The present license held by Cable & Wireless is a valid license which runs for a period of I think twenty years from 1991. Until there is a law in place and an authority to control the licensing of an alternate authority to provide these services, then the Cable & Wireless license will remain valid.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say what would be the requirement on Government if they initiated a change to the present situation? What sort of financial or legal requirements would there be?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** We have not looked at detailed costing, however I can say that Cable & Wireless has indicated more than once to the Ministry that they would be prepared to look at the question of liberalisation, provided it is done in a proper manner. Thus, the reason I mentioned earlier, in order to do this in properly, we will need to have the requisite Law in place and the authority to monitor such a situation.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say if, in light of his last reply regarding Cable & Wireless, have they been amenable to discussions on liberalisation? Has anything been done in this regard, or would he undertake to explore this situation further to bring some relief to the present situation of the high

cost of telephone service, by having another provider, or a second provider I should say?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I think it is correct to say that the Ministry is most interested in looking into the question of liberalisation for various reasons. One being that the competitive atmosphere may open the way for lower prices, this is not always the case, however we believe it would be in the Cayman Islands. In order for the e-commerce to develop properly in the Cayman Islands, it is of firm belief that we will need to have lower prices. These lower prices we believe will be possible through liberalisation in the sector.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister comment on whether or not the conduct of Cable & Wireless over the last few years was in keeping with the contract, regarding prices and removing of Caymanians from their jobs? Would that not have given ample opportunity to renegotiate that contract?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I too was and still am concerned, about the position that Cable & Wireless took with outsourcing work from the Cayman Islands that could have been performed here. However, I would say that they did not in any way act *ultra vires* under the present agreement. They made a business decision that was in their better interest to outsource some of this work. I do not buy all of the reasons they gave for that, however I cannot say it was in opposition or in any way *ultra vires* under the agreement. They did not in any way infringe that agreement.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say whether or not Cable & Wireless's licence is to wholly and solely operate in the Cayman Islands? That is, must the operations be carried out in the Cayman Islands?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Cable & Wireless is a local company registered here as Cable & Wireless (Cayman) Ltd, with an agreement to operate locally. They also, as a worldwide organisation, globally connected have offices in various countries, thus the reason I think they took the decision to outsource some of their work to one of those offices.

For instance, if there was an accounting or law firm in the Cayman Islands that felt one of its overseas firms could do a particular piece of work, they would no doubt send it to that firm. I do not think this was a major infringement. However, the Ministry and I are totally concerned about the outsourcing of work that could have been performed by local people.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I too have been involved with deregulation of utility companies for quite some time. However, in instances where there is a local company, while I understand the Minister using the reference to law firms and the like, can the Minister tell us if a local company has operations here, and a license to operate in this country, a local law firm does not have such a license. Cable & Wireless is bonded to this country by a license in this country.

I wonder if that does not constitute a breach of the license. I am talking about their monopoly license not their business license.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The analogy to me seems to be pretty much the same, although there may be a major difference in this that immediately escapes me. The principle is pretty much the same. I am not sure that Cable & Wireless has gone against the agreement by getting work done overseas. I know that the example given about the accounting and law firms might not be exactly the same, however, there are many companies registered here on the Cayman registration that are governed by Cayman Islands laws that have work done overseas by consultants and otherwise. So, this is not an isolated case, even though I would not want to give the impression that I condone in any way what was done by Cable & Wireless.

I do not want to go into depth in the legal position because I believe this is the purview of the Attorney General. As far as reading the agreement is concerned, I would not say there was anything untoward done about the outsourcing, except that individuals in Cayman were made redundant for work that could have been performed in Cayman. I am most concerned about those people who are without jobs.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Certainly the concerns should be about the carrying out of the obligations which are specified in the contract. Can the Honourable Minister say if it is his understanding that the contract is that Cable & Wireless will have the exclusive right to provide persons in the Cayman Islands with telecommunications services and the work in providing these

services would be provided locally and not overseas; as the operator services to which Members are referring?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I do not have the agreement readily available. However as I said, Cable & Wireless is now under an exclusive agreement with Government to provide certain telecommunications services. I do not believe the question of outsourcing some of that work was an infringement of that agreement.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say if it is his understanding that other types of work can also be outsourced? Is it his understanding that there would be no breach of contract if Cable & Wireless continued in its rationalisation process to use outsourcing as a way of achieving efficiency and cost savings?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** That is a very good question. I am glad the Member raised it. Just this morning I was informed (however, not officially) that the 411 service was being considered for outsourcing. That caused me a lot of concern. If I call up for a number for somebody I cannot see how somebody in Jamaica can say that person is located opposite *HO Merren Building* or any particular place—they would not have that knowledge. That is something that is known to a local individual.

Therefore, I am most concerned about this trend with Cable & Wireless developing and this is one of the reasons I feel that Government might have to take a position of looking into the question of liberalisation. Under the exclusive agreement, it seems they are doing pretty much what they please under that, provided they are pretty much covered legally.

It is not just the legal aspect we are looking at, it is also the moral aspect of affecting the livelihood of individuals who were made redundant and whose jobs were outsourced to Jamaica. There is more to it than just the legal ramifications; there is also the moral side of it.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** It is my understanding that the services which were outsourced were outsourced to Cable & Wireless's sister company in

Jamaica and that these include operators and operator assisted services.

Can the Honourable Minister say whether he has given consideration to the consequences that would flow from industrial action in Jamaica, for instance? That is not something that is entirely unheard of in Jamaica. In the event that these particular services are affected by such industrial action, what would be the consequence to the provision of services by Cable & Wireless Cayman if those particular services are affected by such action?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It is possible for me to stand here and speculate all morning about what is possible, what could happen, what would happen, what may happen. I really do not have a crystal ball, so I do not know. I can only say that if such a situation occurred in any part of the world—be it Jamaica, England, or anywhere Cable & Wireless has a license—that the Laws of that country would have to deal with the situation. If Cable & Wireless Cayman has made a bad decision by outsourcing to Jamaica, and industrial action caused them to suffer losses there, then they would have to suffer those losses. My concern is what effect it would have on the economy of the Cayman Islands.

However, this is not peculiar only to Cable & Wireless. Any company doing business here that outsourced any of its work overseas may have branches in any other country. The main issue here is that jobs are being taken out—and I repeat this—out of the hands of local Caymanians who are able and ready to perform those jobs.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The Minister has identified the point I was driving at. I was not driving at Cable & Wireless's bottom line, but to the effect on the provision of services to this country that Cable & Wireless is bound to provide by the terms of their license. My enquiry was directed to whether or not, in the event these services are disrupted—those services being outsourced—that would constitute a breach of the current license.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I think the provisions of attaching to the agreement between Government and Cable & Wireless are fairly well known to many of the Members here. It is quite clear in that agreement that if Cable & Wireless in any way breaches any part of that agreement, that contract would become null and void. So, there are protections under the agreement

where Cable & Wireless will provide the level of services contained in the agreement.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** The point the Minister raised gives great concern to the area of telecommunications, and security services provided. I know of one such company that provides 24 hour monitoring from overseas in Bermuda. We have people here who feel they are protected (depending on what the situation is politically) while in Bermuda they might not be protected.

When we look at the legislation and talk about outsourcing it brings many questions. My particular question is on outsourcing, which may or may not be where we are sending business overseas.

We all know Cable & Wireless had quite a track record for training Caymanians in the technical fields. We have noted that not only have they sent business, like the 411 operator service, to companies in Jamaica or elsewhere, we noticed that a lot of the technical work done locally has also been outsourced. That is, to outside companies, or to a Caymanian company that is now employing mainly expatriate personnel. We have had a redundancy placed on quite a few of our trained local technicians.

Has there been, or can there be any discussion to try to get Cable & Wireless to account for previous staff members trained for some 15 or 20 years, if it is not a breach of the legal aspect of the contract, maybe from a moral standpoint? Every day we drive on the road and we see Canadians, or whatever nationality, performing the job that those Caymanians used to provide at Cable & Wireless.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am pleased that the Member has given the example of another business that is outsourced. It is pretty much the same situation, even though I cannot condone that situation. I truly feel that if a business is operating here, they should try to get the business done in the Cayman Islands. That is my personal moral feeling.

The legal side is a totally different issue. This is the matter I would want us to look at very carefully when the new legislation I alluded to comes to this House. This new legislation will be a very comprehensive piece of legislation that deal with telecommunications and with radio and radio communications. It is intended to call the legislation "Information and Communication Technology."

As I speak, we are in the process of correcting a lot of weaknesses in the law; however Rome was not built in a day. Very soon we hope to bring that legislation to the House. Before bringing it to the House to correct some of its weaknesses, I intend to make it a

public document so that the public can give their input as well as Honourable Members of this House.

I hope each Member will take the opportunity to correct any weakness they see in the system. I am not able to answer questions this morning. However, I will say that I have the machinery in place to correct these weaknesses. Hopefully, we will be able to do that very soon.

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

*[Moved by the Honourable Minister for Health and Information Technology]*

### **QUESTION PUT. AGREED: STANDING ORDER 23 (7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I appreciate the Minister going through my example; however, my actual question was concerning the local outsourcing of work. I wonder if there have been any discussions or negotiations with Cable & Wireless in an attempt to try to rectify that situation.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** This is one area that has been discussed with Cable & Wireless (I will not mention the names of the individuals involved in that discussion). They have been told in no uncertain terms that Government and my Ministry are really not pleased with the current situation. It is my understanding that locally there are certain individuals who are qualified to fulfill some of the jobs that are presently being outsourced to Jamaica. We feel that those individuals should be given the opportunity to fill those positions. Those matters are being looked into and Cable & Wireless understands that we will not sit back and allow this to continue indefinitely.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** It is good to hear that the Minister takes this subject seriously. We all know that Cable & Wireless is a key component in our economy. I thank you, Mr. Speaker, for allowing us to carry on this questioning at length.

Can the Honourable Minister say whether he would give an undertaking to have the Honourable Second Official Member review the contract to do two things: 1) ensure that the outsourcing is within the legal confines of the contract, and more importantly, is it within the spirit of the contract? When we give

Cable & Wireless and exclusive right to do business in Cayman, I think it would be expected that it would be reciprocal. We would not be satisfied, after giving them that exclusive right, if they outsourced their entire operation, reaped the profits and not hire local Caymanians.

My question is, would the Minister give an undertaking to have the Honourable Second Official Member review the contract to do two things: 1) ensure that the outsourcing to Jamaica and locally, the technicians made redundant are all within the legal confines of their contract; and 2) whether or not that is within the spirit of the contract?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The Member asking the supplementary is aware that the machinery has recently been set up that will give him and other Members the opportunity to look into the legal aspects of the outsourcing. I believe it would be inappropriate at this time to pre-empt the working of that committee by making any specific recommendations or requests from the Hon. Second Official Member.

However, I will say that within the terms of reference of that committee—of which he is a member—there is ample opportunity there to look into this specific issue. For the information of the House, so everyone knows what committee I am talking about, I would mention what this committee is all about.

I have, through Executive Council, appointed a committee which is called the Telecommunications Advisory Committee. This committee will prepare a report to me, as Minister that will provide the following four major issues:

(a) An assessment of the current and anticipated future requirements for local and international telecommunication services in the Cayman Islands;

(b) An assessment of how well, in terms of range, quality and cost of services the offerings of the present service provider meet these current and future requirements;

(c) Provide a comparison between the range, quality and cost of communication services currently available in the Cayman Islands and those available in comparable jurisdictions such as The Bahamas, Bermuda, Channel Islands, Hong Kong, Isle of Man, and Luxembourg; and

(d) Provide an assessment of the telecommunications price reform proposal submitted by Cable & Wireless (Cayman Islands) Ltd. on 9 May 2001 and currently being revised by them. Particular regard should be paid to the likely implications for:

- 1) Customers in the Sister Islands;
- 2) Domestic customers with small usage rates;
- 3) Small and medium size business customers; and
- 4) Development of e-business.

We have specifically provided an all-encompassing section which states: "To carry out such other tasks as may be from time to time referred to the committee by the Minister and to make recommendations to him on future telecommunications strategy."

I have given these terms of reference to show that the Telecommunications Advisory Committee that has been established will have the authority to look into matters of outsourcing, whether or not it is legal. These matters can be raised with the legal department. They will also look into the question of whether or not it is within the spirit of the contract. They will be able under the terms of reference to deal with those issues.

Just to say, finally, that members of the committee are: Mr. Cline Glidden Jr. MLA, Chairman; Mr. Rolston Anglin, MLA, Chairman; Mr. David Archbold, Information Technology Strategy Unit; Mr. Bryan Ashenheim, attorney; Capt. Eugene Ebanks, MLA; Mr. Charles Farrington; Mr. Everett Leacock; Mr. Alden McLaughlin, Jr, MLA, Mr. V. Arden McLean, MLA; Dr. Christopher Rose, Director of Finance and Economic Development Secretariat; Mr. Eleo Solomon; Mr. Lyndhurst Bodden, former Cable & Wireless employee; and Mrs. Ramona Ritch, Secretary to the committee. Most of these have a tremendous amount of experience in telecommunications.

**The Speaker:** I have to limit this to three more supplementaries.

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Notwithstanding how I feel about Cable & Wireless outsourcing their longstanding capable employees, I would expect that in issuing a license to Cable & Wireless such as they have, Government would have some stipulation to say whether or not they would be providing employment to Caymanians or for jobs they could capably do and bring in technical expertise Caymanians could not fill. Can the Honourable Minister say whether or not that is part of the agreement with Cable & Wireless?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I clearly understand the Member's point. I would be the first to say that hindsight is 20/20. A number of things could have been included in the 1991 agreement, had we foreseen at the time what would have occurred in the year 2001.

Thus the reason for the setting up of the committee and the new telecommunications Law is to correct those issues. Many of these weaknesses will be corrected.

I am not suggesting that Cable & Wireless is not providing a very good service. I think to say that would be understating the service they provide to the Cayman Islands. I would also say that under the cur-



rent agreement, Government has obtained for the first time in the history of this country since 1991, on the average of some \$8 million to \$10 million per year in royalty fees. This was the first.

Even though certain things may be required to be placed in the agreement, there were issues that were dealt with in the agreement that have proven of major benefit to the people of the Cayman Islands.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say whether the Government at this time has made any effort in regard to the pricing mechanism that Cable & Wireless is allowed to use? Based on the idea of reducing it if the Government is not minded to allow, in the immediate future competition from other sources that could provide telecommunication services?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Just let me deal with the last part of the Member's question first and hopefully lay this issue to rest. I hope the impression was not given in any of the answers this morning that Government is not seriously and actively looking into the possibility of reducing prices, be that by liberalisation or by the unilateral action of Cable & Wireless to cut their prices. That is the reason their proposal submitted to Government on 9 May 2001, I think, was not accepted by Government. It was referred to a committee.

This was also the reason we decided to appoint the Telecommunication Advisory Committee with individuals with telecommunication experience and knowledge that could advise the portfolio on the issue of pricing. We are not happy with the pricing scales of Cable & Wireless at present. Let me not understate that—we are not happy with it!

We also believe that the present situation will not allow for enhancement and development of e-business in the Cayman Islands. We are very much dedicated to this issue. I intend to speak at more length on this in my speech to the Chamber of Commerce next Wednesday, 11 July.

**The Speaker:** Final supplementary.  
The Elected Member for East End.

**Mr. V. Arden McLean:** I do not know who else feels cheated in this country, by the telecommunications company, but I do. Their service is not good, contrary to what was said by the Minister. My position is that the service is not good.

It appears that Cable & Wireless is preparing for deregulation by reducing the rates, or trying to fool this country that they are reducing the rates, and then

putting it back on as soon as the outsourcing has been completed. That is fooling the people of this country and we must stop pussyfooting with Cable & Wireless!

We are talking about outsourcing Cable & Wireless and other things within the community, however we also have on the other side of that coin the FATF (Financial Action Task Force) and the OECD (Organization for Economic Co-operation and Development). They want to control our operations in this country. I wonder if the minister can say what effect outsourcing e-business in this country is going to have on our position with the FATF and OECD? They are asking us to ensure that we control here, however we can not control outsourcing sent to Bermuda. Secondly, what provisions in the review of the Telecommunications Law will cover that?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I will try to answer that fairly long question by first stating that the Member has a totally wrong impression if he feels that Government is "pussyfooting" with Cable & Wireless. Nothing could be further from the truth. We are seriously committed to our position with Cable & Wireless. What must be understood is that we will not rashly rush into discontinuing an agreement with Cable & Wireless. They have a valid agreement with the Cayman Islands, and it is true that the Ministry will seek to have that situation liberalised, however, we will not break an agreement that has been validly entered into until the necessary issues have been dealt with, at which time we will be able to allow competition or liberalisation.

Regarding the services that Cable & Wireless provides to the Cayman Islands, I think each individual can express his own opinion. This is all relative—bad compared to what? Or, good compared to what? I know that I am not satisfied that it is as cost effective as it should be, and that is my major concern.

In regard to what effect outsourcing will have on OECD and FATF, which is a matter we will have to look into. Right now, the question before us and the major question facing e-business worldwide is the whole question of taxation of e-business. There are a lot of issues upon which the Cayman Islands as a developing e-business centre will have to focus. Perhaps outsourcing is one of those issues as it relates to OECD or FATF. The reason we have appointed a committee of what we feel are able, upstanding individuals, such as the Member from East End, who will be able to assist the Government with his invaluable knowledge on this issue—since he seems so knowledgeable.

*[Laughter and interjections]*

**Hon. Linford A. Pierson:** I am hoping that as soon as the committee starts its deliberation that my office will be flooded with very useful information so that we can deal effectively with Cable & Wireless.

**The Speaker:** Moving on to question 71, standing in the name of the Second Elected Member for West Bay

#### QUESTION NO. 71

**No. 71: Mr. Rolston M. Anglin** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what is the Cayman Islands Government's policy in regard to political asylum seekers.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The United Kingdom's obligations under the 1951 Convention and the 1967 protocol relating to the status of refugees has not been extended to the majority of the overseas territories. We are, however, expected to honour the principles of the Convention and its protocol. We are accordingly guided in our policy by the intent of the Convention.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** The answer ended off by stating, "We are accordingly guided in our policy by the intent of the Convention" and I would also assume the 1967 protocol.

Can the Honourable Member say what he means by "our policy"?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The 1951 Convention is a document about 3/4 of an inch thick. I would not try to circulate that to all Honourable Members, nor would I expect anyone to sit down and read it.

Perhaps I can summarise very briefly, the Convention will call on the country receiving the refugees to carry out a screening exercise providing the persons ask for political asylum. There is an organisation of the United Nations called the UN High Commission on Refugees based in Geneva. They have representatives in various parts of the world.

A representative will visit the jurisdiction receiving refugees and those refugees will be screened to determine whether in fact they are political refugees or economic migrants. If they are deemed to be political refugees then the host country is expected to re-

ceive them and be responsible for their well being until they are either able to find another country to go to, or to be integrated into the host country.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I appreciate the Member's answer. However, I think we may not have had a meeting of the minds. I was not in any way asking him to distribute the 1951 Convention or the 1967 protocol. I was only asking, since he stated in his answer that "we are only guided in our policy by the intent of the Convention" which seems to imply that the Cayman Islands Government has a policy guided by the intent of the Convention.

I wondered if the member would share with us what the policy is.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe a part of my last answer gave an explanation of that, however, let me reiterate for clarity. I suppose the case that is perhaps best known is the case of the approximately 1200 Cuban migrants that arrived here in the Cayman Islands in the mid 1990s. Many of them asked for political asylum. A representative of the UN High Commission on Refugees came to the Cayman Islands. A screening exercise was carried out and so our policy is that we would screen persons requesting political asylum.

If they are deemed to be political refugees, then the country will as it were, take them in, assist them until they are able to care for themselves.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Is the Honourable First Official Member saying that the Cayman Islands Government does not have a specific policy on political asylum seekers and that we simply revert to the UK's obligations and we then take the situation from there?

The Cayman Islands Government knowing, as he alluded to, have had influxes of political asylum seekers from our Communist neighbour that have caused us tremendous amounts of money. Therefore, can the Cayman Islands Government say if we have a distinct policy as he said, that is guided by the intent of the conventions laid down by the UK?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** There is no local legislation to govern this. As mentioned earlier, we are guided by the 1951 Convention and its protocol.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** The First Official Member made reference to the Cuban situation. In the past when we thought of political asylum seekers we usually referred to the neighbours he mentioned. However, Cayman has quite a few longstanding ties to those people. I assume the decisions made took all of that into account.

More recently, we have had cases of asylum seekers from much, much further away—in particular, referring to the asylum seekers from Afghanistan. When he mentioned screening of those individuals, what is the status of that case? What stops us from getting more asylum seekers from those areas coming here? From our understanding, it is virtually impossible to screen those individuals because it is very difficult to get information from those countries. What is our policy in regard to that?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The case the Member referred to of the three Afghans is a most unusual case. He is aware that the matter was dealt with through the courts. The current position is that while immigration authorities in Cayman have interviewed them, we have requested and await the arrival of a representative from the (United Nations High Commission for Refugees) UNHCR familiar with the jurisdiction from which they came to interview them

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable First Official Member say who bears the cost of these representatives coming to Cayman?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The cost is borne by the UNHCR.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Earlier, the First Official Member referred to the fact that the Cayman Islands Government would assist those granted political asylum until they could care for themselves. Would he outline the format, and how far reaching is this assistance?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I suppose I can refer to the instance of the Cubans that came to Cayman again. For the benefit of legislators and the listening public, of the approximately 1200 (1184, I believe) migrants that came, 42 were deemed to be political refugees. Government assisted those 42 with housing, food, medical care, et cetera, until they were able to either move on to another jurisdiction—and most of them have—or else to get employment in the Cayman Islands.

I think there is a handful left and it is my understanding that they are no longer a financial burden, for want of a better word, on the Cayman Islands Government.

**The Speaker:** Three additional supplementaries.  
The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I know the Member referred to the fact that the last case was decided through the court. It seems that over a period of time we have come to some sort of an agreement with our Cuban neighbours. I daresay that a precedent may have been set with the case that took place through the court.

Are there any plans for a change in policy or legislation to stop what could possibly be a stream of asylum seekers coming to the Cayman Islands from distant other jurisdictions, where it is very difficult for us to assess them?

In this last case we bore the cost of maintaining them and the cost of a hearing through the court. Even if we could repatriate them, it would be very expensive and very difficult as well. Is there any policy or legislation to prevent such reoccurrence?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** In the case of the three Afghans, the court aspect was really dealing with their detention and, as the member would know, they were detained at Northward Prison. The matter of their future will have to be dealt with first of all when the representative from UNHCR arrives, and a determination is made if they are indeed political asylum seekers. Then, the question is of repatriation. The Member made reference to the very difficult task.

In regard to the question of a change in policy, the fact is that requests by asylum seekers (and we get these requests from time to time) are turned down and simply not entertained. These three, as the Member will know, came in under very unusual circumstances. In fact, we are still trying to determine the situation of their arrival. However, I do not believe that the country needs to be unduly alarmed about us getting an influx of asylum seekers.

In the case of the Cuban situation, I led a delegation to Cuba and negotiated a memorandum of understanding with the Cuban Government. Any Cu-

bans that arrive here are repatriated. I will say that the Memorandum of Understanding works; it has been put into effect and used three or four times.

It is true that it seems we are stuck at the moment with these three Afghans, however, I do not believe the country has to worry about an influx of people coming in requesting political asylum. We simply will not entertain the requests.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Is it my understanding, although nothing was mentioned in the substantive answer, that there is a policy in regard to political asylum seekers from Cuba?

When persons with a different language and culture come here and do need assistance, how long do we give assistance? Even if they met the criteria and were able to stay here, this could be an extremely burdensome situation in regard to the person fending for himself and becoming a productive part of the Caymanian society.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I will be pleased to circulate the memorandum of understanding which has been signed with the Cuban Government to members.

In respect of the language barrier, I alluded in the beginning to the size of the document (the 1951 Convention), I did that purposely to say it is a very lengthy document that I would not try to paraphrase. There is a section in it that refers to persons that come here who speak a different language. While the UNHCR does not readily use this section, what it says is that persons may be moved to a jurisdiction where their language is spoken. So, for the sake of argument, a person coming here that speaks Spanish, that is not the national language here, the person may be moved to a jurisdiction that does speak Spanish.

There are a number of things in the Convention that can be applied in those situations.

**The Speaker:** Are there any further supplementaries?

If not, we move on to question 72, standing in the name of the Fourth Elected Member for West Bay.

#### QUESTION NO. 72

**No. 72: Mr. Cline A. Glidden Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what is the total number of work permits currently issued by government in (a) Grand Cayman; (b) Cayman Brac; and (c) Little Cayman.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The total number of work permits currently issued by the Government in Grand Cayman is 14,539. In Cayman Brac and Little Cayman the total number is 580. The department does not keep separate work permit records for Little Cayman. These figures include annual work permits, six-month work permits, and temporary work permits.

#### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Would the Honourable First Official Member say what categories those work permits actually fall into, those relating to Cayman Brac and Little Cayman?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** For the Cayman Brac and Little Cayman there are 58 temporary work permits; 34 six-month work permits; 157 grants of annual permits; and 331 annual permits that were renewed.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say what industry category these fall into? Is it domestic, construction, professional, et cetera?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** These permits are right across the board—professional, managerial, domestic, gardeners, construction workers, et cetera.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** If the Member does not have this information readily available, I would be more than happy if he would give an undertaking to provide it. It is of much interest to the Second Elected Member for Cayman Brac and Little Cayman and me. These statistics would show whether or not these are jobs that local Cayman Brackers either do not want or are not qualified to take.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I will be happy to undertake to provide those statistics.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** My question is very similar. Since a few weeks ago we discussed budgetary requirements for Cayman Brac and Little Cayman and the fact that there was not a lot of work going on there, and the need for some additional funding for PWD to provide work. I wondered whether the requirements for issuance of work permits in Cayman Brac and Little Cayman was as it is here and ensured that there are no local people who could perform those jobs before the permits are issued.

Without knowledge of the exact population, given the fact that 580 work permits were issued, it does not appear to be necessary for additional funding to provide work. There seems to be quite a bit of work going on there. I would be interested in seeing where those work permits are as well.

**The Speaker:** What is your question?

**Mr. Cline A. Glidden Jr.:** Is the criteria used in Cayman Brac and Little Cayman the same as that used in Grand Cayman for the issuance of work permits?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Yes, the criteria are the same in Cayman Brac and Little Cayman as in Grand Cayman. I should point out for the benefit of the public and I think the Member knows, there is an immigration board for Cayman Brac and Little Cayman, where the criteria would be the same. I will be pleased to make those statistics available to everyone.

I would hasten to add that these statistics included work permits that were issued for employees of the company that did the work on the resurfacing of the Gerrard Smith International Airport, and those employees have now left. The figures as shown here are a bit higher than they would be if we took the figures today. Those persons were brought in for a specific period of time and have now left the jurisdiction.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I would just like to point out to this House that when you compare the permits issued in Grand Cayman (14,539) to a population of 37,473 (which is 38.8 percent) the 580 permits in Cayman Brac and Little Cayman in relation to the population of 1937, which is only 29.9 percent is not that the permits in Cayman Brac and Little Cayman are extremely high compared to Grand Cayman.

Is the Honourable First Official Member in a position to indicate how many permits were in that temporary situation he related?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I have to say that I do not have the details of the actual number of permits issued specifically for the job at the airport. However, I know the number was not insignificant. It was a sizeable number of persons who came in specifically for the job and left at its conclusion.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** The statement made a while ago in reference to the 14,000 permits, was exactly my point. Five hundred and eighty permits in a smaller industry, done in comparison to what we have in Grand Cayman ... for the amount of activity in Cayman Brac and Little Cayman. It appears to be a substantial amount, yet the percentage is a little less than what it is in Grand Cayman.

When we look at the 58 temporary and 34 six month permits, I assume then that those would have been included in the airport permits?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Yes, that is correct.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** That accounts for 92 of the 580.

In regard to work permits in Cayman Brac and Little Cayman, can the Member tell us the rationale behind having a separate immigration board to deal with those matters?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** For a long time it was felt that if Cayman Brac and Little Cayman had its own board. Members of the public on those Islands would have a more intimate knowledge of the situation in regard to labour, or the lack thereof. They would be in a better position to make decisions in regard to the granting or refusing, as the case may be, of applications for work permits.

I believe that it has proven to be correct that persons serving on the immigration board for Cayman Brac and Little Cayman will be able to give firsthand information on the employment situation. It is a bit unfair to expect members in Grand Cayman to have

full knowledge of the situation. So, I think it was the correct decision to amend the law to allow an immigration board for Cayman Brac and Little Cayman.

**The Speaker:** Moving on to question 73, standing in the name of the Third Elected Member for George Town.

#### QUESTION NO. 73

**No. 73: Dr. Frank S. McField** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs (a) when the matter of parole for inmates at Northward Prison was being reviewed in 2000, was the parole of lifers also reviewed; and (b) what was the outcome of the decision in regard to the lifers.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** (a) Parole for lifers was considered when parole for other inmates was reviewed; and (b) it was, however, decided to defer the introduction of the guidelines for parole of lifers at that time.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Would the Honourable First Official Member say if a decision has now been taken to deal with the introduction of guidelines for parole for lifers bearing in mind, in particular, the human rights implications wrapped up in a situation where people are detained indefinitely with no indication as to whether their detention is for the remainder of their natural life, or if there is some hope for release?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** First of all, to put the matter into perspective, the decision on parole for lifers is a decision for His Excellency the Governor acting in his sole discretion.

His Excellency is of the view that he wishes to consult with the Members of the Legislative Assembly, both elected and official, before taking this decision. He has already discussed the matter briefly in Executive Council, but proposes to shortly meet with all Members of the Legislative Assembly and listen to views before making his decision.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I am indeed happy to hear of this new policy approach by His Excellency the Governor involving us in participation. I would ask the First Official Member if he can say if this would be applicable only to his sole decision or to other decisions as well.

*[Members' laughter]*

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I will not attempt to speak for His Excellency. He is quite capable of speaking for himself. Perhaps when he comes down to meet with Members of the Legislative Assembly the First Elected Member for Cayman Brac and Little Cayman might want to direct that question to him. However I believe that much can be gleaned from the advice and counsel of the representatives of the people of this country and His Excellency is very aware of this and will want to hear from each and every Member before making his decision.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I am also just as happy as the First Elected Member for Cayman Brac and Little Cayman.

Would the First Official Member tell us about the other review of the prison that was done earlier this year? Is that forthcoming? Was parole also a part of that review?

**The Speaker:** I think that is somewhat outside the ambit of the substantive question, however, if the First Official Member wishes to answer, he may.

The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Just by way of information that report, and it is a fairly extensive report, is now in hand. It will shortly be going to Executive Council after which it will be tabled in the House. I would prefer not to comment on the details of the report, but the Member can be assured that it will be tabled here in the Legislative Assembly shortly.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I guess you know I am not happy about this.

What I would like to ask the Honourable First Official Member is why have steps not been taken to get the input from the parole board in regard to this very important issue? Why is it being considered that the views of Members of the Legislative Assembly are more paramount than those of the parole board?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The fact that I did not refer to the Parole Commissioner's Board does not mean that His Excellency is not going to consult, or has not consulted with them. They are his advisory commissioners on matters of parole and I am sure he will have input; if he has not already done so, from that group.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** The First Official Member said that it is His Excellency's sole right, under the Constitution I think it is implied, to make decisions regarding lifers. Can he say whether his involving the Members of the Legislative Assembly is consistent with his having this sole responsibility? Or is it that he can exercise sole responsibility in whatever manner he chooses to?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe that the Member may be asking for my opinion here. I am not legal advisor to His Excellency. However I believe that (and this is my opinion) His Excellency can seek advice from persons he feels are in a position to give him advice and counsel. I am pleased that he is going to seek the advice of legislators, because I think legislators will have the pulse of the people. Elected Members of the Legislative Assembly are put here by the people and are in a position to express views and I believe will express sound views to his Excellency.

**The Speaker:** Two additional supplementaries.  
The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable First Official Member say that he has not just demonstrated the need for Constitutional change in this country?

*[Laughter and interjections]*

**The Speaker:** I think that is asking for an opinion.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Here is mine—yes!  
Mr. Speaker, when I said that I was happy, that came from the fact that the First Official Member said that the Governor was going to seek opinions from the legislators. I just wanted to clear the air on that one.

He said that soon the Governor would be seeking advice. Can he put a timeframe on that?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe it is very possible, although I do not think the Governor has actually requested yet, that this could happen as soon as late next week, or certainly the week after. It is very soon.

**The Speaker:** That concludes Question Time for today. Proceedings are suspended for 15 minutes.

## PROCEEDINGS SUSPENDED AT 12.10 PM

## PROCEEDINGS RESUMED AT 12.35 PM

**The Speaker:** Please be seated.

The next item on the Order Paper is Government Business, Bills, Second readings. Continuation of debate on The Judicature (Amendment) (Costs) Bill 2001.

The Third Elected Member for George Town.

## GOVERNMENT BUSINESS

### BILLS

### SECOND READINGS

#### THE JUDICATURE (AMENDMENT) (COSTS) BILL 2001

*(Continuation of debate thereon)*

**Dr. Frank S. McField:** I rise to give this Bill support and also to mention the fact that it appears that the courts might be able to exercise some type of authority regarding granting the Crown costs. I think that is welcomed, especially when we are looking at things like money laundering cases that will last three months and be expensive. We see that in a lot of these cases, companies are being liquidated. Liquidators are making millions and millions of dollars and our judicial system has to go into gear to adjudicate and at the end of the day the expenses are on the Crown, which means on the people.

I would be happy to see that this is done. I think it is timely that this Bill be brought and given approval by this House.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

If not, would the Mover like to exercise his right of reply?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you and I thank the contributors to the debate for what they have said in support of this long awaited amendment which will facilitate the making of modern and appropriate rules regarding costs which are efficient in operation.

It also clarifies that, subject to this Law and those Rules of Court, costs in relation to civil proceedings in the Court of Appeal and the Grand Court are to be in the discretion of the court.

Provision is also made, as I mentioned, for the court in criminal or civil proceedings to disallow certain costs if they are regarded as wasted costs or to require wasted costs to be met by an attorney or foreign lawyer. Wasted costs are defined as costs incurred by a party as a result of any improper, unreasonable, or negligent act or omission on the part of an attorney or foreign lawyer; or which the court considers it unreasonable to expect that party to pay in the light of any act or omission after the costs have been incurred. Therefore, in an indirect way, the ability of the court to sanction the conduct or misconduct perhaps of litigation is a very useful attribute.

As these Rules of Court are published and set out the cost of litigation in civil proceedings, this will lead to greater understanding of the implications of undertaking civil proceedings. As has been said, costs will be set at a level that is current and therefore this appears to be a needed reform and conducive to the operation of civil procedure in the Cayman Islands.

Accordingly, I commend the Bill for further consideration by the House.

**The Speaker:** The question is that a Bill entitled The Judicature (Amendment) (Costs) Bill, 2001 be given a second reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE JUDICATURE (AMENDMENT) (COSTS) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** At this time we have completed the second reading of Bills. Is it the wish of the House to go into Committee or take the luncheon break?

We shall suspend until 2.15 pm.

**PROCEEDINGS SUSPENDED AT 12.42 PM**

**PROCEEDINGS RESUMED AT 2.36 PM**

**The Speaker:** Please be seated.

We shall now go into committee to consider The Penal Code (Amendment) (Incest) Bill, 2001, and three other Bills.

**HOUSE IN COMMITTEE AT 2.37 PM**

**COMMITTEE ON BILLS**

**The Chairman:** The House is now in Committee. With the leave of the House, may I assume that as

usual we should authorise the Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk state each Bill and read its clauses?

**THE PENAL CODE (AMENDMENT)  
(INCEST) BILL, 2001**

**The Clerk:** The Penal Code (Amendment) (Incest) Bill, 2001.

Clause 1. Short title.

**The Chairman:** There is an amendment to Clause 1.

**Hon. David F. Ballantyne:** I move that Clause 1 be amended by deleting the word "(Incest)" where it appears in the Bill so the Bill would have a short title "Penal Code (Amendment) Law, 2001."

**The Chairman:** The question is that Clause 1 be amended by deleting the word "(Incest)". If there is no debate, I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 1 PASSED.**

**The Chairman:** The question is that Clause 1, as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 1 AS AMENDED PASSED.**

**The Clerk:** Clause 2. Amendment of section 144 of the Penal Code (1995 Revision)—Incest by males.

**The Chairman:** There is an amendment to Clause 2.

**Hon. David F. Ballantyne:** I move that clause 2 of the Bill (to be renumbered as clause 5) be amended. In subsection (1) the expression 'five years' has been repealed and the following substituted "*if the offence is with a girl under 13, for life, otherwise for twenty years.*"

In subsection (3), by inserting after the word "offence" the words "*and liable to imprisonment if the offence is with a girl under 13 for ten years, otherwise for seven years.*"

**The Chairman:** In accordance with Standing Order 52(7), "**The Chairman may refuse to put an amendment which appears to him to be intended**



to vary the basic substance if in his opinion the proper course is to negate the clause and propose a new one.”

Standing Order 52(8) goes on to read, “New clauses shall be considered after the clauses in the Bill as printed have been disposed of and before consideration of the schedules. The Chairman shall call on the Member in whose name the new clause stands; and when that Member has moved the clause, the Clerk shall read the marginal note of the clause and the clause shall then be taken to have been read a first time. The question shall then be put ‘That this clause be read a second time.’ If this question is agreed upon amendments may be moved, and after these have been disposed of the question shall be ‘That this clause (or this clause as amended) be added to the Bill as clause No. \_\_\_ and that the subsequent clauses be renumbered accordingly.’”

In accordance with this Standing Order, I ask that we negate Clause 2 in the Bill and proceed to take the others printed in this Bill and go back to the amendment.

**Hon. David F. Ballantyne:** Mr. Chairman, I may have inadvertently put this incorrectly. I think the amendments to clause 2 are in fact amendments; they are not altering the substance. The amendments in fact are relatively minor—Clause 2 of the Bill is to be renumbered as Clause 5; Clause 3 of the Bill is to be renumbered clause 6.

The amendment to Clause 2 of the Bill (the renumbered Clause 5) is to delete the words “**The Penal Code (1995 Revision)**” and substituting the words “**The principal Law**”; and in what was Clause 2(a), now Clause 5(a), delete the word “**ten**” and substitute the word “**twenty**.”

There are in fact only two changes, two amendments to what was Clause 2, and will now be Clause 5.

I take the Chairman’s point in relation to the new clauses, that is, the new Clauses 2, 3, and 4. They would require to be dealt with as the Chairman has correctly pointed out, after the Clauses in the Bill have been dealt with as new clauses under Standing Order 52(8).

I think the procedure being followed is correct in that we are dealing with amendments to existing clauses first and then new clauses after that. Thank you.

**The Chairman:** The question is that Clause 2 be amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** The question is that Clause 2, as amended, do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2 AS AMENDED PASSED.**

**The Clerk:** Clause 3. Amendment of section 145—Incest by females.

**The Chairman:** There is an amendment to Clause 3.

**Hon. David F. Ballantyne:** I move that clause 3 of the Bill (to be renumbered as clause 6) be amended by deleting the words “**The Penal Code (1995 Revision)**” and substituting the words “**The principal Law**”; and at the end of that clause by deleting the word “**life**” and substituting the word “**ten years**.”

**The Chairman:** The question is that Clause 3 be amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 3 PASSED.**

**The Chairman:** The question is that Clause 3, as amended, do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 3 AS AMENDED PASSED.**

**The Chairman:** We shall now go to the committee stage amendment with new clauses.

**Hon. David F. Ballantyne:** Thank you.

In accordance with the provisions of the Standing Orders, I move that the following committee stage amendments be made to the Penal Code (Amendment) Bill, that clauses 2 and 3 be renumbered as clauses 5 and 6 respectively and that the following be inserted as clauses 2, 3 and 4, as laid out in the notice.

There is a typographical error in the marginal note. It should read “amendment of section 132 of the Penal Code”, not 133. Otherwise the amendments are as stated on the notice.

Therefore, I move the insertion of these new Clauses—2, 3, and 4. If you wish, I will read them.

**The Chairman:** Please do.

**Hon. David F. Ballantyne:** Amendment of section 132 of the Penal Code (1995 Revision) 2. The Penal Code (1995 Revision), in this Law referred to as “**the principal Law**”, is amended in section 132: (A) by repealing subsection (1) and by substituting the following- “**(1) Whoever unlawfully and carnally- (a) knows any girl under the age of twelve years is guilty of an offence and liable to imprisonment for twenty years; (b) knows any girl between the ages of twelve and sixteen years is guilty of an offence and liable to imprisonment for twelve years;**” and

(B) by repealing subsection (3) and substituting the following-“**(3) It shall be a sufficient defence to a charge under subsection (1) relating to a girl between the ages of twelve and sixteen years if it shall be made to appear to the court or jury before whom the charge shall be brought that the person so charged had reasonable cause to believe and did in fact believe that the girl was of or above the age of sixteen years.**”

New Clause 3: Amendment of section 133- defilement of idiots or imbeciles “**3. The principal Law is amended in section 133 by repealing the word ‘two’ and substituting the word ‘twelve.’**”

New Clause 4: Amendment of section 143 - Indecent assault on boys, et cetera “**4. The principal Law is amended in section 143(1) by repealing the word ‘five’ and substituting the word ‘ten.’**”

The balance of the committee stage amendments have already been covered in the discussion under the new clauses 5 and 6 (that were clauses 2 and 3). As far as I can assess these amendments bring the Bill into line with the substance of the Private Member’s Motion on the issues of defilement.

**The Chairman:** The Clerk will read the new Clauses.

**The Clerk:** New Clause 2. Amendment of section 132 of the Penal Code (1995 Revision).

**The Chairman:** The question is that new Clause 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**NEW CLAUSE 2 PASSED.**

**The Clerk:** New Clause 3. Amendment of section 133—Defilement of idiots or imbeciles.

**The Chairman:** The question is that new Clause 3 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**NEW CLAUSE 3 PASSED.**

**The Clerk:** New Clause 4. Amendment of section 143—Indecent assault on boys, et cetera.

**The Chairman:** The question is that new Clause 4 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**NEW CLAUSE 4 PASSED.**

**The Clerk:** A Bill for a Law to amend the Penal Code (1995 Revision) to increase the penalties for incest and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

### **THE CRIMINAL PROCEDURE CODE (AMENDMENT) BILL, 2001**

**The Clerk:** The Criminal Procedure Code (Amendment) Bill, 2001.

Clause 1. Short title.

**The Chairman:** The question is that Clause 1 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 1 PASSED.**

**The Clerk:** Clause 2. Amendment of section 6—Sentences which courts may impose.

**The Chairman:** There is an amendment to Clause 2.

**Hon. David Ballantyne:** Yes, Mr. Chairman. The effect would be that existing clause 2 of the Bill be deleted and a new clause substituted. Therefore, that part of the committee stage amendment, according to Standing Orders should be taken after the rest of the Bill has been dealt with, if I am—

**The Chairman:** I think this one is clear enough, we can go ahead.

**Hon. David F. Ballantyne:** Very good. Thank you.

Insertion of new section—Committal for sentence on summary trial of offence triable either way. The Criminal Procedure Code (1995 Revision), in this Law referred to as “the principal Law,” is amended by inserting after section 6 the following section—**“Committal for sentence on summary trial of offence triable either way.”**

**“6A.(1) This section applies where on the summary trial of an offence triable either way a person who is not less than eighteen years old is convicted of an offence.**

**“(2) If a Summary Court is of opinion –**

**(a) that the offence or the combination of the offence and one or more offences associated with it was so serious that greater punishment should be inflicted for the offence than the court has power to impose; or**

**(b) in the case of a violent or sexual offence, that a custodial sentence for a term longer than the court has power to impose is necessary to protect the public from serious harm from him, the Summary Court may, in accordance with Practice Directions issued under this section, commit the offender in custody or on bail to the Grand Court for sentence.**

**“(3) The preceding provisions of this section shall apply in relation to a corporation as if –**

**(a) the corporation was an individual who is not less than eighteen years old; and**

**(b) in subsection (2), paragraph (b), and words “in custody or on Bail” were omitted.**

**“(4) Where an accused is committed by a Summary Court under this section the Grand Court shall inquire into the circumstances of the case and shall have power to deal with the offender in any manner in which it could deal with him if he had been convicted by the Grand Court.**

**“(5) Nothing in this section compels the Grand Court to impose a greater sentence than that which could have been imposed by the Summary Court.**

**“(6) The Chief Justice may, from time to time, issue Practice Directions relating to the power of a Summary Court to commit under this section and the procedure to be followed in such commitments.”**

**The Chairman:** The question is that Clause 2 be amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** The question is that Clause 2 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2, AS AMENDED, PASSED.**

**Hon. David F. Ballantyne:** Sorry, Mr. Chairman. I should have pointed out that the amended Clause 2 should in fact insert a new section 6A, rather than section 6 as printed. So this would need to be 6A and I will treat it as a typographical error.

**The Clerk:** Clause 3. Amendment of section 106A—Voluntary indictment.

**Hon. David F. Ballantyne:** Mr. Chairman, Clause 3, in fact, amends the principal Law by adding a new section 106A.

**The Chairman:** The question is that Clause 3 do stand part of the Bill. There is no amendment, only a new clause to it, a new part to it. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 3 PASSED.**

**The Clerk:** Clause 4. Amendment of the first schedule—Mode of trial and arrestable offences, treason, death penalty.

**The Chairman:** There is an amendment.

**Hon. David F. Ballantyne:** There is a committee stage amendment as detailed, except that in the very last paragraph of the committee stage amendment, paragraph (f) where it reads “**in paragraph (c) (now renumbered as paragraph (e))**” that in fact should be paragraph (f). It’s just a typographical error in the committee stage amendment. Paragraph (c) has been renumbered as paragraph (f). I am just pointing that out. It’s of no great consequence because it’s paragraph (c) that’s being amended.

Clause 4 amended: (a) by renumbering paragraphs (a), (b), (c) and (d) as (d), (e), (f) and (g) respectively.

(b) by inserting the following as paragraph (a) “(a) in that part of column 5 relating to section 132(1) by deleting the word ‘**Fourteen**’ and substituting the word ‘**Twenty**’; and

(i) by inserting after the words “**Defilement of girl under twelve**” in column 4 relating to that section the words “**Defilement of girl between the age of twelve and sixteen**”; and

(ii) by inserting after the words “**Fourteen years**” in column 5 relating to that section the words “**Twelve years**”;

(c) by inserting the following as paragraph (b) – “(b) in that part of column 5 relating to section 133 by deleting the word “**Two**” and substituting the word “**Twelve**”;

(d) by inserting the following as paragraph (c) – “(c) in that part of column 5 relating to section 143(1) by deleting the word “**Five**” and substituting the word “**Ten**”;

(e) in paragraph (a) (now renumbered paragraph (d)), by deleting the word “**Ten**” and substituting the word “**twenty**”;

(f) in paragraph (c) (now renumbered as paragraph (e) [typographical error, should be (f)]), by deleting the word “**Life**” and substituting the words “**Ten years.**”

**The Chairman:** The question is that Clause 4 be amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENT TO CLAUSE 4 PASSED.**

**The Chairman:** The question is that Clause 4 as amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 4 AS AMENDED PASSED.**

**The Clerk:** Clause 5. Insertion of new schedule.

**The Chairman:** The question is that Clause 5 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 5 PASSED.**

**The Clerk:** A Bill for a Law to amend the Criminal Procedure Code (1995 Revision) to change the procedure respecting the indictment of offenders, to increase the power of sentencing by the Grand Court to reflect the increased penalties for incest and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **TITLE PASSED.**

#### **THE JUDICATURE (AMENDMENT) BILL, 2001**

**The Clerk:** The Judicature (Amendment) Bill, 2001. Clause 1. Short Title.

**The Chairman:** The question is that Clause 1 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 1 PASSED.**

**The Clerk:** Clause 2. Amendment of the Judicature Law (1995 Revision)—Summons to jurors for court sessions.

**The Chairman:** There is an amendment to Clause 2.

**Hon. David F. Ballantyne:** Yes, Clauses 2, 3 and 4, by committee stage amendment are to be renumbered as 3, 4, and 5. And a new Clause 2 is to be inserted. The new Clause 2 is basically inserting a definition of money laundering offence.

**The Chairman:** Would you read the Clause please?

**Hon. David Ballantyne:** Indeed.

New Clause 2—Amendment of the Judicature Law (1995 Revision) - Definitions. The Judicature Law (1995 Revision) (in this Law referred to as the “**principal Law**”) is amended in section 2 by inserting the following new definition in its appropriate alphabetical order: “**Money laundering offence**” has the means ascribed to it in section 27(7) of the Proceeds of Criminal Conduct Law (2001 Revision).

That is a shorthand definition. Section 27(7) of the Proceeds of Criminal Conduct Law spells out the individual sections of the Proceeds of Criminal Con-

duct Law and of the Misuse of Drugs Law, thereby giving an overall definition of money laundering offence.

**The Chairman:** The question is that Clause 2 be amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** The question is that Clause 2 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2, AS AMENDED, PASSED.**

**The Clerk:** Clause 3. Amendment to section 16—Number of jurors in criminal cases.

**The Chairman:** There is an amendment to Clause 3.

**Hon. David F. Ballantyne:** There is an amendment whereby Clause 3 of the Bill is deleted and a new Clause substituted so as to separate out money laundering offences from any other type of offence. The Bill as originally drafted proposed to amend that part of the Law dealing also with murder and treason. This is to make it clear that it has nothing to do with these matters and is entirely separate.

The new clause will read: The principal Law is amended in section 16 by inserting after subsection (1) the following new subsection (1) (a) **“On trials for money laundering offences twelve jurors shall form the array.”**(b) in subsection (3), by inserting after the word **“one”** the words **“or in the case of money laundering offences, five.”** The five here refers to the number of jurors that could be lost from an array of twelve and still allow a jury to be properly constituted.

**The Chairman:** The question is that Clause 3 be amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 3 PASSED.**

**The Chairman:** The question is that Clause 3 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 3, AS AMENDED, PASSED.**

**The Clerk:** Clause 4. Amendment of section 20—Discharge of duty before verdict.

**The Chairman:** Clause 4 has an amendment?

**Hon. David F. Ballantyne:** Thank you.

Clause 4 is to be renumbered as Clause 5 to allow for the new Clause 2, and the reference to the words **“or in the case of any offence under section 22 to 25 of the Proceeds of Criminal Conduct Law (2000 Revision)”** are deleted; and the following words substituted **“a money laundering offence, as defined.”**

**The Chairman:** The question is that Clause 4 be amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 4 PASSED.**

**The Chairman:** The question is that Clause 4 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 4, AS AMENDED, PASSED.**

**The Clerk:** A Bill for a Law to amend the Judicature Law (1995 Revision) to increase the maximum fine payable by a juror who fails to answer a jury summons, to change the array of the jury in the trial of money laundering offence, and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE JUDICATURE (AMENDMENT)  
(COSTS) BILL, 2001**

**The Clerk:** The Judicature (Amendment) (Costs) Bill 2001.

Clause 1. Short title.

Clause 2. Repeal and substitution of section 24 of the Judicature Law (1995 Revision)—Costs.

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:** A Bill for a Law to amend the Judicature Law (1995 Revision) to clarify and extend the jurisdiction of the Court of Appeal and the Grand Court to make orders for costs.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** The question is that the Bills be reported to the House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED THAT THE BILLS BE REPORTED TO  
THE HOUSE.****HOUSE RESUMED AT 3.08 PM**

**The Speaker:** Please be seated.  
Reports.

**REPORTS ON BILLS****THE PENAL CODE (AMENDMENT) BILL, 2001**

**Hon. David F. Ballantyne:** I am to report that a Bill entitled, The Penal Code (Amendment) Bill, 2001, was considered by a committee of the whole House and passed with amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

**THE CRIMINAL PROCEDURE CODE  
(AMENDMENT) BILL, 2001**

**Hon. David F. Ballantyne:** I am to report that a Bill entitled, The Criminal Procedure Code (Amendment) Bill, 2001, was considered by a committee of the whole House and passed with amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

**THE JUDICATURE (AMENDMENT) BILL, 2001**

**Hon. David F. Ballantyne:** I am to report that a Bill entitled, The Judicature (Amendment) Bill, 2001, was considered by a committee of the whole House and passed with amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

**THE JUDICATURE (AMENDMENT)  
(COSTS) BILL 2001**

**Hon. David F. Ballantyne:** I am to report that a Bill entitled, The Judicature (Amendment) (Costs) Bill, 2001, was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.  
Bills, Third Readings.

**THIRD READINGS****THE PENAL CODE (AMENDMENT) BILL, 2001**

**The Clerk:** The Penal Code (Amendment) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I beg to move that a Bill entitled The Penal Code (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Penal Code (Amendment) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PENAL CODE (AMENDMENT) BILL  
2001 GIVEN A THIRD READING AND PASSED.**

**THE CRIMINAL PROCEDURE CODE  
(AMENDMENT) BILL, 2001**

**The Clerk:** The Criminal Procedure Code (Amendment) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I beg to move that a Bill entitled The Criminal Procedure Code (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Criminal Procedure Code (Amendment) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE CRIMINAL PROCEDURE CODE  
(AMENDMENT) BILL, 2001 GIVEN A THIRD READING  
AND PASSED.**

**THE JUDICATURE (AMENDMENT) BILL, 2001**

**The Clerk:** The Judicature (Amendment) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I beg to move that a Bill entitled The Judicature (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Judicature (Amendment) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE JUDICATURE (AMENDMENT) BILL,  
2001 GIVEN A THIRD READING AND PASSED.**

**THE JUDICATURE (AMENDMENT)  
(COSTS) BILL, 2001**

**The Clerk:** The Judicature (Amendment) (Costs) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I beg to move that a Bill entitled The Judicature (Amendment) (Costs) Bill 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Judicature (Amendment) (Costs) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE JUDICATURE (AMENDMENT)  
(COSTS) BILL, 2001 GIVEN A THIRD READING  
AND PASSED.**

**The Speaker:** Moving on to item 5, Other Business, Private Members' Motions. Private Member's Motion No. 12/01, Public Decency Legislation, to be moved by the Third Second Member for George Town.

**OTHER BUSINESS**

**PRIVATE MEMBERS' MOTIONS**

**PRIVATE MEMBER'S MOTION  
NO. 12/01**

**PUBLIC DECENCY LEGISLATION**

**Mr. Alden M. McLaughlin, Jr.:** Thank you. I beg to move Private Member's Motion No. 12/01, Public Decency Legislation, standing in my name, which reads:

**"WHEREAS Her Majesty, by Order in Council made on 13<sup>th</sup> December 2000, ordered, inter alia, that:**

**"Notwithstanding any statutory or common law provision in the Territory to the contrary, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of eighteen years.';**

**"AND WHEREAS the said Order has been extended to the Cayman Islands;**

**"AND WHEREAS, although the legal effect of the Order is to decriminalise only consensual homosexual acts carried on in private, there is general concern that the said Order may have an adverse effect on traditional standards of public behaviour and public decency;**

**"AND WHEREAS the people of the Cayman Islands remain committed to high standards of public behaviour and public decency;**

**"BE IT THEREFORE RESOLVED THAT Government undertakes a review of the Penal Code (Law 12 of 1975 (1995 Revision)) and any other relevant legislation to ensure that adequate provision is made therein for the maintenance of ap-**

**appropriate standards of public behaviour and public decency in the Cayman Islands.”**

**The Speaker:** Do we have a seconder?

**Mr. V. Arden McLean:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 12/01 has been duly moved and seconded. Does the Mover wish to speak to the Motion?

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

The text of the Motion indicates that this Motion has come about because of general concern in the community that the Order in Council made on 13 December 2000, which had the effect of legalising consensual homosexual acts in this country, might also have the unintended effect of encouraging behaviour which would be considered an affront to the traditional standards of public decency which have hitherto been observed in these Islands.

At the start of my debate on this Motion, I should make it plain that I do not believe that it is either the duty or the place of the state to seek to legislate morality or sexual orientation. That, I believe, is between the consenting adults who practise it and their God. I do believe that it is the place and duty of this Legislature to legislate the parameters of public decency and prescribe what activity can properly take place within the public precinct. That is the objective of this Motion.

There has been considerable public debate on *Talk Today* and in the various newspapers about the imposition of this order by Her Majesty in Council on this country. I do not give my approbation to homosexual behaviour or conduct, but it is a reality. It has existed as long as human beings have been on this planet. There are always the inevitable debates about whether one's sexual orientation is something that one can control or determine or decide upon. I do not propose to enter into that debate in the context of this Motion.

I am concerned that we ensure the standards of public decency and public behaviour which have traditionally characterised this community continue to be observed by all. The concern is not limited to acts between homosexuals; it is a general concern in relation to public decency. The Motion seeks to have the Government review the Penal Code with a view to passing legislation that outlaws acts which are perverse, lewd, obscene, or disgusting when those acts are carried on in public.

In many instances, it is very difficult to define with any precision what sorts of acts will outrage public decency. However, I believe that as a community we have a general understanding of what is permissible, what is proper in public and we know what acts outrage public decency when we see them.

To a large extent, what constitutes a community's view of public decency and what acts are considered appropriate in public will vary from community to com-

munity. While one has to bear very much in mind human rights and the reality that we will have a Bill of Rights as part of our legislation—probably as part of our Constitution in the very near future—it becomes even more imperative that we have legislation that will ensure that public decency as we understand it is upheld in this community.

As an example of the different standards of decency and proper behaviour in public, fairly recently in neighbouring Jamaica there was much hue and cry over the widely publicised nude weddings which were taking place in one particular part of that country. It was a group of individuals who came from elsewhere (principally from the United States I understand), who insisted on being married as they were born—naked!

This event caused great consternation and outrage among the churches in Jamaica and a significant portion of the population. However, what I found particularly telling about this event was that the persons who got married were not from Jamaica. They were visitors staying at a particular resort. Even the pastor was flown in for the occasion.

This is particularly significant for us because we have many, many people who visit these shores from time to time. Indeed, we know from past experience there are those among them who may wish to engage in certain conduct which to them seems quite acceptable and appropriate. However, in this relatively conservative society, such conduct is regarded as very offensive.

There is the infamous case of two cruise ships that called on these shores with a number of homosexual couples vacationing. Most of us can remember the general outrage as they paraded through the streets of George Town engaged in conduct that we regarded as less than appropriate. So, it is these sorts of events, actualities and possibilities at which the Motion is aimed.

Indeed, it goes somewhat further because in matters such as these, perception is perhaps as important as the reality. I believe it is necessary that the message be sent loud and clear, particularly in the environment where human rights, (and in this case the right to freedom of expression) is so often touted, that these rights to freedom of expression are subject to limitations. The conduct that can be carried on in executing and demonstrating this right is clearly prescribed and limited by this society's view of what is decent, proper and appropriate conduct within the public domain.

So, Mr. Speaker, with those few words, I would urge this Motion on Government, commend it to all Members and ask for their support. Thank you.

**The Speaker:** The Motion is open to debate. Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.



I was hoping that some other Member would rise and speak first because the Second Elected Member for George Town and I have gone over this.; I would venture to say, a million times since being elected. If not a million, close to that!

Mr. Speaker, I guess Miss Annie Huldah Bodden, who was a Member of this Legislature for many years, bless her soul, is today smiling in her grave and saying it is about time. I recall, when I was a very young man, Miss Annie discussed public decency laws in this country. If I search long and far enough I am sure I will find the debate by Miss Annie Huldah Bodden.

I have some serious concerns with public decency in the country and particularly where Her Majesty Government has decriminalised homosexuality in private. As stated by the Second Elected Member from George Town, this is not only about homosexuality but certainly that is the basis for this Motion.

Mr. Speaker, I do not believe that anyone in this country will be affected by the decriminalisation of homosexuality in private except those who are homosexuals. It is to their benefit that they will not be prosecuted if they are consenting adults. Certainly we have to ensure that we do not have or encourage such conduct in the public. I believe that every human being has a right to be what they want to be. However, I do not believe that every human being has a right to impose his will on others. In so saying that is why I support this Motion.

Mr. Speaker, some years ago, we heard of the Cayman Islands Government refusing entry to a passenger liner that was carrying gays. There was a lot of hemming and hawing about that. I believe we backed off somewhat when we started making excuses about not being able to accommodate them. We must be up-front and decide what we want for this country. There should have been no excuses. We should have just said, *'We don't want it'* and that would have been the end of the argument.

Too often we try to hide behind excuses in this country to satisfy a few. It was reported that same passenger made an application to the Jamaican Government to use Jamaica as a port of call. They were told that the Government had no problem with them stopping and would accommodate them but could not guarantee their safety. That was quite bluntly telling them that they were not going to be welcomed.

Mr. Speaker, I believe that and I hope that this country respects the views of individuals who want to practise such acts in private. I do. I certainly respect that if two individuals want to carry on with such behaviour they should have the right to do it in private. However, I certainly will not support that kind of behaviour being carried on in front of my eight year old out on the streets.

I believe that the behaviour of one human being can be influenced by another, thus, I refuse to support such behaviour being carried on in public. Then we talk about coming of age and why it is that we cannot

allow such behaviour in public. Well, I am sure we have all seen the marches and protests, whatever we wish to call them, all over the world particularly in the 'great' America and the Mother Country. I have no problem with them (America and the Mother Country) accepting that kind of behaviour in public but we certainly will not allow them to come here and do it. They can do as they wish in England or America but I will not support it here.

Mr. Speaker, sometime earlier this year we saw in the *Miami Herald*, a report captioned, **"Creating a festive and welcoming environment for gays and lesbian tourists is paying off handsomely for South Florida"**. Now, if it is going to pay them, then they can take the money that is derived from that. We do not want any money in this country that is dirty. We talk about the drug money; well, I think this is dirty money too.

If we allow the country to go on as is, we will then have protestors in the middle of our streets wanting rights and the use of the public beach on West Bay to have these parties as well. In that same *Miami Herald* there were two male Caymanians pictured putting suntan oil all over each other, evidently, at the same party. I am sure if we do not legislate decent laws in this country then one of these days the West Bay beach or elsewhere is going to become the site for one of these parties. It is my hope and dream that we will never see such a party in the Cayman Islands.

Mr. Speaker, we talk about gays and the rights that they should have. While I support certain rights they must have, I also recognise that I have rights that should not be encroached upon.

I also agree that heterosexuals should not carry themselves in such a manner that is unbecoming of any degree of public decency. This does not just bring the gays into focus, it also ensures that all who are residents or visitors to our shores conduct themselves in public with some degree of decency that this country has enjoyed over its many years of existence.

When I mentioned Miss Annie Huldah Bodden earlier, one of the things that Miss Annie was totally against was the wearing of swimsuits through the middle of George Town. I can hear Miss Annie, right now, saying that they barely had on anything. Well, I tell you what, I am glad she is not around today because if she thought there was not much then there is nothing now.

Mr. Speaker, I am not going so far as to call for dress codes like Miss Annie did, however I believe it certainly serves as a distraction to many people. I think people should be responsible enough to wear clothes that are decent instead of having the possibility of some of our people getting into accidents. This goes for females as well as males.

I know the Third Elected Member from George Town is going to come behind me and it is going to be interesting to hear his debate because he has the authority on the social aspect. I look forward to hearing his position on these issues. I certainly will not prolong

my debate so that maybe we can get a different perspective in understanding how this all came into being—the social aspect of decency—from the Third Elected Member from George Town, who is also a doctor in that discipline. Mr. Speaker, the Third Elected Member from George Town is a gentleman whom I respect. I have a lot of respect for his ability to articulate and I look forward to that.

I think it is understandable that people want to dress the way they want or cry out for their rights to do what they want. However, I believe it is also fair for the majority to have their rights left in tact as well. I do not believe it is fair for the majority to try to destroy or encroach on minority rights by virtue of being more powerful because of the numbers.

I know there was a previous Minister in this Honourable House who talked about cults and the reason the Bill of Rights was not put in because we would have the stuff that happened in Waco, Texas and the likes. To some extent, he was correct. In the same token you cannot be in the minority and expect respect and not also afford the majority their respect.

Mr. Speaker, in contemplating this Motion with the Second Elected Member from George Town, we talked to many people in the community and one set of people whom we spoke to was the Ministers' Association. We understand the moral aspect, in particular, the opposition they put up against the decriminalisation of homosexuality. It should not have been a surprise to anyone because we have heard of opposition from that sector of society for a very long time. They too recognise that this behaviour has been around from creation and as long as man has recorded history. That is why Sodom and Gomorrah were destroyed.

Again, I must respect the Christian values and the religious leaders in this country. I ask them to also respect the minority rights to do certain things because we would not want ours encroached.

Mr. Speaker, I support the Motion and look forward to other Members' debates. I am sure, they will be interesting, because there are a few of us, if any, who are not taught the Christian way. I might venture to say that the whole membership of this Honourable House came from the old Caymanian school, where that kind of behaviour, which promoted the lack of public decency, was taboo. We were told at a very young age what we could do and what was acceptable in society and you could not get away from these values. Many in this country may say that we are holding on to the old and will not let it go. That is not true. I am as modern as anyone else, but I am also as patriotic as anyone else. I believe that the values that were instilled in this country carried us well. It carried us to the point where we are today and I do not believe that we should sit idly by and allow others to come to this country and destroy some of those values. Those values have been instilled in us, and I guess, that is why we will be considered old people for a very long time.

Well, Mr. Speaker, I am satisfied with being labelled the 'old guard' as long as it entails maintaining the values that were taught to me and the people of this country many years ago. We can be modern. We can modernise ourselves however we should not forget where we came from because that is one way of knowing where we are and where we would like to go.

Each day, someone else comes to this country and tells us, how we should do it and how it is done over there. They never want to hear how it was done here. Well, how it was done here, I believe has carried this country and its people well. One of the things we were taught was decency and if it was not practised then the community dealt with the culprit. Unfortunately, we cannot do that today because we have too much of a diverse community. We can legislate laws and they must live by these laws when they come here. The laws of this country must be adhered to or the system will punish those people and that will be either through incarceration or expulsion.

Mr. Speaker, I urge all Members of this Honourable House to support this and let us tighten up some of the areas that may very well be slipping away from the people of this country. These are modern times, however, we still have some of the older folks who live by these principles. To throw this country headlong into the modern times and forget about the morals that were taught to us by those older folks—some are still here amongst us—is losing respect. That was one of the values instilled in people of this country: respect for others.

Mr. Speaker, I urge the Members of this Honourable House not to allow other people to come to this country and lose respect for this country. They must learn when they come here that they have an obligation and a responsibility if they so choose to co-exist with the people of this country. It may seem harsh to legislate such laws but we do not tell other countries what laws to legislate.

Mr. Speaker, I support and I commend this Motion to other Members of this Honourable House. Thank you.

**The Speaker:** Honourable Members before I call another Member, we have only thirty minutes remaining until the hour of interruption. Is it the wish of the House that we continue straight through without a break? I would recommend it.

The Floor is open to debate. Does any other Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, I rise to speak on Private Member's Motion No. 12/2001, Public Decency Legislation. I would like to say up-front that I fully support the Motion and the intention of it, as I understand it to be.

Also, it is well to say that I am from an older generation, of an age that I am extremely proud. There is a popular country and western song about, "I'm

*proud to be an Okie from Muskogee—the place where even squares can have a ball.*” I believe that if Caymanian society (speaking specifically of Caymanian society) practised some of the fun ways now — and believe me I have had a lot of it in my time but much less these days because of economic circumstances and otherwise—they would not miss out on very much.

Mr. Speaker, this Motion asks us to review the Penal Code with regards to public decency. Decency, as I understand it, deals with propriety, courtesy, proper and respectable behaviour. To behave in a manner that is consistent with the majority of the morals of the Cayman society, as most of us are aware. The question that has come quite regularly is the question of homosexuality no longer being an offence in the Cayman Islands because of an Order in Council which imposes a change of our Law on this particular issue.

Mr. Speaker, I think if that can be imposed upon the Cayman Islands we need to be very careful. It is really immaterial to me if the United Kingdom and Europe wish to behave in a certain fashion, which we find objectionable and unseemly.

I think that the Cayman Islands have always had its morals intact and they have been based largely on Christianity. We have not had much of the other religions; it has been western Christianity and people have pretty much stuck to that and it has done well for us over the years.

Mr. Speaker, the fact that other countries, may consider the biggest right that they can bestow on their society is that of allowing persons of the same gender to behave towards one another in an unnatural way, is something which I believe, we should not adopt or take lightly.

When we talk about public behaviour and public decency I take it much further than that. I take it to include what I see each day in the Cayman Islands—the way people behave and dress, which would be offensive to some. I even look at the way in which most school children dress these days, and I wonder if there is a dress code. I gather there is none in any of the schools, particularly, in the government schools.

Mr. Speaker, I have seen boys going to school in the early mornings supposedly dressed, wearing pants three times the size needed to properly fit their body. It is down below their buttocks, which exposes the underwear they are wearing. It would seem to me, Mr. Speaker, that if that is the case then the outer part, the baggy part, they are wearing to expose the underwear seems pretty useless—it should be one or the other.

I think that we have to reach a point when we are talking about decency where we apply it practically. Indeed, the school environment used to be a place that had a leaning towards discipline and inculcating certain things into young people. Now it seems to me that there has been a complete reversal in this par-

ticular area. So, when I think of decency and so on, I wonder because, to me, a school child, who is neatly dressed, clean, looking fresh and alert, as youth causes one to be, is something to be desired rather than the ragged bum-like looking appearance which goes on now. I would hope, at least, somewhere along the line the education authorities would prescribe some kind of dress code that would help that kind of situation.

Mr. Speaker, other things, which come to mind in terms of what might be acceptable behaviour, is the question of kissing. We all do that at some time, some place and somewhere. Are we going to extend that type of act to same sex individuals in the public which could confuse our young, who cannot understand why Mummy and Daddy does it and those two boys or two girls are also kissing. They do not really understand all there is to understand about these things. Are we going to allow those types of things here for us to become ‘civilised’ like the rest of the world? I am sure Europe recommends that for us here too because it is their right.

I could also think about fondling of the anatomy. Is that an acceptable display? I have not even looked in the Penal Code to try to find this and I do not know if it is really contained. I am sure the Government and the legal people will look at this. Should there be anything in our law prescribing what is acceptable from what is not in that regard even when it comes to a male and a female? To what extent is that particular thing acceptable or agreeable? These days it is highly recommended, it seems, at least, emanating out of Europe that this type of thing is quite acceptable to them. If those persons are overcome by a surge of love and affection, it is their right, you know, they can do that. Being civilised you are supposed to just walk on by as if it is not happening. If you are walking by with a child I wonder if they see that and what do they think? If they begin to work that show one another, is that acceptable?

The Seconder of the Motion spoke about the late Miss Annie Huldah Bodden, MLA, and her efforts with regards to her perception of decency. I did not agree with some of the ideas she had. I thought they were a bit extreme and I certainly agreed with some. Including the wearing of bikinis through George Town, as it was one time and to some degree now, although not as much as it was, as I can recall, in times past. Mr. Speaker, I would not tell you that I object to the sights that I see in this regard. Whether or not that is good for the downtown area and our business ... as one speaker before me said, it could create accidents as women do have a way of having that effect particularly on men. Is it possible and really suitable for a downtown business centre or is it suitable for the beach or the poolside where it was intended?

I try not to limit the scope of my understanding of public decency to just homosexuality and that type of thing. I think we have to take a bigger look at it and if we take a wider look at it, I think, there is a lot of

sense to prescribe what is acceptable to us as public decency, the behaviour in public.

I get the strange feeling that the United Kingdom is going to recommend to us the European Bill of Rights and Freedom (I think it is called). I guess the only thing that is not included in that as a right, is that which is right! So, again, I figure it is possible for me to go across to the other shore, whenever that is, and even if it is a long time without seeing some of those things in my lifetime, among them are same sex marriages. There is not the slightest doubt in my mind that is going to be recommended to Cayman or imposed upon us at sometime particularly where it might be the case where we have a whole lot of *sappy* legislators who will not stand up against that type of thing.

**Hon. Roy Bodden:** Preach brother!

**Mr. Gilbert A. McLean:** We also have the situation of where it could be imposed by an Order in Council. Mr. Speaker that is one of the reasons I personally believe we need to grow towards having more control and an ultimate say over managing our own affairs. The ultimate control, where no one can pass a law in some other part of the world, which is offensive to me in my society and says, *'look, you take this whether you like it or not'*.

We also have the adoption of children. How soon are we going to hear that two men living together as a 'man and woman' are going to be able to adopt a child who could be a male child. I think the child would be confused trying to figure out what is happening in his life. It is happening in other parts of the world. Why is it that the judges who approve these types of things cannot see a difference? I do not know, unless they themselves have a problem with discerning their own gender. These are the things which concern me because they are here and upon us.

About two or three days ago, I think, the headlines in the local papers quoted the Governor as saying, "**There has to be a Bill of Rights in the Constitution.**"

**The Speaker:** May I interrupt you for a moment?

It is my understanding that a majority would like to adjourn at this time. Would this be a convenient time for you?

**Mr. Gilbert A. McLean:** Yes, Mr. Speaker.

**The Speaker:** I would entertain a Motion for the adjournment of this Honourable House.

The Honourable Minister for Planning, Communication and Works.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I beg to move the adjournment of this Honourable House until 10 am tomorrow morning, Sir.

**The Speaker:** I shall now put the question that this honourable House do now adjourn until 10 am tomorrow, 5 July.

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

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourn until 10 am tomorrow.

**AT 4.22 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 5 JULY 2001.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**5 JULY 2001**  
**10.20 AM**  
*Ninth Sitting*

*[Prayers read by the Honourable Minister responsible for the Ministry of Health and Information Technology.]*

**The Speaker:** Please be seated.

Item 2 on today's Order Paper, Questions to Honourable Ministers and Members. Question 74 is standing in the name of the Second Elected Member for Bodden Town.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 74**

**No. 74: Mr. Gilbert A. McLean** asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development what is the most immediate requirement of the (Organisation for Economic Cooperation and Development) OECD, (Financial Action Task Force) FATF, or other such body, for the Cayman Islands' financial industry to meet between now and year's end.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** I am very pleased to confirm to this Honourable House that the FATF has now taken the Cayman Islands off its non-cooperative countries and territories list issued in June of last year. There are therefore, no outstanding requirements with regard to Cayman's compliance with the FATF 25 criteria issued in February 2000. It only remains for us to fulfil our ongoing obligations, particularly with reference to the completion by the industry of any outstanding client verification in accordance with the statutory 'know your customer' rules by 31 December 2002 or such extension up to six months as the government may allow.

The Government acknowledges with much appreciation that this achievement was made possible by the combined efforts of the private sector and the Government.

With regard to the OECD, there was an immediate requirement to undertake a 'concrete and significant action' by May 2001, which, this Honourable House will recall, was fulfilled by introducing immobilisation provisions for bearer shares. The introduction of these provisions also corresponded with a recommendation in the KPMG report of October 2000. In terms of further actions that may be required in the OECD context between now and year's end, our original commitment provided for the establishment of

a specified, Mutual Legal Assistance Treaty (MLAT) style exchange of information mechanism on criminal tax evasion by 31 December 2003. This will require a lot of careful, detailed policy and legal analysis and planning, which has already begun. We will also be seeking to ensure that implementation, when it occurs, takes into account the best economic interests of the Cayman Islands and follows international standards which are still under development and discussion by OECD member states and other interested countries.

There are two key matters raised in the KPMG report that the government wants to address between now and the end of the year and they are the independence of the Monetary Authority and the introduction of regulatory coverage for securities brokers and investment advisors. A legislative proposal on the latter has already been put out to the industry for comment and it is intended to bring the necessary Bills to the House for both matters at the first available opportunity during the current session.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Member elaborate on what is meant by outstanding client verification in accordance with the statutory 'know your customer' rules?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** This relates to retrospective review of existing business. As the Member will recall, there is a requirement for this activity to be undertaken by our financial industry whereby the existing book of business that we have in place at the time of the introduction of the code of practice which brings into effect the requirement to verify existing clients' business; that a time period be allowed to review existing business that the financial institutions have on their books.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In light of what the Member has said, would he say if this verification is for the purpose of the Cayman Monetary Authority or the banks or financial institutions or is it to report through

somebody to the OECD or FATF information on such accounts?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** It is definitely for the former, not the latter—not to make this information available to overseas parties, rather to be satisfied that the necessary due diligence procedures have been carried out on the existing client base we have in the Cayman Islands. It is to satisfy that requirement.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Member tell the House exactly the implication of the MLAT-style exchange of information mechanism?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** This envisaged that there will be an instrument or arrangements in place that will allow for the exchange of information to be provided. However, this will be upon request and not automatic and spontaneous. It also envisages a review process in place to preclude fishing expeditions.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Would the Member say if part of the advance commitment made by the Cayman Islands includes giving information on all accounts held in the Cayman Islands by persons or nationals of OECD countries?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** No, that is not the case. I will make reference to the advance commitment given to the OECD, I think it makes it quite clear. I will share what the requirement of the advanced commitment is on this aspect.

This deals with attachment part 1 “Effective exchange of information”. The Cayman Islands commits that the effective exchange of information for criminal tax matters shall become effective for the first tax year after 31 December 2003. As regards the effective exchange of information for civil and administrative matters, this will become effective for the first tax year after 31 December 2005.”

First of all, the process allowing for the exchange of information on criminal tax matters and whatever instrument or process will be put in place to allow for this will have to be agreed upon. First, as has been quite clear to the OECD, under the MLAT we are

aware that requests for cooperation with the Cayman Islands is normally channelled through the competent authority under that instrument or legislation. In this instance, it is the Chief Justice of the Grand Court.

All requests for information are being screened very thoroughly to ensure that it meets the specifics for cooperation to take place. This is what is envisaged in the case of the OECD, not automatic and spontaneous. All applications for cooperation must demonstrate whatever requirements are to be laid down to facilitate the cooperation that will be provided.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** As a condition of cooperation the Member put criminal tax matters. Can he indicate if that is defined as what is illegal by the Cayman Islands legislation or that of the jurisdictions of the OECD countries?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** That is still being worked on.

The Honourable Second Official Member, the Chief Justice and a team of persons from the United States held a meeting here in the Cayman Islands about two months ago. This is a matter that is under review in terms of looking at that definition very carefully to ensure that at the end of the day it satisfies the definition that is developed and agreed by the Cayman Islands authorities.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** In cooperation, other than under MLAT, who is the competent authority?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** We only have the MLAT in place. That is the only instrument at this point in time that I am aware of that specifies I could be wrong, this is in the legal area. What we are focusing on is the instrument that is to be developed and the process will have to be very clear in terms of the basis of cooperation. The process of screening is very important and is a matter that is yet to be finalised. That will be a condition of any exchange or agreement entered into in order to facilitate cooperation with other territories by way of sharing information.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** The MLAT is the only treaty in place; however we are aware that under the PCCL various legislations allow for cooperation of what was just amended to be the Financial Reporting Unit, a multidisciplinary unit, rather than the previously stated policing bodies. Under that amendment, who is the competent authority who vets to ensure that there is no fishing expedition?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** In response to this specific question, I would appreciate it if he would allow for assistance to be provided (under the Standing Orders) by the Second Official Member.

**The Speaker:** Sure.

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** There are at least half a dozen Laws under which assistance can presently be provided other than under the MLAT. In these cases, the Law itself specifies the relevant authority and as a general proposition, in order to obtain documents or testimony, regardless of the authority. In one or two instances it is the Attorney General, reference has to be made to the court by the Attorney General to obtain the court's approval for the provision of the information. There is a combined function between the courts and the Attorney General.

In relation to the PCCL in particular, onward disclosure by the FRU requires the consent of the Attorney General under the law as it stands. Under the Misuse of Drugs (International Cooperation) Law, which is designed to facilitate international cooperation in relation to drug trafficking offences, the Attorney General is the authority. However, as I indicated, the machinery in that law requires application to be made to the court by the Attorney General in order to obtain any documents or to provide information. Therefore, there are checks and balances in the existing system.

It is fair to say there is a variety of means of cooperation at present. It would make sense at some point and that may be sooner rather than later to try to rationalise some of these means of assistance.

For example, one of the means of assistance under the existing law is entitled "The Evidence Proceedings in Other Jurisdictions (Cayman Islands) Order, 1978" and that is a means of assistance which is available to offer help by means of letters rogatory which come through diplomatic channels, through the Governor's office from the other country. That means of assistance is limited to a request from a court, and where criminal proceedings have been instituted. Many requests will not come into that category.

If we have a request from the United States we can meet any request because of the MLAT which allows assistance at the investigation stage, as op-

posed to when proceedings have been brought. In relation to countries where we have no MLAT, we do not have quite the same capability and it is spread over a number of other laws to the point that on occasions the Confidential Relationships (Preservation) Law (CRPL) has been utilised by means of an application to Executive Council to disclose information.

You can see from the gist of my reply that there is a variety of laws from which you can ascertain the relevant authority. Most of the information from this jurisdiction is dealt with under the MLAT, as you would expect.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I note there was nothing in the substantive answer confirming "any other such body." Can the Honourable Member tell us if the relationship between the Egmont Group and the Financial Reporting Unit (FRU) has been concreted? Are we satisfied at this time that the FRU in this country is operating the way it should be? Have we also satisfied the local authorities that there can be trust placed in that relationship?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** I am going to ask if you would allow the Honourable Second Official Member to respond.

In terms of the question of trust and let me thank the Honourable Second Official Member for responding on the question posed earlier by the Second Elected Member for Cayman Brac and Little Cayman. It has been established, we only have the MLAT in place; although the Honourable Second Official Member pointed out that there are other means under other legislation by which cooperation can be provided. At the end of the day what we are striving for with the OECD and any other body that will be dealt with is to have something specific in place to make known the basis by which information will be provided.

There are two aspects to the OECD, criminal tax evasion after 31 December 2003, the instrument for the providing of that information will have to be agreed upon. The definition of criminal tax evasion will also have to be agreed.

In terms of criminal and administrative after 31 December 2005, again, the instrument will have to be agreed, and also the definition of civil and administrative.

I should just mention that the Attorney General and I will be attending a meeting of the Global Forum. This is a group of countries that advance jurisdiction to the Cayman Islands and those other that have given an advanced commitment to the OECD. This meeting will take place in Malta next week. The Attorney General attended the last meeting in France. There is a question of what instrument should be put



in place to facilitate exchange of information. This is a very slow process. It is being looked at very carefully.

Cognisance is also being taken of the recent position of the OECD in terms of what is happening. The OECD was expecting quite a number of countries to sign up by either 30 June or 31 of this month. It was stipulated that those countries that did not sign up, sanctions would be employed against them. We know that position has since changed, and that member states have gone back to their member states for consultation. We are watching that process very carefully.

Integral to this process in terms of the review is a level playing field. Notwithstanding the fact that the Cayman Islands have given an advance commitment it is not a question of backing away from this because it would not be in our interest to do so. It would not be advantageous to rush ahead and enter into an agreement before it becomes known exactly what will be expected of the international community at large, to allow us to move in tandem. This is a lockstep movement.

Members can be sure that the Cayman Islands will not be disadvantaged by entering into any form of premature arrangement. Our financial industry is one of the twin pillars of our economy and every effort is being made by the government to protect that. This means that in terms of whatever basis will be agreed upon for the exchange of information, it is one that will be examined very thoroughly and exhaustively by the government to make sure all advantages accrue to the Cayman Islands.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Both official Members stated that the only means of information sharing currently in place is the MLAT and some half dozen Laws under which assistance is given upon request through the attorney general's office. Would the Member clarify that? Does that mean that no information is currently being shared through the FRU?

**The Speaker:** The Third Official Member.

**Hon. George A. McCarthy:** Since the Honourable Second Official Member is the Attorney General and he deals with these matters, rather than giving any inaccurate information, I am going to ask if you would allow the Member to respond to the question.

**The Speaker:** Certainly.

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Let me just make it plain and clear that the MLAT is not the only means by which information can be provided to overseas law enforcement or regulators. There are a variety of Laws. It's the only treaty that is in existence, bilateral arrangement. The other Laws to which I referred allow the sharing of information.

Without broadening the subject too much, for example, the Monetary Authority Law allows the Monetary Authority to cooperate with overseas regulators in their field of business. The Proceeds of Criminal Conduct Law (PCCL) allows the FRU to cooperate with overseas FRUs, subject to certain conditions and with the consent of the person holding the position of attorney general.

I would just like to say a word about that if I may. All of these arrangements are subject to safeguards contained in the Laws themselves. For example, if cooperation would not be in the public interest, the Attorney General has the right to intervene. That means that these arrangements need to be scrutinised by lawyers to see whether the information being passed is appropriate information to deal with fishing expeditions. The Monetary Authority has its own legal advisor who performs that function. However, at the same time, requests made of the Monetary Authority are copied to my office with a view to them being looked at on the part of the public interest. We have a standing arrangement that if we do not take any objection within a certain period of time it can be assumed that we have no objection to let the thing work smoothly. However, we do have the right to intervene.

Similarly under the PCCL, information just can not be disclosed willy-nilly. I say that because the FRU is designated as the reporting authority under the PCCL and as such is the recipient point for suspicious activity reports under that Law. So it has a statutory function.

However, the onward disclosure of that information is subject to the consent of the Attorney General as are any actions under that Law, including prosecution, restraint, charging orders, deduction orders. They all require legal input. You can begin to see why it is important that there be a strong connection between the legal side of things and those in that unit.

However, regarding the disclosure of information, information is disclosed by the FRU on a confidential basis, first of all. I wanted to simply say that information can be disclosed subject to conditions. One of the conditions that is regularly imposed in a standard way is that the information should only be used for the purpose for which it is sought. If it is required to be used for any other purpose, then further consent to its use needs to be obtained. So, it is not a backdoor for tax information or any other kind of information. If information is needed, for example, to be used in evidence, and let us say the disclosure was made to FinCen, which is the FRU of the US. We would expect the US to come back under the MLAT route to request the information in the form available for use in evidence.

So, we have adequate procedures under the Laws and they are enforced to ensure that the information operates as it should.

As far as the Egmont Group is concerned, in the week before the de-listing, the FRU succeeded in having its membership application to the Egmont Group

accepted. You may recall that the Egmont group is an informal group of financial intelligence units operating on an international basis. The Egmont Group itself has a standard form of MOU (Memorandum of Understanding), which it expects its members to enter into. One of the most important provisions in that MOU is the respect that the MOU and the Egmont Group accord to the rules regarding confidentiality of the information held within a jurisdiction and provided to Egmont Group members.

One must bear in mind that we are dealing with here, not tax information exchange, but measures designed to deal with the global problem of anti money laundering. Because money laundering tends to involve a number of places, it is important to have this kind of international cooperation. It came about for that very reason. A Cayman Islands entity may be used by someone in the US to launder money into the UK. So, these are the reasons for having an MOU between Egmont Group members.

Reference was made to the local issue. An MOU has been drafted also proposed to be entered into between the Commissioner of Police and the Attorney General in order to have a proper written understanding of how the FRU will operate to their mutual satisfaction and the satisfaction of those in authority here. It has not been finalised yet, but it is being worked on. We think we have a basis upon which we can ensure that local interests are adequately satisfied. I know there will be some interest in that MOU and in due course, once it has been finalised, I see no reason why the operation of those arrangements should not be made known to this House. Anyone with a specific interest in it may address me or the commissioner on that matter. However, I am aware that on the basis of the draft as it presently is—and it is a draft I would emphasise—the commissioner finds it a satisfactory basis upon which to cooperate which is the word I would emphasise, both locally and internationally. I hope some of that information may be of assistance.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Would the Third Official Member indicate if any commitment has been made to introduce legislation for the international cooperation on all criminal matters and for the repeal of the Confidential Relationships (Preservation) Law?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development

**Hon. George A. McCarthy:** In terms of the international cooperation aspect of the question raised, I am going to ask if you would allow the Second Official Member to respond. However, on the question of the repeal of the Confidential Relationships (Preservation) Law, yes it was set out, and as the Member will recall, in the commitment letter to the OECD tabled in this

House, under the subject of transparency item 2 it was said that **“the Confidential Relationships (Preservation) Law (CRPL) (1976) is to be repealed and replaced with appropriate information disclosure legislation which will protect legitimate confidential information and maintain the soundness of the financial system.”**

Emphasis must be on **“and replace with appropriate information disclosure legislation.”** It is not a question of setting aside the CRPL and making any suggestion that the Cayman Islands will be an open book. Until a decision is taken, and the instrument is developed that will constitute appropriate information disclosure legislation, which will protect legitimate confidential information, I do not think anything will happen with the CRPL.

**The Speaker:** The Honourable Second Official Member, do you wish to elaborate on the question?

**Hon. David F. Ballantyne:** As I mentioned in an earlier reply, under the Evidence Proceedings in Other Jurisdictions (Cayman Islands) Order, assistance can be given by the Cayman Islands in relation to criminal matters, but only where the request comes from a court. Secondly, where the request relates to proceedings that have already commenced.

Other than under the CRPL and going through Executive Council, there is no other means presently of cooperating at the investigation stage in a criminal matter with any country unless it is a drugs matter which occurs under the Misuse of Drugs (International Cooperation) Law.

It is not a problem with the United States because we have a treaty with that country. We only have one treaty with one country and that is with the United States because the MLAT allows cooperation at the investigation stage in a criminal matter, provided the other requirements of the MLAT law are met. It is important to appreciate that at the moment, although most of our business tends to be with the US or North America, Canada, most requests tend to come from there, we do get requests from other countries all around the world from time to time on a lesser scale.

Unless that request comes from a court, and unless the request is in relation to matters where criminal proceedings have already been instituted (in other words, someone has been charged and is in front of a court), our hands are somewhat tied in relation to providing assistance at the investigation stage.

It is for that reason that attention was focused on this issue in the FATF report. We were not failed on international cooperation. I want to make that clear. However, the Government thought it right to give a commitment that cooperation in criminal matters at the investigation stage would be extended not just limited to drugs, but all serious crime. That would evidence our willingness to cooperate internationally against criminal activities.

How this would be done is yet to be resolved. One way would be to extend the ambit of the Misuse of Drugs (International Cooperation) Law from merely drug trafficking offences to all serious crimes. The advantage that might have would be a relatively straightforward amendment and it would be using a known procedure. That Law operates in my opinion satisfactorily in that it has an established regime for dealing with requests. It details what requests must contain, just as the MLAT Law does, it details reasons for declining requests and it requires the authority of the court before assistance can be given. However, it would facilitate the giving of cooperation at the investigation stage.

It has occasionally embarrassed the Cayman Islands not to be able to do that readily and there have been instances where we have had to resort to common law powers in order to provide the assistance. I can give a relatively recent example. Members of the House will be aware of the Montesinos Commission which is currently sitting in Peru looking into the affairs of Mr. Montesinos and others who has just been apprehended and returned to Peru as you may know from the news.

Requests for assistance in that matter were made to us. Due to the limitations I mentioned earlier, namely, that the request did not come from a court and no criminal proceedings had been instituted at that point in time, we were unable to use conventional means. We had to resort to relying on the common law which relies on a British decision in a case called Blake which concerned a British spy and we managed to take the necessary action to freeze the relevant funds in this jurisdiction in order to demonstrate our willingness to cooperate in the fight against money laundering.

It is not desirable to continue to proceed in such way, resting on the common law because there are limitations to the common law route. The House of Lords recently curtailed the Blake decision, as I understand it. So, without getting too much into the technicalities, there is a need, and a commitment has been given to enhance the ability to cooperate at the investigation stage in criminal matters. Of course, that will in due course require coming here if it does by means of an amendment to the existing legislation.

This is a relatively straightforward matter, but it arises because we do not have MLATs with everybody. It would not be necessary nor wise to have them with everybody. However, all we would be doing is putting countries with whom we did not have an MLAT and who had the need for occasional requests in a similar, but not better, position than the US under the MLAT and with similar statutory safeguards. I do not think it is anything to be apprehensive about, but it certainly needs to be explained. I hope I have given a brief outline now, but I will be happy to amplify on it at any time. This is not an issue that need be anything other than transparent. In fact it is in the interest of

transparency that we would be seeking to move ahead in this direction.

These are the only comments that come to mind at this stage. If I can assist further, I will endeavour to do so.

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

*[Moved by the Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports]*

### **QUESTION PUT: AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUES- TION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** A few months ago one of the larger clearing banks on the Island sent out a disturbing notice to its customers concerning the sharing of information. It caused quite a bit of concern in the community and there were indications that this same action would be followed by other banks. Was this action taken because of requirements to meet commitments made to the OECD or FATF? If not, what was the justification and will this be something other banks will be perusing as well?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** That very disturbing letter was one that caused some concern to me and Members of the government. I brought this to the attention of the Monetary Authority who could not establish the immediate basis on which that letter was issued. The Managing Director undertook to conduct a review. He is presently off the island and I was not able to consult him to establish how that interview had gone and what the outcome was.

I have also been made to understand that that letter has been of concern to the Bankers Association and it has not been confirmed to me that similar letters by other financial institutions will be issued.

In terms of the due diligence procedures that have to be carried out on accounts of existing customers, this is something that financial institutions will have to agree upon in terms of the process by which that will be done. However, that will not be any more onerous than the requirements for the establishment of existing accounts. What must be borne in mind in terms of the accounts on records on which that review is to be carried out is that quite a lot of the relevant information that those financial institutions should have in place is in place. It is just a question where corroborative evidence or information is required, such as documentary evidence, copies of passports, and other measures in order to establish identity of clients. These will have to be determined and agreed

upon in terms of what documentary evidence will be required. I am not in a position now to confirm that similar letters will be forwarded by other financial institutions on the Island. From what I can gather, that letter may be peculiar to that specific institution.

**The Speaker:** Two additional supplementaries.  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Would the Honourable Third Official Member say whether or not our commitment is in line with what is happening within the European Union (EU), in particular Switzerland? Just yesterday the head of the Swiss Financial Authority resigned (I think that is the third one in recent times) over disputes within the EU in regard to Switzerland's confidentiality Laws and their resistance to making any substantive changes to those.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I cannot say our commitment to review and replace our Confidential Relationship Preservation Law (CRPL) is in line with the commitment of other EU countries. We have to look at the prevailing circumstances at that time. First, I think it is worth re-emphasising in terms of the commitment to review the CRPL. It says, "**the CRPL is to be repealed and replaced with appropriate information disclosure legislation which will protect the legitimate confidential information and maintain the soundness of the financial system.**"

If you will permit me to digress to make a point, I would just like to say that the primary purpose of our CRPL is to facilitate guided disclosure. The Law states to whom information should be made available, such as a police officer of the rank of an inspector. The Law was never intended to shield criminality. However, the title of that legislation and how it has been advertised in some instances, this has allowed for a misinterpretation and a wrong conclusion to be drawn as to what that piece of legislation is about.

If we look at legislation in the UK and elsewhere, the provisions in the CRPL can be found. The provisions contained in the CRPL to allow for guided disclosure and when we talk about the MLAT, that is, to provide guided disclosure. When we talk in terms of the instrument to be put in place to allow for the sharing of information after 31 December 2003 in criminal tax matters, it is to allow for guided disclosure.

We recognise that confidentiality in terms of legitimate business is a natural requirement. In fact it is a common law. I am not a lawyer, however, I have been made to understand it is a normal common law privilege that I cannot walk into a financial institution and ask for the details of the financial information pertaining to another person. This matter is being looked at very closely.

In terms of where we stand, the emphasis will be on a level playing field. We know the OECD commit-

ment, or the booklet "**Harmful Tax Practices**", we have seen where two of the OECD countries have not endorsed the expectations as set out in that booklet. I know that negotiations are still taking place. What is being said here in terms of the review of the CRPL is that this Law is still in place. Until it is agreed upon in terms of what will be an appropriate piece of legislation that would serve as an alternative to give the necessary protection that should be in place and is expected to be in place in terms of international standards this law will not be touched.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** In light of the international pressures for exchange of information, would it be correct to say that with the passing of the financial transaction tax or revenue, we are in fact creating a master database for fertile ground for injunctions or requests for persons' financial transactions within this jurisdiction?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** If you would allow for the Second Official Member to respond to that question.

**The Speaker:** Certainly.

**Hon. David F. Ballantyne:** I think it is important to try to differentiate between the purposes for which information is provided, taking the OECD for example. The gist of their proposal is that they would like to submit requests for specific information in relation to specific individuals in criminal tax matters and in civil tax matters.

We have had discussions with our major and indeed only treaty partner regarding possible extension of the MLAT to cover certain criminal tax matters. Although it has yet to get formal blessing of government, and therefore I cannot commit government, the general understanding is by those who participated in those discussions that a satisfactory definition of criminal tax matters, or to be specific, criminal tax evasion has been reached.

I do not wish to suggest that that is a panacea. However in a country that does not have direct taxation, it is very important in my submission to be able to know the boundaries of cooperation. Therefore, it is extremely important to specify in which matters you are prepared to offer cooperation.

If we were to simply accede to the OECDs requests for cooperation on criminal tax matters, the first question I would ask is 'what criminal tax matters? The matters that your law says are criminal tax matters? All of them?' We would end up enforcing the criminal tax laws of every country in the world. I do not believe that is what we should do, or should be required to do. Therefore, we have taken great care to

try to define the extent and type of behaviour which would be appropriate to give cooperation in relation to.

Generally speaking, that behaviour consists of fraudulent, dishonest evasion of income tax. I am not going to attempt to give you that definition that would be wrong of me. However, there would have to be a criminal element by virtue of the fraudulent part and the dishonest part. There would have to be an evasion as opposed to avoidance.

We, in the English-speaking world, attach considerable significance to the difference between "evasion" and "avoidance" for very good reason. Avoidance is generally considered to be both legally possible and not necessarily legally reprehensible, whereas evasion is considered a criminal act.

Therefore, it appears to those of us who have been involved that it is in the interest of the Cayman Islands to seek to define the areas in which cooperation will be provided. We have sought to try also in the discussions to stay within the parameters laid down by local legislation. For example, where we have safeguards in that local legislation, we would want similar safeguards to apply in relation to any information sharing arrangement. So, in regard to tax matters we would not permit fishing expeditions. We would not permit a general request that was simply casting around to see what it could net. We would require there to be reasonable grounds demonstrated to suspect that a tax offence within the definition had occurred before assistance would be provided.

I am only giving you an outline of what might be the future arrangements. These discussions are ongoing with the OECD and it has been made very clear to them that although they may desire a multilateral instrument, our preference here would be for a bilateral set of arrangements, as we have with the United States. The commitment we have given is to a MLAT style approach, so that perhaps you can now see the relevance of the discussions on possible extension of the MLAT and in these areas because it would mean that we were developing from an existing base of cooperation in a defined way. In due course it would be necessary to seek to define also, as the Third Official Member has said, exactly in which civil areas cooperation would be given in order to fulfill that commitment.

I am going to come back to the Member's question, which was really directed as to whether this was a "Big Brother" scenario where the authorities were endeavouring to accumulate a large mound or database of information which was going to be available like a pot of honey for others to come and taste from time to time.

I am not aware of any such intention. Indeed, I think the laws that exist militate against that. The information that the Monetary Authority requires is for its purposes and for the purposes of corresponding overseas regulators. Only if that information disclosed criminal activity would it be really necessary for that information to be shared, and quite properly, with law

enforcement authorities. Similarly, if the Law enforcement authorities have concerns about an institution, those concerns would have to be grounded and would have to give rise to regulatory concerns before that information would be shared with the regulator. Of course, there should be cooperation domestically, that is very important. I recently did publicly mention that protocols need to be developed for this kind of cooperation. However, the information base that each authority maintains is its own information base. There is no common information base of which I am aware, nor is there any intention to have such a common database.

In conclusion, I think the financial services industry has confidence in both the Monetary Authority and the Financial Reporting Unit, and it is important to preserve that confidence. The Egmont Group recognises the importance of preserving the confidence of the industry and therefore it would be unwise, in my opinion, to do anything that would undermine that confidence because that would undermine and impact the successful operation of these respective systems. They are not the same and do not exist for the same purposes. The information is shared only when it is appropriate and necessary to do so.

**The Speaker:** Moving on to question 75, standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 75

**No. 75: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology has Government approved the various changes in telephone rates made by Cable & Wireless over the past months announced in the local media.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The answer is no. Under the terms of Government's licence agreement with Cable & Wireless, the company does not require Government approval for decreases in their rates, only for increases. Cable & Wireless merely informed Government of the changes—it did not seek Government's approval.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I would like to ask the Minister more specifically if C&W sought Government's approval for the increases to calls from fixed lines under the pretext of giving a break to persons using cellular

phones by decreasing the cost to the cellular phone, and instead adding a huge increase to fixed lines.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** This is a very good question that has a lot of merit. Though it is true that the overall bottom line of C&W may not have increased as a result of this change, I believe that technically the Member is on to something. Transferring the cost from the recipient to the calling party is technically an increase even though it may not have increased the revenue of C&W.

To further answer the question, no, C&W did not seek permission to do that.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** We understand that the C&W has been given a "sweetheart" license, giving it a monopoly. However, considering the Committee has been appointed by the Minister is the Ministry looking into this increase of rates under any or all appropriate legislation or clauses? Particularly at a point when the company is virtually getting rid of all staff, and when the cost should be reduced they continue to increase their rates?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I have already spoken to the newly appointed Telecommunications Advisory Committee, in particular the Chairman, and said that I would like for this matter to be given very urgent attention. I do not believe that C&W as a company has profited from this transaction. I believe it is a technical issue.

As a matter of fact, it is my understanding that overall they may have lost on this arrangement. However, it does seem that transferring the call from the recipient to the calling party is an increase in rates to the calling party. I will definitely be looking into this matter and asking the newly appointed committee to also investigate this issue.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say whether or not Government has received from C&W a rate comparison evaluation to see if it is revenue neutral, reduced or increased?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am not sure I fully understood the question. Would the Member repeat that?

**The Speaker:** Would you please repeat your question?

**Mr. V. Arden McLean:** Maybe I should elaborate a bit on it. When rates are reviewed, you do a comparison of what exists, where you want to go and you conclude with two different rate schedules. You see if it is revenue neutral, that is a reduction or an increase. These rate reviews are completed by very competent people and they present the company with the different scenarios of how they can achieve whatever goal they intend to pursue. Has Government received those rate sheets?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The only adjustments that have been made thus far were to the mobile phones (fixed to mobile; and mobile to fixed). There was a proposal made by C&W on 9 May which we have not approved. We have referred that to the committee to evaluate and perform the comparative exercise the member referred to.

We performed the comparison on the mobile situation, (fixed to mobile; mobile to mobile, and mobile to fixed) comparing the old rates with the new situation. Basically C&W removed the charges from the recipient party to the calling party so we have a situation similar to what exists with fixed line calls.

I can go through the details of the new position compared with the old position if Members require that, however that was made fairly clear in the news media.

**The Speaker:** Two additional supplementaries.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Is there a schedule of rates agreed to initially in the license agreement between Government and C&W?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** There is not a schedule of rates in the new agreement. This is one of the areas we will be looking at and comparing with various countries to see what obtains. The terms of reference referred to this exercise being carried out by the Telecommunications Advisory Committee.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning.

Would Members wish to forego the morning break and continue on adjourning for lunch at 12.20?

Moving on to item 4, Other Business, Private Members' Motions. Private Member's Motion No.

12/01, Public Decency Legislation, continuation of debate thereon.

The Second Elected Member for Bodden Town, continuing his debate.

## OTHER BUSINESS

### PRIVATE MEMBERS MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 12/01

##### PUBLIC DECENCY LEGISLATION

*(Continuation of debate thereon)*

**Mr. Gilbert A. McLean:** When the House adjourned yesterday, I was speaking on Private Members' Motions Private Member's Motion No. 12/01, Public Decency Legislation. The resolve in the motion is that **"Government undertakes a review of the Penal Code (Law 12 of 1975 (1995 Revision)) and any other relevant legislation to ensure that adequate provision is made therein for the maintenance of appropriate standards of public behaviour and public decency in the Cayman Islands."**

At the point where I stopped yesterday, I was speaking about the impact on the Cayman Islands of the European Bill of Rights and Freedoms if instituted, which I suggested would be done at some date not far hence. The fact that when that happens it will seriously affect life, our social conditions as far as Cayman goes, in regard to public decency and behaviour that we presently consider acceptable.

I totally support the intent of the resolve section of this Motion because I think it is extremely necessary. We know what the British Parliament has done with regard to removing the offence in our Penal Code regarding homosexual acts. It has the same power and authority to impose any other matters that relate to what is commonly termed human rights or personal rights. This is so far reaching that as far back as May of last year the British Law Society wrote a letter to its members from which I would like to quote a few parts.

The caption of the letter is "Human Rights Act." It says, **"In less than six months from now the Human Rights Act will come into force. It will radically change UK law and practice. This is because the Act will give effect in UK law to European Convention for the protection of human rights and fundamental freedoms."**

It also states, **"All legislation will have to be interpreted to comply with those rights, and common law principles will have to be re-assessed in light of them. Breach of a Convention right will give rise to a right of action and will become a defence in criminal and civil proceedings."**

All of the Commonwealth of Nations subscribe to British type law and legislation. There is no difference

in any of the countries and the Cayman Islands have to do what it is told to do, unfortunately, criticise how gleefully we do it,

To quote another part of the letter, the president, Mr. Roy Robert Sayer goes on to say, **"Let there be no mistake about it, this raft of European defined rights will impinge not only upon the behaviour of public authorities, the courts and tribunals, but also upon disputes upon all areas including contract, commercial and insurance matters, personal injury, family welfare, education, disability, mental health, immigration, property, employment, defamation, privacy, tax, housing, planning and the environment, and criminal law. It will affect every area of public and private rights."**

I suggest that that is very profound. If it is profound for the British, who have unlimited ability and access to lawyers and so forth, who are in effect part of the European turf making them stand up and take notice to that extent. The point I am making about what this impending legislation means to us and why we as legislators should become aware of it. It will influence the very thing we are debating today in regard to public decency.

Just to quote one other part. He also said, **"We will need to appreciate the complexities of convention law, some of which are at present alien to most of us."** Now, if the British are saying that, imagine what we should be saying when talking about decency laws and so on.

Further quoting, **"These concepts are novel, even to those of us who are experienced UK litigators and underlines the importance of getting up to speed before the Act comes into force."** Mr. Speaker, I understand the Act is in force. With your permission, I would like to table this document.

**The Speaker:** So ordered.

**Mr. Gilbert A. McLean:** Mr. Speaker, I have lived in the Cayman Islands all of my life, except for some occasions when I lived overseas in two different countries. I saw customs practised and the behaviour of the people. I made it a point to abide by the Laws and customs of those countries. I had my views about their behaviour, however I was only on a journey and those people had the right to do what they wanted to do in their society.

I believe we have that same right in the Cayman Islands, and I do not believe it should be threatened by Europe or any country in Europe, including the UK, to impose upon the Cayman Islands something that is offensive to our morals and to our society.

Yesterday I pointed out a few things that I thought needed to be considered by the legal authorities in the Cayman Islands. I suppose it would first be referred to the Attorney General who would order however many of his staff to deal with this matter. I hope that it will be dealt with speedily.

Let us give the British their due. From 1998, they told us these things were coming. In the usual fashion of governments of the past, and I hope it will not be the fashion of the present Government, they denied its existence and thought it would not really come. They thought if they did nothing that nothing would happen. Life is not that way.

The British government is positioning itself in its own interest in keeping with its European partners. We are but a small backyard that they also have to look about here down in the Caribbean.

I do not accept that some of the defiance of nature that is acceptable in other countries is acceptable in the Cayman Islands. We know that in Europe same sex marriages are allowed. We know that adoption of children is allowed by same sex couples. No one can tell me that at some point in time that cannot be instituted here in the Cayman Islands by edict unless we should become a sovereign nation (which we are not). Regrettably, something as simple as changing the title of Leader of Government Business and Deputy Leader of Government Business to a Chief Minister and Deputy Chief Minister, seems to be choking us and creating a major problem in the minds of some.

I would like to refer to something a young man well versed in the business of Information Technology was able to get me off the Internet in regard to Holland, the Netherlands. This was a release on 19 December 2000, by David Organ Coolidge. It related to a statement by the Marriage Law Project. It says, **“Today the Netherlands has legalised marriage for same sex couples. It’s the first country to do so.”**

It goes on to say, **“The government of the Netherlands has decided that it has the authority to redefine marriage. It has decided that ‘care’ is what makes a marriage, not the union of a man and a woman. This is a sad day.”**

It goes on, **“The sadness comes not from the fact that same sex couples will receive various government benefits; the Netherlands already made that decision by legalising registered partnerships in 1998. By creating same sex marriage Holland goes much further. It sends a message not only to the citizens, but to the world. The message is simple and direct: When it comes to marriage or children, sexual difference does not matter. In the name of equality the truth about sexual differences must be suppressed and distorted. In the name of ‘equal treatment’ the private sector will now be forced to endorse this legislation.”**

Another quote from it is, **“But now, in the name of tolerance, the government has ordered endorsement. Recognition of sexual difference is out. Family Law will become Relationship Law. Citizens must be taught they are the same and any recognition even of their sexual differences seems to be a threat.”** And we are talking about decency laws in the Cayman Islands.

I hope that most of us chosen by the people of the Cayman Islands will stand totally and utterly

against such defiance and mockery of one of the longest standing social institutions in the world. To be able to perceive, if nothing else, a physical and biological difference between the two human species that Nature, God, or whomever we choose to call it, has produced. Therefore we do not inflict on ourselves such things that are accepted in the European nations and England’s commitment to this which extends it to us.

I should never want to imagine that something like that could take place in the Cayman Islands. However, I have seen a number of things that I would have sworn could not happen, do happen. In most instances it occurred and there was not a single bleat.

I subscribe to rights for all. If persons in this or any society chose to live in an unnatural relationship, I largely treat that as their business—if it is private. When it moves into the public arena where a majority subscribe to, prefer and live by the natural, then I think it is unacceptable. I do not see any logical reasons why a minority who chose the unnatural should be given special privilege by having their behaviour highlighted, or the majority acknowledge them by statements and all such other means, as a special breed of persons who are due respect or concessions over and beyond what the majority are given.

It is a question that is going to involve all of us in this legislature getting together really soon, (particularly the new Members who form part of the Government Backbench, whom I hope will urge their Government forward) to come up with some legislation through the legal channels. I hear some countries have some very strong legislation that deals with enforcing the natural and normal western Christian way within their borders. I heard that in one such country, Scotland, and our Attorney General is from there and could find such relevant legislation if he so chooses, that legislation does indeed exist. Due to how everything is progressing, I think we need to move on this one very quickly because; in my opinion there is not a whole lot of time for us to act.

I think, too, that before this country accepts certain sociological impositions from other countries that take away from us the things that we believe in, have instituted and stand for, we should look to move far from the political and legal connections from such countries.

In reply to a question this morning, I picked up a phrase from the Honourable Second Official Member when he spoke about the “extent and type of behaviour.” I think we need to clearly define the extent and type of behaviour that we will find acceptable in the Cayman Islands. We need to do it quickly. We need to say to everyone that this is how it is going to be in the Cayman Islands.

We have had one situation where a Law was removed by Order in Council and the whole issue of privacy will highlight this whole behaviour. Beyond that, we are going to prescribe our public domain and what happens to the people who live in this country,



both Caymanian and non-Caymanian regarding what is decent and acceptable.

This is a very interesting topic. So much can be said about it. However, I think I have stated what I perceive it could include and certainly offered some of my personal opinions about the things that we are up against and have to deal with. Having done so, I would wish to state once again that I support this Motion. I think we ought to get moving on it quickly and I will give my support to any effort being made in this direction and I hope it will not take the position on the backburner if it is accepted by the Government, and we have not heard from them yet.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Private Member's Motion No. 12/01, Public Decency Legislation is asking the Government to look into establishing public decency legislation. It reads, "**AND WHEREAS the people of the Cayman Islands remain committed to high standards of public behaviour and public decency ...**" and somehow it is being assumed that those high standards of public behaviour and decency would be eroded by the Order in Council made on 13 December 2000 which states. "**Notwithstanding any statutory or common law provisions in the Territory to the contrary, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of 18 years.**"

The problem is that the Motion is asking our government to try to maintain standards that would be eroded by this Order in Council. My guess is that the government will probably find it very difficult to create public standards that would be able to achieve what most Members and persons in the Cayman Islands would like to see in the first place, that is, the maintenance of their particular ethical and fundamental moral values which in fact disagrees with the Order in Council. This fundamental disagreement is problematic to all of us. You cannot expect to get a child to do a man's job, nor can you expect to bring in minor legislation to solve the conflict that has been created by major legislation, the more dominant legislation, being in this case the enactment by the UK government.

Perhaps the exercise we are going through here will allow us to air how we feel again, and how this has hurt our sense of decency and ethical values we are able to get up and say what we do not like about the reality which is being created for us. At the end of the day, we have to honestly assess the situation and let our people know whether what we are trying to do here today will assist what it is that they would like to achieve.

Let me make what I consider to be my personal situation quite clear on this question of homosexuality. I have not developed any kind of rigid ideological position. Many people in many parts of the world seem to have developed a position, whether for or against. I

tend in my own way, if I like a person, and they are of that sexual orientation, I do not use that against them. However if I do not like the person anyway, and they have that sexual orientation, I will use that against them. So, it appears to me, how the person really is depends on my own personal relationship with that person. I am quite sure that a lot of us are of that same persuasion because it would be a lie if we said that many of us have not had dealings with people whom we knew had those particular sexual leanings. We were able during our relationship or dealings with those people to avoid any kind of reference to the sexuality, simply because that was not significant in terms of the relationship we might have had with them.

The problem of homosexuality is not a problem that is introduced to our society by virtue of British legislation. The problem is here as a result of the sexual orientation of many of our people and many of the people who work in our country. It is not legislation, instead, the lack of legislation that seems to have given us the current predicament.

What seems to have come to bear as a result of the legislation that has been enacted in Britain is our lack of ability to use the more abstract laws to identify, apprehend, and convict persons that have offended sections 142 and 143 of the Penal Code dealing with unnatural acts. The argument being made is that since the society has not relied upon legal sanctions, but more on social sanctions to deal with this problem. In fact, to remove the legal sanctions would in no way jeopardise or affect the moral orientation or the religious beliefs of this society. That is the type of justification one could see being made in this particular instance.

Although there seems to be a moral panic going on as a result of the Order in Council, that the Order in Council is virtually doing nothing more than has been done by the persons charged to use the law to protect the Order by identifying, apprehending and convicting persons that have offended the law.

It seems important in this day and age when we are being critical of the UK and of this situation, to note that there was no motion in this Parliament brought to say that the Government should become more active, more vigilant in identifying, apprehending and convicting people that were in contradiction to this particular part of the Penal Code. Never have I heard that advocated. Given this reason, the debate seems to be more a consideration of the possible consequences of this Order in Council, rather than having to deal with the issue of homosexuality. Therefore, we need to make a difference.

The premise is that if you remove the Law which represses these unnatural acts, as defined in the Law, it will cause persons to exhibit behaviour in public that will be offensive. However if society accepts that sexual acts between persons of the same sex can take place in private, then it is my submission that we will see those persons acting towards each other in public

in a way that will indicate that they are having a sexual relationship in private.

Heterosexuals do not have sex in public. Some people do not even hold hands in public. They do not display affection publicly. We can surmise that they are connected to one another and we can imagine that they must be having some kind of sexual relationship in private. It is not the display of the affection so much in public which offends people; it is the thought of persons of the same sex having sexual relationships in private. As soon as we are going to allow people to have sexual relationships in private, the public decency outcry becomes relevant. As far as I can see, this Motion cannot fix that problem.

There are persons with religious convictions that say if we watch the developments in Europe we will see that once we legalise homosexual acts between consenting adults in private that it will lead to the development of behaviour in public that will then begin to threaten those persons who might not have that particular type of sexual orientation. It will then help erode the family institution and the morals of society and will soon create a homosexual culture that will seek to gain political rights and equality in this society so that publicly there will be a manifestation of the behaviour, culture, and demand for rights and equality. That is where I can not differ with the persons that have been arguing this position because we have seen this to be the case in the cities in America where persons of that orientation have been able to gain legal recognition and legal acceptance for their behaviour. They have been able to move it away from being considered a part of deviancy and to become a part of normality.

The concept that we will have to deal with as a result of this legislation that has been enacted in the UK is very much what everybody will agree on. I just do not think that we need to think that by creating this moral panic that we are going to solve the situation. We have to decide if we are going to cut it off at the root where it will really matter. We know that if we introduce this legislation it will cause a series of events that will eventually lead within the next 15 years to the establishment of a culture in opposition to the moral and religious principles we were founded upon.

I believe that we should not allow this Motion to deflect the fact that if that happens, we have lost the cause, we have lost the fight and we will not be able to go back to it. I feel that we have been able to have coexistence in this society because no one has been identified, apprehended and convicted as homosexuals for a very long time. Therefore, it shows there was no aggressive action by the state or by individuals in our society to deal with this problem. It is unfortunate that persons must now feel that they are being criticised and victimised as a result of this particular debate.

I have tried to put this into perspective to show that the Motion calling for government to establish decency Laws might bring us into a kind of repression against the part of society that does not need to be

controlled morally at the moment, at least not by more repressive legislation.

The Second Elected Member for Bodden Town mentioned kids going to school with their pants hanging down. These have to do with school codes, with parents being more concerned about how kids choose their clothes. We want to ensure that we do not become more oppressive, especially in this day and age, trying to solve a problem that is not a decency problem. I believe that to deal with this problem we need to decide whether or not we are going to decide the UK ruling on it. I stand with the country in whatever is decided upon to do. If they decide they want this imposition, then I go with the country. If they feel that other things are more important than this in order to preserve the relationship, I go with the country. However, I cannot see at this particular point why we are talking about giving the Government the authority and the task of trying to create decency legislation because decency legislation, unless it is extremely oppressive is not going to deal with the problem we really need to deal with.

Therefore, I do not think this Private Member's Motion will serve any purpose. I will not be supporting it.

**The Speaker:** I shall now suspend proceedings until 2.00 for lunch.

#### PROCEEDINGS SUSPENDED AT 12.21 PM

#### PROCEEDINGS RESUMED AT 2.10 PM

**The Speaker:** Please be seated.

Debate continues on Private Members' Motions. Private Member's Motion No. 12/01, Public Decency Legislation, does any Member wish to speak?

**Mr. Gilbert A. McLean:** Just on a matter of procedure, I observe that the Mover has not yet returned from lunch. The Second Official Member who would be replying for government is not present. I am not quite sure how the Chair would wish to proceed, or if we should take a break, although we have just called the House to order.

**The Speaker:** I will pause for a minute, and if any Member wishes to speak in the meantime, he or she may. (Pause)

Does any other Member wish to speak? (Pause)  
Does any other Member wish to speak? (Pause)

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I rise to make my brief contribution on Private Members' Motions. Private Member's Motion No. 12/01, Public Decency Legislation.

This Motion speaks to the Order made in Council on 13 December 2000, which reads as follows: "**Not-**

**withstanding any statutory or common law provisions in the Territory to the contrary, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of eighteen years.”** We all know that this has been extended to the Cayman Islands as well.

It is my view that this legalises homosexual acts in private if two things are in existence, first that the parties are consenting and secondly, have achieved the age of 18. I am also aware that there were legislative moves afoot in the UK to decrease this age from 18 to 16. I trust that although the Labour Government seems to have the majority of support, when it reaches the House of Lords they will do away with that as they did with the move regarding section 28 when the Labour Government endeavoured to have public funds used for the promotion of homosexual education, and that it will stop there.

The Motion before us also states as a matter of fact that the Cayman Islands are committed to high standards of public behaviour and public decency. I would dare to take that one step further to say that most of the people of the Cayman Islands, if not all, are committed to high standards of behaviour and decency. I am of the view that to split the act into two categories as has been done, that is, public and private, is a major step in desensitising the public's view towards the act that I have quoted from Leviticus and Romans which is an act of abomination.

The resolve of the Motion asks for a review of the Penal Code and any other relevant legislation to ensure that adequate provision is made for the maintenance of appropriate standards of public behaviour and decency in the Cayman Islands. I must say from the very outset that I am in agreement with the basic intent of the Motion. I believe it is good. If I perceive it correctly, it seeks to put in place the necessary legislation to prevent the further erosion of these moral, cultural and traditional issues that are near and dear to our hearts.

However, I believe that one must also take a much closer look at this. For example, I am sure that as an Overseas Territory, any of the indecency laws we would seek to put in place in our respective jurisdiction would undoubtedly fall under the international human rights microscope. Based on previous experience, if any of our indecency laws do not come up to par with international expectations, perhaps we will see other Orders in Council. While on the Order in Council, I hoped I would be able to speak after the Honourable Second Official Member, so that I would be in a more informed position as to the accuracy of the actual statutory instrument passed down from the UK as far as procedural aspects were concerned. Perhaps I will listen with interest if he does that at a later time be it in this forum or otherwise.

I think that the very first step was of significant erosion here of our local, cultural and religious expectations. Although we appreciate our relationship with the UK, once we take that against the background of a

partnership, as mentioned in the White Paper, it is difficult to digest when it comes to decency Laws. The statutory instrument regarding homosexual acts in private when consensual and over the age of 18, more credence was not given to our domestic and local culture and beliefs.

Mr. Speaker, with your permission I would like to refer briefly to an article that I was able to come across when surfing the Internet this morning that dealt with the whole aspect of the influence of the European Court as it relates to the UK and, by extension, to us here in Cayman. It appeared in an article on 31 July 2000. It said, **“A London gay was in fact convicted of gross indecency in taking part in sexual play with multiple consenting adults in his home and that he was awarded nearly \$31,500 from the European Court of Human Rights, the BBC reports.”** It went on to say that the European Court ruled that the British Law that banned gay sex in the presence of one or more others was a violation to the man's right to privacy and further, that the European Court claimed that Britain's gross indecency law was discriminatory. That is, it applied only to gay men and that sex between the same sex is legal in Britain as it is now in Cayman, if it is in private between two consenting partners who are over 18 and if more people are involved, or if the sex is in public, that it is illegal.

One of the gay actors there by the name of Thatchel said that this ruling by the European Court was a historic victory on the road to gay equality. He went on to say, **“It makes the remaining areas of discrimination in sexual offences law unsustainable.”**

A lady by the name of Angela Mason from a group called Stonewall said that the ruling from the European Court drives a coach and horse through Britain's gross indecency laws. It vindicates the view of sexual offences review that this legislation highlights the right to privacy as set out by the European Court.

Finally, I came across someone who seemed to be thinking like us here in Cayman, a chap by the name of Adrian Rogers, of the anti-gay group, Family focus, who said, **“Britain needs to distance itself from Europe which is bringing down the social fabric of our society. They are giving a status to a form of activity which is less than desirable, medically hazardous and which really stands in opposition to the alternative, which is heterosexual family life.”**

The very last comment made by the editor of the article said, **“One wonders whether anything is going to remain illegal in Europe.”** I can easily concur with that opinion seeing all the liberalisation of concepts that seems to be coming out of the European corner whether dealing with morale or financial matters.

When we also take a look at what the Labour Government has been doing in the UK, starting from

their campaign promises onward, we can see that there has been a great move in effect. That is why I started off my introductory remarks talking about the desensitisation of this offence. I am quite confident that this is but a first step.

I believe, however, that I am right in saying there is still a common law offence in existence, thank God, of gross indecency, which is extremely wide. As a priority, I believe we must look at all of the areas.

One thing I learned in doing research is that apparently in the UK, for whatever reason, it was deemed under section 25 that lesbian sexual activity does not constitute an offence unless it involves a child or in the absence of consent. This article went on to say, it will **"amount to a breach of peace if offensive."** We see in their own way of thinking there is still inequality in that the gross indecency Laws seem to only apply to the gay male sector of the community, and the female lesbian sector seems to not be caught by this section." I hope when and if we get around to looking at our own indecency Laws that we will not leave such a loophole. Of course, there are also areas where children are involved with indecent publications and otherwise. Those are areas that I hope the drafters will pay some attention to as well.

I referred briefly to section 28 of the UK indecency Law and that deems the promotion of homosexuality which in the UK I am told gutted scores of local programmes when it was made Law. The Law also expressly forbids the acceptable presentation of homosexuality in government funded schools as a pretended family relationship. I am happy to report that because of the Conservative Opposition their efforts were thwarted to repeal section 28. However, I do not think the battle is over yet. In my research, it seemed that these groups were hoping for a victory for the Labour Party and were going to come forward with their efforts again.

I was also able to find a group of gay activists that seemed to be putting emphasis on the year 2001 in what they call "coming out of the closet." They were encouraging through forums and educational processes and otherwise that not only should this act be confined to private situations but they should now launch out to the next progressive step. That is why I feel that we have to be ever so vigilant to move on to get these Laws in place as a matter of priority.

I do not believe that will be an end-all because of our constitutional relationship with the UK and that we are merely a dependent territory. I feel that if very careful drafting is done that we can cover it locally or domestically. However, we need to come to that point where we are going to say to the UK directly or to the European Community that this is enough and no more. We need to come together as a nation, create a vision as to what we want as far as progress—or regress in this regard. I do not think it is in the interest of our people to sit by passively and just accept it without letting them know categorically that we are not appreciative of these things being shoved down our throats.

Like many of the conservatives in the UK we should demonstrate our outrage at these human rights campaigns. On the surface it sounds all well and good, but when we see some of the things being pushed our way so far by mandatory legislation, one wonders if the most appropriate terminology would not be human wrongs! I tend to concur with the latter.

I am cognisant of the fact that in the British Government (and basically whatever happens there happens here, it's just a matter of time) there was a move afoot in January 2001 entitled **"British Government proposes gay victim compensation."** We have seen on the news that not only have they asked for the legalisation of consensual acts done in private, but have gone on to ask for marital rights, for educational rights, instructional books with pictures depicting same sex. We do not have to go any further than the White Paper, they were so "feisty" that there are two uniformed persons of the same sex on that page. God help us when we move to the stage in our beloved Cayman Islands that our children have to be exposed to this type of education presented as an alternative lifestyle.

I believe that they are human beings. We are ordered to love them the same way, but love does not equate to endorsing the behaviour. I make no bones about it. I do not support such behaviour. We are proud to be Caymanians and proud of what has brought us thus far. I think we are going to be put to the test. One could play the devil's advocate and say there is now provision in our Penal Code for some of the indecency behaviour to be taken up by way of offence or under the common area of disturbance of the peace rather than categorising it and identifying the areas that we would like to protect. I am sure that as soon as we do that, we are almost going to be setting ourselves up for either the international forum or the Mother Country to come and say it is not in keeping with the human rights provisions they wish to put into our constitution, or the worldwide conventions.

Perhaps the more prudent approach would have been is to allow the existing Laws and marry that with the common law provision which is fairly adequate to protect against these further erosions. Then, if the Mother Country wants to do it, let her do it the way she did it the last time because maybe it will take such action again to let some of our people become more aware of this unilateral "partnership" that the UK seems to have lulled us into believing is the best thing since sliced bread.

I am confident that the majority of the Law enforcement agencies feel the way we do. It just goes to show that the problem is much bigger. We need to become more alert and aware of who we are hiring as teachers or nurses or nannies or policemen because if they are all coming with this European view, then although we put indecency Laws in place, while we are busy out at work the more fertile young minds could easily be cultivated and we will end up with a generation that has no culture as we would like them to have.

If we are into this new transparency mode, I think the Minister of Education would get full support from this Honourable House in moving towards the introduction of civic education in our schools and for ensuring that the books and information that our children in both private and public schools are given so that even if certain parents wished to have them exposed that it is given in the right perspective.

I went into that area because, having been a teacher myself, I vividly remember when religious education was just that. Due to the process of desensitisation, we are now being taught world religion with Christianity being but one option. Observing my own children's homework, it is not even being taught as Caymanian Christianity. I can go on to give a personal example, of when my son was awarded a certain grade because when he was asked how the world was created and he went on to write about the creation that we adhere to but was told it was evolution. So, it is quite easy to see how these concepts find their way in, and before long, they are the rule and Law of the day.

We must take the blinders off our eyes and do everything within our will as we are the trustees of the public, not only as that relates to the finances of the country, but as it relates to the protection of our culture, education, and the wellbeing of all of our citizens.

It was with a degree of regret that I noted how active the gay activists are. They not only have web sites, but so much information out there being lobbied on their behalf. I urge people who feel strongly about this to take an active role in educating their children as to right and wrong and that they too lobby to ensure that we are no further eroded in this respect. Quite frankly, what I would like to see happen is the Government (all Honourable Members) get together as a think tank and see what can be done, if anything, to make further representation to Her Majesty's Government to put forward the people's views. If anyone is still not fully persuaded that the majority of Caymanian people are not in agreement, I challenge the powers that be to do a referendum based on that specific question and get the statistical data necessary to substantiate the argument.

I believe that if they are really serious about this partnership, that now is the time to make the representation to them and challenge the actual procedure. If my understanding is correct I believe we should be in a position to pass appropriate legislation, if we really mean what we say as it relates to these human rights. Then the UK would be put in a position to either publicly or internationally say that the correct procedure was not done when the statutory instrument was passed and take international embarrassment, or maybe they would do the right thing and come and talk to us "natives" and see that we have been able to survive and prosper based on our Christian heritage. I have always asked why change the old for the new if the old is actually working.

We can see what is happening with the financial aspects. We have to go and bat for ourselves. I am not saying that we should be disrespectful in any way, but when it comes to survival, sometimes we have to apply the rule of survival of the fittest. I believe that if we are going to continue to survive as a little country, the beloved Cayman Islands as we know it, must eradicate the politics out of issues like this and come together as one unit and stand against these forces that would seek to negatively influence our culture and our traditions. I get so agitated when I hear people say we have so many provisions to deal with, if we have to trade maybe we can trade off some of these moral and social issues. I still believe the Good Book when it says that "he has not seen the righteous forsaken or his seed beg bread."

I believe that the same God that has taken us thus far will help to see us through, not only financially, but socially and morally as well. If we feel that because of professionalism, education, or status that we can no longer stand up in a public forum and attest to our clean God Almighty, then I think we have already lost the battle. I know that I have been criticised both by personal friends and political opponents for referring to God in such forums, but as Paul said, "I am not ashamed of the Gospel of God, for indeed it is the power unto salvation." Regardless of whether or not it offends anybody, perhaps I will apologise on that level. However, I will stand on what the Word of God says—it is an abomination. If this is but a first step in creating the indecency Laws I will support it with the condition that we must be prepared to stand by that and not passively sit by and say we cannot do anything because it is the Mother Country. We must make very significant decisions that will be in our best interest at the end of the day.

We as a people must unite on these issues or else it will be tantamount to the Jews and the Germans—if no one stands up, perhaps there will be no one to stand on other issues as well. Thank you.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** I rise to make my brief comments on this Motion. Knowing the emotions of Caymanians, I think it is a timely motion. The third Whereas says, "... **there is general concern that the said Order may have an adverse effect on traditional standards of public behaviour and public decency.**" I think the Mover hit it on the head when he said we are concerned.

The next, "**WHEREAS the people of the Cayman Islands remain committed to high standards of public behaviour and public decency.**" I think it is high time that we took this stand in the Cayman Islands.

I will not comment too much on the necessary Laws that will emanate and that will need to be put in place. I will go back to a similar approach taken by the previous speaker and some of my other colleagues and quote from the Bible.

My whole premise is whether or not we as Legislators and the majority of Caymanians believe in the Bible principles, whether we believe in God and in the Bible. If we do not believe in that, my remarks will make no difference on the outcome of this discussion.

It appears that everyone believes that Mother knows best. However, I think that *Mom* has burnt us again. Are we not yet trusted in our knowledge how best to run these Islands?

I am very concerned about what is happening not only in these Islands, but in the news just yesterday on CNN, they indicated that the powers that be are considering adding this type of lifestyle to the curriculum in the schools. I, for one, will never support that. As I said earlier, my argument on this Motion is in regard to the Biblical approach.

When we look in Genesis 1: 27, 28, it says **“God created man in his own image. In the image of God he created him, male and female.”** He created Adam and Eve. He did not create Jimmy and Johnny!

*[Members’ Laughter]*

It goes on in Genesis to state the reason for creating male and female—procreation. **“Be fruitful and multiply.”**

People will criticise and say that is in the Old Testament. I will now refer to portions of the New Testament where this is addressed. I know my colleague, the First Elected Member for Cayman Brac and Little Cayman, spoke on this section of the Bible.

Quoting Romans 1: 24-28, **“Wherefore, God also gave them up to uncleanness through the lusts of their own hearts to dishonour their own bodies between themselves, who changed the truth of God into a lie, and worshipped and served the creature more than the Creator who is blessed forever.”** We either believe in the Lord or we throw out everything we are doing and the Christian heritage where most of us Caymanians came from.

**“For this cause God gave them up onto vile affections, for even their women did change the natural use into that which is against nature. And likewise also the men, leaving the natural use of the woman, burned in their own lusts one toward another; men towards men, working that which is unseemly and receiving in themselves that recompense of their error which was met. And even as they did not like to retain God in their knowledge”** and this is happening around us on a humongous scale, Mr. Speaker! Going away from that which has brought us our success.

**“God gave them over to a reprobate mind for those things which are not convenient.”** Does that sound familiar, Mr. Speaker? Does it sound like what is happening in this world today? I may have special feelings towards some of these people, but when you

read Romans 2:32 the Lord is not as kind as I would like to be. He says, **“Who knowing the judgment of God that they which commit such things are worthy of death.”**

Yes, there are those out there who will call me a right winger or whatever, but as long as I breathe the breath of life I will uphold the teachings that my ancestors taught me, and this was not a part of it. Homosexuality was not a part of my upbringing.

Just a few years ago, the former Minister of Tourism stopped a cruise ship with several hundred of them on board from coming here. There was a huge outcry from some of these people. However I took faith when some of the officials from the US communicated to us saying they were glad that we took that stand because we were standing up to a vocal minority. They said they wished that some of the leaders in the US would do the same thing.

I am made to understand that immediately after that the trend was noted that you could see many more family members with children coming here visiting the island. I am proud we took that stand and I hope with the help of God we never go back and try to encourage that type of tourism. Money is not everything. When we lose our souls and our young children and when you look at the lifestyle that goes along with this I will say no more.

You talk about loving the people? Yes, Mr. Speaker, we can love the sinner, but as upright people we must not love the sin! We cannot tolerate it.

I am glad that the Second Elected Member for Bodden Town brought this Motion. It is time we did something. If we listen to our dear “Mother”, we needed her, Mr. Speaker, when we were invaded by over 1200 Cubans! What did Mother give us? One hundred and twenty five thousand dollars worth of tents!

We need strong support to keep our society from collapsing from within. I will take you back to what happened in Sodom and Gomorrah, and the main sin that took place there.

In closing I will say that halfway to heaven is the whole way to hell. Homosexuality is wrong by Bible standards. No matter how much reasoning we may use to justify this lifestyle—whether in private or not—God said it is wrong. I maintain His rulings. As for me and my family, we shall obey the Lord. Thank you.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** With all that has been said concerning this Motion and all the references from the Good Book, it is hard to add anything to that. However I wanted to rise and offer my support to this very timely Motion.

We have heard many varied opinions as to what we can and cannot do when it comes to morality and

public decency legislation. I would like to clearly state that I do not think that we should be attempting to legislate morality. I feel that when it gets to the stage that we have to legislate morality that we as a nation will have lost the fight. However, I do feel that when attempts are made to erode the moral teachings that have been taught in the Cayman Islands and that have allowed us to be successful we as Legislators have a responsibility to try to create legislation that will appease the majority of the population. As the Second Elected Member for George Town said, the Mother Country obviously does not know what is best all the time.

I note that the Mover of the Motion said it was not about homosexuality. I share with the Third Elected Member for George Town in saying that I have quite a few friends who I feel may be so inclined. I do my best not to judge or discriminate because when we refer to the Bible we note that judging is also a sin. There are many other sins referred to in the Bible that society tends to accept as okay. I do not think that is the track we should be following.

When it comes to the legislation imposed by the Order in Council for decriminalising consenting adults of the same sex in private that was one of the most hotly debated topics. These are great Islands and while most people were not supportive of the Order in Council, I feel that Caymanians have accepted that it would not be worth letting our relationship with the Mother Country deteriorate. One option the people who elected us here would expect us to take would be the enactment of local legislation that would protect them from some of the ills associated with this Order in Council.

I think that is what the Mover and Seconder of this Motion had in mind. My reason for supporting this Motion is strictly with that feeling. Whatever we can do to hopefully restrict the negative effects of the Order in Council and the affect it will have on the general public by allowing what would be seen as indecent activities in public, I think if that is achieved by this Motion then one of our goals would have been achieved.

We know that we could go back and forth over what is and what is not decent. We could even tie this into decent and indecent dress codes. That would entail a lot of personal opinion. I know this legislation will not be easily accepted, and I fully expect that it will not cover all areas that it could possibly be expected to cover. However it will at least be a start in the right direction. As with all other Laws, it will require amendments as times change.

When we talk about the homosexuality issue and the ships coming here, I think some of the other speakers mentioned that even though we may be able to prevent people coming here as visitors or tourists, our indications from the press are that we have people with those sexual preferences who have been born and bred here in Cayman. I think it is high time for us to realise that while hard to accept, as it was with gangs and crime, that we can no longer blame outsid-

ers and tourists, saying it is a problem in those other countries. We have to accept that it is a part of Cayman society. Regardless of their sexual preference, they are still Caymanian.

Therefore, in supporting this Motion, I want to make it clear that I realise that those individuals do exist and reside here in Cayman, they mix and mingle with us on a daily basis. I feel that they have their rights to their sexual preference, however I also feel that those preferences should not have a negative impact on other Members of society that do not endorse that type of behaviour.

When the Penal Code is reviewed, I feel we will be on the right path if we can do whatever we can to ensure that the majority of our society is comfortable. With those short comments, I end my contribution to this debate. I look forward to hearing the Honourable Second Official Member's contribution and supporting this Motion.

**The Speaker:** Does any other Member wish to speak? (Pause)

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you.

This has been quite a wide-ranging debate, and it is obviously a very broad topic. That is one of the difficulties presented by the Motion as framed. I am not going to suggest it be amended, but just to draw attention to the fact that the resolve section of the Motion asks that the Government "**undertakes a review of the Penal Code (Law 12 of 1975 (1995 Revision)) and any other relevant legislation to ensure that adequate provision is made therein for the maintenance of appropriate standards of public behaviour and public decency in the Cayman Islands.**"

At the risk of adopting the position sometimes adopted by the Third Elected Member for George Town, I would venture to suggest that it is unreasonable to look to the Law alone to do what the Motion itself seeks to do, which is the maintenance of appropriate public behaviour and public decency in the Cayman Islands. In fact, I would suggest that the Law should reflect those standards of public behaviour and public decency, which implies (if I am at all right in this) that those standards need first to be identified and articulated before they can be reflected in a Law.

I do not think it is the expectation of this House that the legislative draftsman would go away and think about this question and come back with provisions designed to reflect the consensus of this society.

That leads me to say that it will be necessary to undertake some work in this regard if this Motion is accepted, which it is the Government's intention to do. That work will take some time. The best estimate I can give is that in my opinion, it would take about six months to bring forward proposals for legislation. The reason for that is in my submission an attempt will have to be made to define what those standards are

and what and how that translates, or should translate into Law insofar as it is not already in the Law.

In that regard, reference has been made to the Penal Code. If one has regard to section 142 of the Penal Code, for example, you will find there and in associated sections (and we have been looking at some of them when increasing penalties for sexual offences), but section 142 (1) in particular, deals with unnatural offences. It talks about this, **“Whoever has carnal knowledge of any person against the order of nature, or has carnal knowledge of any animal or who permits a male person so to have carnal knowledge of him or her is guilty of an offence and liable to imprisonment for three years. (2) Whoever attempts to commit an offence under subsection (1) is guilty of an offence.”**

Section 143(1) **“Whoever unlawfully and indecently assaults a boy under the age of fourteen years is guilty of an offence and liable to imprisonment for ten (previously five but amended) years.”**

I am only citing these as examples of offences against morality as contained in the 1995 Penal Code. However, it is not just offences against morality and it is not just physical offences with which this Motion is concerned. For example, under the Cinematograph Law there is a provision in section 5 to the effect, **“Whoever exhibits by mutoscope, cinematograph or similar apparatus any exhibitions of pictures or sound effects of a blasphemous, seditious or obscene nature is guilty of an offence and liable on summary conviction before the magistrate to a fine of one hundred dollars and to imprisonment for six months.”**

Similarly, under the Broadcasting Law, section 12, **“It’s the duty of a licensee to ensure that the programmes broadcast by him include nothing which offends against good taste or decency, is likely to encourage or incite to crime or lead to disorder, or to be offensive to public feelings, or which contain any offensive representation of or reference to a living person.”**

I draw attention to these provisions to indicate that it is not just offences involving physical contact that are required to be taken into account. These other measures are as I understand it expressions of what are considered to be appropriate standards of public behaviour. Even with the exception of the physical offences, they do not actually define what obscenity is; they do not define what would be offensive to public feelings. It may be that in the broadcasting area, for example, there may be a need for something like a complaints commission to whom reference might be made and who might adjudicate and be the arbiters of these things.

However, I have to say that the Motion as framed does focus on the Order in Council made by the UK. I feel compelled to address that aspect of the background to the Motion because it does say, **“WHEREAS Her Majesty, by Order in Council**

**made on 13<sup>th</sup> December 2000, ordered, inter alia, that:**

**‘Notwithstanding any statutory or common law provision in the Territory to the contrary, a homosexual act in private shall not be an offence provided that the parties consent thereto and have attained the age of eighteen years.’”**

The Motion is obviously concerned that while the legal effect of that is only as it emphasises to decriminalise consensual homosexual acts carried on in private, it articulates what is said to be a general concern, that that Order may have an adverse effect on public behaviour and public decency. So I will confine my remarks to public behaviour and public decency.

In order to give you some coherent (hopefully) description of where we are, it may be necessary to look at this Order in Council in a little more detail. On a previous occasion I have done that. This Order in Council was made by the Privy Council and extends to Anguilla, Cayman Islands, Montserrat, Turks and Caicos Islands, British Virgin Islands. Apart from the provision I read out it also says (and I am going to give the detail of this) that **“an act which would otherwise be treated for the purposes of this Order as being done in private shall not be so treated if done when more than two persons take part or are present; or in a lavatory to which the public have or are permitted to have access whether on payment or otherwise.”**

Thirdly, **“A man who is suffering from severe mental handicap cannot in law give any consent which by virtue of paragraph 1 of this article would prevent a homosexual act from being an offence; but a person shall not be convicted on account of the incapacity of such a man of an offence consisting of such an act if he proves that he did not know and had no reason to suspect that man to be suffering from severe mental handicap.”**

Severe mental handicap means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning. Then there is a paragraph that deals with homosexual acts by a man on the staff of a hospital or otherwise having responsibility for mental patients of a homosexual act with a male patient for the time being receiving treatment for mental disorder in that hospital. I do not need to dwell on that.

It also provides that **“where in any proceedings it is charged that a homosexual act is an offence, the prosecutor shall have the burden of proving that the act was done otherwise than in private or otherwise than with the consent of the parties; or that any of the parties had not attained the age of eighteen years; and for the purposes of this article a man shall be treated as doing a homosexual act if, and only if, he commits buggery with another man or commits an act of gross indecency with another man or is a party to the commission by a man of such an act.”** That is the detail of the Order.



The effect of the Order as it states, is to neutralise any Law on the books of the Cayman Islands to contrary effect and by virtue of that to decriminalise homosexual acts, as defined between consenting adults in private.

That Order in Council was made, as I understand it—and this has been confirmed by a Foreign Office legal advisor—by virtue of the prerogative powers of Her Majesty in Council. There are two ways of making an Order in Council: One is to make it under the West Indies Act, and the Constitution of the Cayman Islands as such an Order in Council.

My purpose in orating this is to illustrate a point which is that an Order in Council made under the West Indies Act has the same force as the Constitution. The Constitution has no superior force provision in it, not at the moment anyway. So, an Order in Council that is not made under the West Indies Act, (which is made as a prerogative order) does not have the same force as an Order in Council made under the West Indies Act, 1962.

The reason for that stems from the provisions of the Colonial Laws Validity Act. The Colonial Laws Validity Act of 1865 still regulates the legislative framework of most overseas territories. What it says is, among other things, that **“any Colonial law [that is a law made here] which is or shall be in any respect repugnant to the provisions of an Act of Parliament extending to the Colony which such law may regulate, or repugnant to any Order or Regulation made under authority of such Act of Parliament, or having in the Colony the force and effect of such Act shall be read subject to such Act, Order, or Regulation, and shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.”**

In non-legal language what that means is that if a Law made here is repugnant to a UK Law or an Order made under a UK Law, then the Law made here is inoperative to that extent, to the extent of any repugnancy. However, and I come to the point, a Law made by an Order in Council by virtue of the Royal Prerogative has exactly the same force as a Law made here. A Law made here could therefore negative a Law made under the Royal Prerogative.

You may think we are just going to get into an endless round of lawmaking here with Laws possibly being made here and then being remade by the UK and then unmade here and so it goes on. However, the learned author, Roberts-Wray, who is very informative on all of this and has a reasonable sense of humour as well, said that **“the practical objection to that is that a determined legislature and an insistent Privy Council might become involved in an endless process [as he put it] of destroying each other’s work has no validity as long as the power of disallowance or control of discretion to withhold the Royal assent remains.”** So that has to be borne in mind.

It is my view that the effect of this Order in Council is to neutralise the Cayman Islands Law to the extent that existing Cayman Islands Law criminalised homosexual behaviour between consenting adults in private. That is the only or the main effect of the Order in Council. The way this has occurred may give rise to a perception that homosexual behaviour is being condoned because it is effectively balancing one UK Law against a CI Law and neutralising it in a way which positively states that homosexual behaviour between consenting adults in private is not criminal.

This matter has been discussed both in private and public I imagine and between lawyers as well. It was the subject of some discussion at the AG’s conference held here earlier in the year. At least one of my colleagues considered that it would be preferable for the Overseas Territories to legislate on this issue rather than the UK and perhaps in the following way: It was the fact that no territory had thought fit to do so, that the UK apparently decided it was necessary to legislate by Order in Council. All that the Order in Council sought to do in my opinion was to remove as a criminal offence such conduct between adult consenting males in private. However, as the Motion indicates, the spin is perhaps slightly more than that by way of perception.

Another way of dealing with this, and I do not pretend to have any magic answer to the question, but another way to deal with this would be to set out in Criminal Law what remains criminal behaviour, namely, indecent behaviour, or homosexual behaviour, or any other kind of socially unacceptable behaviour in public or between males, one of whom does not consent; or involving a person of less than adult age, or less than adult capacity. In other words, this can be looked at and legislated another way.

If such amendments were made to the Penal Code, for example, that code could also be modernised to reflect other aspects of public decency and standards relating to that. That could also broaden the exercise. It is difficult for me on this occasion, given where I come from and the fact that I have not been here for that long, but if the Movers of the Motion and other Members of the House are willing to participate in a small working group, it would expedite this process.

I would also add that the process, (although I have no prescriptive mechanism in mind and the Government has an open mind about this), in my opinion should also seek to invite submission from the public. This would not be by way of a slight committee because that tends to take too long, with all due respect to the slight committee process; although those submissions would be important. We could agree on setting out a timetable over the six month period. There is logic to the six months which I will come back to in a moment.

The effect of amendments of the kind I have mentioned would be to make criminal, for example, homosexual behaviour other than between consenting

adults in private. What needs to be of concern to us is that we do not wish to get into this endless round of lawmaking and un-making, or indeed invite the UK to exercise the power of disallowance. However, if the object is to guarantee respect for the private life of adult consenting homosexual males then there is no reason why the Law should do any more than remain silent on that issue, while criminalising the kinds of behaviour that are not acceptable and do not involve any intrusion on that right.

The other effect would be to regain control of the lawmaking in this area, since enacting local legislation along those lines would effectively appear to render the Order in Council redundant. It would be spent. Its purpose would have been served because by absence from the Law here, the provisions it was designed to neutralise would no longer be there.

I say that I have no magic answer for this, but it is one thing to expressly state that certain matters are not criminal. It is another matter to state which matters are criminal and leaving other matters silent. I do not know if that is too subtle a distinction or whether I am deluding myself in saying it. However I think there is a difference in expressing the Law in that way. However, this is something for you to judge, not me. I am only offering a view.

I do not think doing this would be objectionable, either as a matter of Law or as a matter of policy since the UK says it would have preferred the Overseas Territories to legislate for themselves. It is also notable that the Order in Council was made in a way that does not give it superior force to a locally made Law. So, a locally made Law can in fact deal with the same subject matter in a different way.

In short, this legislature has the legal capacity to enact a Law which would render nugatory the Order in Council, provided it did not seek to criminalise homosexual behaviour between consenting adults in private. That, of course, is the proviso.

The outcome would be that rather than stating expressly what was not criminal, the criminal law would be silent on that issue with no inference that it was condoned. It is not necessary to appear to not condone something to make it criminal. Not every social attitude here is expressed by way of a criminal penalty, nor would it be appropriate for that to happen. That is merely an observation on my part. I hope it will be taken in the spirit in which it has been tendered.

As I said, most of the offences of physical indecency are in the Penal Code. I have mentioned the other Laws that are liable to have to be taken into account. I would now like to make some reference to the time period, as I said earlier.

The problem the UK had with all of this, as far as I can tell, was that if it did not do something, it was liable to be held in breach of its international obligations, because its overseas territories had legislation on the books. It did not matter that it was not enforced. The mere fact that it was on the books was sufficient because it failed to guarantee respect for the

private life of certain individuals. The problem arises because the UK is responsible for the international relations of overseas territories and therefore appears to have had an obligation to do something or be held in breach of its obligations.

The right to petition the European Court of Human Rights was suspended here some time ago. Possibly not unrelated to this issue, I do not know. However as I understand it, the European Convention has applied to overseas territories since about 1976. That is something that is not all that well known, but I believe that is the case. The difference is that it has not been given effect locally. It has not been enacted into the laws of the Cayman Islands.

I do not wish to be controversial in saying this, however I feel I have an obligation to point it out that with a Bill of Rights it will receive local effect.

I am not advocating that we do not have a Bill of Rights in Cayman, but careful consideration needs to be given to those rights. The reason for the coincidence in timing suggested in considering the public decency and public behaviour issues, is that it roughly coincides with some of the other issues we are going to be examining in terms of Constitutional change. You may think that a balance needs to be struck between public standards and the rights of private individuals, which a Bill of Rights would seek to guarantee. I will offer just a few more remarks on the subject of a Bill of Rights.

The issue of human rights has been the subject of substantial review by the UK. A report was issued towards the end of last year to which I have made reference on previous occasions without particularly identifying it. There are some general obligations and I do not want to detain the House in this regard, but I think these are quite important to ventilate for you information.

This report was undertaken by a senior and expert Foreign Office lawyer who reviewed the Constitutions of the overseas territories, those that had a Bill of Rights and those that did not. He thought it might be helpful to offer a few general observations on certain assumptions that are sometimes made in connection with this topic but which seemed to him to be mistaken and capable of distorting the argument about the proper scope and content of the fundamental rights provisions to be included in an overseas territory's constitution.

He said that **"these assumptions are to some extent linked, but can be identified as follows:"** I hope this will be of interest and relevant to the debate.

The assumptions are that **"the Fundamental Rights Chapter in the Constitution is defective if it does not reflect all the applicable treaty provisions."** He goes on to say **"that's never been the UK's provision. We are under no requirement to provide a constitutional guarantee of all or indeed or any of our treaty obligations and except where a particular treaty specifically so provides, no re-**

quirement even to have legislative provision for them at all.”

His conclusion on that matter is that, “**what rights are to be entrenched in the constitution of any particular overseas territory is therefore entirely a matter of policy.**” Not a matter of Law, a matter of policy.

He questioned the second assumption and he was not failing to advocate that there should be a Bill of Rights, I should add. He has since published a model chapter. The second assumption is that there is a single uniform, generally recognised list of the rights that would qualify for protection, and that this list is a reflection of the whole corpus of the applicable human rights treaties. This too, he says, is a misconception. In practise the standard overseas territories fundamental rights chapter largely and deliberately reflects the European Convention on Human Rights, but not all of the European Convention itself and not all of its protocols. However, the European Convention together with its protocols (let alone the European Convention together, only with the two protocols the UK has ratified, which are protocols 1 and 6, not 4 and 7 for example) does not cover the whole human rights field.

Most overseas territories chapters range more widely than the European Convention and protocols 1 and 6, though they do so in different ways and to different extents. “**And none of them,**” he says, “**seeks to reflect the whole range of the applicable treaty obligations many of which are left to be covered either by ordinary legislation or simply by administrative policy and practice.**”

The third assumption he challenged, was that the UK has identical Human Rights Treaty obligations in respect of all of its overseas territories. He says that the position is as follows: “**that the European Convention including protocols 1 and 6, but not 4 or 7, applies to all overseas territories; both the covenants [that is the civil and political covenant and the economic and social covenant, the UN covenants] apply to all overseas territories with one exception [which was an accident apparently], and a third convention applies to all overseas territories [that is racial discrimination], convention against torture applies to all overseas territories, convention on the rights of the child applies to all overseas territories except Gibraltar, and the convention on the elimination of discrimination against women at present applies only to the BVI, the Falklands and the TCI.**”

I mention this not to side-track the debate, but to indicate the correlation between the Bill of Rights issue and some of the issues that have been canvassed in this debate. It will be important to try to see this in its totality and to understand what the effect will be (is all I am saying) of enacting rights provisions which may import certain consequences which may or may not be in accordance with cultural traditions of the Cayman Islands.

I do not say that a Bill of Rights should not be enacted in fundamental rights. I believe that they should be protected. However, I believe that when they are incorporated into the Constitution they will have stronger force than any other Law. So, to the extent that any other Law makes different provision, the Constitution will prevail and the individuals' rights will be capable of being vindicated as against any other Laws. This goes a bit wider than the immediate subject debate; however it is an opportunity to give this indication.

Coming back to the topic of the debate, I think it can be said that the Government is willing to take this issue up and to work with it and try to identify a satisfactory way forward that does not infringe the human rights of individuals. A way that evidences respect for the rights of the public to appropriate standards of behaviour in public whether of a physical kind or being exposed to unacceptable material by way of broadcasting, by way of public exhibition or otherwise.

It is difficult and impossible to turn the clock back or to look to the Law to do that. I do not think the Motion seeks to do that. I think the Motion seeks to find expression in the Law for certain standards that are considered to be under attack within the Cayman Islands. The Law should be modern and reflect modern standards. I have listened carefully and I wish to avoid associating myself with any political position on the matter. That is a matter for others. I am here primarily as a facilitator and government's principal legal advisor. However, I also have a responsibility in terms of prosecution of crime and the need to advise on the definition of what is and should be criminal behaviour.

I would only conclude on this note: In my view, young people in particular need the protection of the Law. They need to grow up in an environment where they understand that the Law will seek to look after their interests and protect them from behaviour which is not just unacceptable to adults, but is unacceptable and not justifiable in a democratic society. Therefore, I believe we could find ways of expressing some of these safeguards in the Law by criminalising what should be criminalised and leaving silent what can be left silent.

I have taken a rather long time to say a few things. I hope it is of assistance. The Government is willing and hopefully able to accept the Motion and looks forward to working with those interested and who wish to make contributions over a timely period.

**The Speaker:** If no other Member wishes to speak, would the Mover like to exercise his right of reply?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** This Motion has been the subject of very wide-ranging debate. Indeed, debate, some of which, I certainly anticipate. I know this is an emotive issue. The whole issue of homosexuality always evokes much discussion, debate, and often

expressions of disapproval by many in this community, Members of this House not excluded.

It certainly is not my intention, as Mover of this Motion, nor of the Seconder, to engage in any gay-bashing exercise. As I indicated when I moved the Motion yesterday, as far as I am concerned, what two individuals wish to do to each other or with each other in the privacy of their bedrooms is a matter entirely between them and whichever god they serve.

This Motion is aimed at ensuring the preservation of public decency and conduct within the public precinct. The objective of the legislation that acceptance of this Motion will hopefully cause to be brought to this House is to target all open lewdness, grossly scandalous behaviour and things that outrage decency or are offensive and disgusting, injurious to public morals because they tend to corrupt the mind and destroy the love of decency, morality and good order.

One of the larger concerns resulting from the imposition of this particular Order in Council, and to which the Honourable Second Official Member referred *in extensor*, is the impact on this community of what many of us view as Eurocentric views on mores which to many in this community threaten the moral fabric of what this society has traditionally held sacred.

The objective of this Motion is to mitigate both the perception that has resulted from the imposition of this Order and the reality that we face of this society and our views, our mores being affected. They will continue to be affected by the Eurocentric view imposed by a mother country 10,000 miles away. In my estimation the Mother Country has little idea about what is held sacred, what is valued, what is accepted and acceptable in our West Indian society.

The objective of this Motion is certainly not to seek to reverse the Order in Council, or to seek to criminalise conduct which was previously criminal in nature, that is homosexual acts conducted by males in private. The objective was what I previously described.

The Second Official Member referred to two pieces of legislation which do deal with the question of public decency in the broad sense. He referred to the Cinematographic Law and the Broadcasting Law. Absent these two pieces of legislation, I have not been able to find any provision in the Penal Code or any other statute which deals with the issue of public decency.

The common law offence that has been around for a long time of outraging public decency is available. However as I understand it, this is very imprecisely defined, if defined at all, prosecutions in relation to it have generally been confined to circumstances involving the keeping of a disorderly house, and mounting of indecent exhibitions or indecent exposure. As I understand, it has not been given a broader and more general application.

The Honourable Second Official Member made considerable reference to the European Convention

on Human Rights. I do not believe he went quite so far, but the reality is that in the very near future we will have as part of the Constitution of this country a Bill of Rights even if we have no further changes I believe it has been made plain to us by His Excellency the Governor, who speaks on behalf of the UK Government that in that respect our Constitution will be modernised.

As modern and progressive and as Human Rights partisan as the UK seems to be, it is perhaps somehow remarkable that the European Convention on Human Rights was only adopted by the UK as part of its domestic legislation in December last year. It only took them half a century after the European Convention on Human Rights came into existence to adopt it as part of their legislation. So, though we lag behind, we are not that far behind our dear Mother!

I am fully cognisant that the adoption of a Bill of Rights which will necessarily include a freedom of expression provision is bound to impact legislation such as I propose. There will be the inevitable clash between the rights of the individual to freedom of expression and the rights of society as a whole to expect that such expression does not offend the sensibilities of right thinking members of this community.

I am quite cognisant that for some time to come there will be the inevitable battle in the public forum and in the courts while we struggle to reconcile these two competing interests. While there will be some discontent and discord in relation to this, it is not a sufficient basis for saying that we should not attempt to draft the kind of legislation that the Motion invites Government to do. I do not believe that we should shrink from the task simply because it is difficult, once we are convinced that it is necessary and in the public interest, as I believe it is.

On that note, I must say that I was surprised and indeed disappointed that the Third Elected Member for George Town felt that he could not support this Motion. As I understood the thrust of his debate, that was because of two things: one, because of the difficulty as he saw it in determining what public decency should include and what outraging public decency would actually mean; as well as his concern about impinging on the rights and freedoms of the individual. Nevertheless, while I did not find his logic compelling, it did provide the other perspective. To that extent, it added some value to this debate.

Finally, the Honourable Second Official Member referred us to a very interesting excerpt from a learned author, whose name I now forget. He dealt with the question of what matters we would be compelled to have entrenched in the Constitution of an overseas territory. He indicated that by and large, these decisions are not matters of Law, but matters of policy.

Well, I heard what he said, and heard what he read from the pages of the work of that learned author, however I did not derive much comfort from the assurance that what goes into the Constitution is not a

matter of Law but a matter of policy in relation to a Bill of Rights. That policy, Mr. Speaker, is the policy of the UK and it seems plain that the policy of the UK must accord with what the European Union has determined should be the case in relation to human rights.

I suspect that as the UK gets sucked further and further into the vortex of Europe that more and more we are going to see that UK policy, UK Law, and UK principles mirror those of continental Europe. I believe that we would perhaps delude ourselves if we believed that there would be a great deal of room for manoeuvre in relation to some of the more fundamental and commonly expressed provisions in a Bill of Rights for overseas territories and that freedom of expression is bound to be one of those provisions that will have to be expressed and contained in any Bill of Rights that forms part of our modernised constitution to come.

I do not argue or quarrel with the provision of a freedom of expression provision in a Bill of Rights for this country. Where I will have some room to quarrel is if we wind up, as a result of either an edict of the UK or a decision of our local courts which elevates the rights of the individual to freedom of expression, and places them above the collective rights of the society in which that individual lives and operates.

The right to expression in my view must be limited to rights which do not offend against the collective consciousness of the community and what it regards as acceptable standards of public behaviour and acceptable standards of public decency.

In his contribution, the Honourable Second Official Member extended the scope of the debate to include even more fundamental elements related to amending the Penal Code, to set out clearly what conduct in relation to homosexual acts amounts to criminal conduct and what conduct does not. He put that on the premise to do so and to legislate for ourselves might allay some of the concerns that have arisen as a result of the making of the Order in Council and indeed properly done that Order would in effect no longer have any practical purpose. I endorse that.

He also invited me and other Members of this House to participate in a working group to deal with both of these matters and to work towards creating a comprehensive set of provisions that addressed both concerns. That is, the issue of what homosexual conduct would continue to be criminal and the issue this Motion sought to address which is the question of public decency. I accept that invitation as well. It will no doubt be a difficult but interesting exercise, given the constitutional issues, the human rights issues that do need to be considered in drafting of any legislation. Again, I am grateful to him for extending that invitation.

I believe that this debate has served to inform all Members of this Honourable House and perhaps (I hope) the wider community about this issue and that I am hopeful that the Motion sees safe passage. Indications are that it will. I believe only the Third Elected

Member for George Town indicated that he would not support the Motion.

I commend it to all Honourable Members and thank them for their interest, their careful research, and their well articulated concerns. Thank you.

**The Speaker:** I shall now put the question on Private Member's Motion No. 12/01, Public Decency Legislation Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 12/01 PASSED.**

**The Speaker:** Is it the wish of Members that we adjourn?

The Honourable Minister for Planning, Communications and Works.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Yes, Mr. Speaker, unfortunately a couple of us have had to be in a little meeting and I think a few other Members have meetings that should have started a few minutes ago. So, I think by consensus everyone is in agreement that we adjourn. Therefore, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.07 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 6 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**6 JULY 2001**  
**10.26 AM**  
*Tenth Sitting*

*[Prayers read by the Third Elected Member for Bodden Town.]*

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item number 2 on today's Order Paper, Administration of Oath, Oath of Allegiance to Mr. Samuel Bulgin, Solicitor General, to be the Acting Honourable Second Official Member.

Mr. Bulgin, would you come forward to the Clerk's table. Would all Honourable Members please stand.

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**  
*(Mr. Samuel Bulgin)*

**Mr. Samuel Bulgin:** I, Samuel Bulgin, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to Law, so help me God.

**The Speaker:** Mr. Bulgin on behalf of all Honourable Members we welcome you to this House for the time of your service. Please take your seat as the Honourable Acting Second Official Member.

Please be seated.

Item number 3 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Second Official Member, the Third Elected Member for West Bay and the First Elected Member for Cayman Brac and Little Cayman.

The next item is the Presentation of Papers and Reports. Report of recommendations for upgrading Sunrise Training Centre and other matters relating to persons with disabilities, to be laid on the Table by the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REPORT AND RECOMMENDATIONS FOR  
UPGRADING SUNRISE TRAINING CENTRE AND  
OTHER MATTERS RELATING TO PERSONS  
WITH DISABILITIES**

**Hon. Edna M. Moyle:** I beg to lay on the Table of this Honourable House the Beckles Report of recommendations for upgrading Sunrise Training Centre and other matters relating to persons with disabilities.

**The Speaker:** So ordered. Do you wish to speak to it?

**Hon. Edna M. Moyle:** Thank you.

It gives me great pleasure to lay on the Table of this Honourable House the Beckles Report of recommendations for upgrading Sunrise Training Centre and other matters relating to persons with disabilities.

Members are well aware that every country has a percentage of its population that has some form of disability. These individuals with the proper assistance and support of their communities can live very productive lives. Here in our Islands we have two institutions that provide educational and other services to persons with disabilities. These are: the Lighthouse School, which caters to children, and the Sunrise Training Centre, which caters to adults.

The Sunrise Training Centre has been in operation over the past 15 years. When they moved into the present building, I think it was expected they would remain there for two years. Fifteen years later, they are in the same building!

During this period consultants and working parties have reviewed the problems and limitations of the Sunrise Centre. Members of the House were made aware of these Reports in an answer I gave to a parliamentary question recently. The most recent of these Reports is the one being tabled today. This has been referred to as the Beckles Report, after the consultant Beverly Beckles, of Trinidad and Tobago. I would like to give the background of the Report.

In 1999, the Government of the Cayman Islands, through the Ministry of Education, which was at that time responsible for the Sunrise Centre, sought advice from the International Labour Organisation's (ILO) Caribbean Office on introducing changes in the area of vocational training for persons with disabilities.

The ILO recommended Mrs. Beverly Beckles, Chief Executive Officer of the National Centre for Persons with Disabilities (NCPD) of Trinidad and Tobago based upon its expertise in this area. Mrs. Beckles

accepted the assignment and met with the officials from the Ministry of Education. Terms of reference were subsequently drawn up and these terms of reference are as follows:

1. Examination of the Montebello Report (1986), Marshall Report (1996) and the Sunrise Working Party Report (1998) and to advise on matters regarding:

- (a) Planning for a purpose-built facility to accommodate the training, social and educational needs of Developmentally and Physically Challenged (DPC) adults and to examine the feasibility of residential care.
- (b) Make recommendations on professional qualifications needed to work with Developmentally and Physically Challenged adults.
- (c) Make recommendations on data needed for a national register of DPC persons.
- (d) Provide copies of legislation in another territory on the following areas, DPC legislation, advocacy, placement services and employment as legislated rights provided specially for DPC persons.

2. Examination of the training programmes including social and life skills and to provide a copy of curricula for adults in DPC programmes in other territories.

3. Provide assistance in developing a public awareness programme to make the general public more sensitive to DPC persons as well as making employers and prospective employers aware of the capabilities of DPC persons recommended for employment by the Sunrise Adult Training Centre.

4. Provide assistance on developing an employment tracking programme in collaboration with appropriate departments and Ministries.

5. Examine the development of a board of governors or trustees for the Sunrise Adult Training Centre in a role of authority similar to the Community College under the umbrella of a Ministry.

6. Provide the Ministry with copies of policies or policy statements of Ministries in other territories toward developmentally and physically challenged adults.

Mrs. Beckles' recommendations can be found on pages 14–16 of her report. She also suggested on page 2 of her letter to the Permanent Secretary in the Ministry of Education, that the Cayman Islands Government approach this in two phases:

**Phase 1:** Immediate relocation of the Sunrise Centre into rental facilities that are adequate to accommodate the current population (trainees and staff) and in so doing, safeguard the health and safety of all. This phase is a short term/interim measure and is developed further under recommendations (pages 15 and 16).

**Phase 2:** This is comprised of a comprehensive review of existing policies and programmes for persons with disabilities. This exercise should be reviewed in the context of the National Strategic Plan, Vision 2008 and current practices for the improvement of persons with disabilities within the guidelines established by international conventions. Recommendations and associated references have been included in this report.

These two phases ought not to be construed as following one after the other, but should be looked at simultaneously.

The Ministry responsible for the Sunrise Training Centre recognizes the important role that it plays for adults with disabilities in the Cayman Islands. In 2001 and 2002, the Ministry will look into the immediate need of finding or providing a more appropriate facility for the Sunrise Centre. This, of course, is dependent on the availability of funds and Members of the Legislative Assembly voting for funds. The Ministry is also aware that there is a need to encourage more Caymanians to pursue higher education in this field. We will, in conjunction with the Ministry of Education, also formulate a plan to address this need.

As the Ministry responsible for Sunrise Training Centre, it gives me great pleasure to table this Report in this Honourable House. I would also like to publicly thank the Ministry of Education, the staff of my Ministry and the Sunrise Centre and any other individuals who have worked with the Sunrise Centre over the years. I would urge you to continue to support the Centre as we look at the problems of space, equipment, furniture and other areas that need to be addressed over the next few years.

I will be touring the facility soon and extend an invitation to all my colleagues of this Legislative Assembly, so that the issues outlined in this Report can be seen firsthand.

**The Speaker:** Moving on to Questions to Honourable Ministers and Members. Question 76 is standing in the name of the Third Elected Member for West Bay, who is not here.

The Fourth Elected Member for West Bay

## QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS

### POSTPONEMENT OF QUESTION NO. 76

*Standing Order 23(8)*

**Mr. Cline A. Glidden Jr.:** Since the Member had to be away on government business, I wonder if I could move, under the relevant Standing Orders, that the question be deferred until sometime after Monday when he would have returned.

**The Speaker:** Certainly.

The Elected Member for East End.

**Mr. V. Arden McLean:** I beg to second that Motion.

**QUESTION PUT: AGREED: QUESTION 76 POSTPONED TO A LATER SITTING.**

**The Speaker:** Question 77 standing in the name of the Fourth Elected Member for West Bay.

**QUESTION NO. 77**

**No. 77: Mr. Cline A. Glidden Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs, what provisions exist for the control and regulation of private security companies.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** There are no provisions for the control and regulation of private security companies.

**SUPPLEMENTARIES**

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I wonder if the Government is in the process of legislating regulations, since there are none, or if they do not deem that as important.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I will try to answer the question this way. A couple of years ago, this very same question was asked of me in this Legislative Assembly. I discussed the matter with the Commissioner of Police, who went away and drafted a sort of position paper in which he recommended to the private security companies that they form a security company organisation. In fact, he helped draft a constitution.

Despite his efforts however, the companies have not got their act together with that. Apart from the security companies that require police assistance, which the Commissioner has some control over and does a certain amount of regulation, there is no legislation or regulation in place for the companies.

I have more recently had discussions with the Commissioner of Police on it. If indeed the security companies cannot form an organisation or an association which would effectively regulate them, then we will have to look at introducing legislation for the control of these organisations.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I am glad to hear the Member's stance on this. However, I think that legislation is long overdue.

Would the Member state if he is aware of certain security companies in these Islands who purport to provide 24 hour support for their clients actually having that monitoring performed outside of the Cayman Islands?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am not aware of that. Perhaps the Commissioner of Police may be, but I am not aware of that.

I have just confirmed this with the Commissioner of Police and he is also not aware of that.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** This is obviously the reason for the great need for such legislation, because I am aware of that situation. In fact, the territory in which this service is provided could very well have industrial action which would compromise a person's security. Also, there could be telephone lines down between Cayman and that territory. This is an area in great need of urgent attention. We have persons in this Island feeling secure, whereas in fact they are not.

Could the First Official Member state whether or not he has had any complaints about the aggressive nature of certain security guards in the Cayman Islands?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I have not had any complaints, and I have just confirmed with the Commissioner that he has not had any complaints about the aggressive nature of certain security guards.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable First Official Member say, in the absence of the security companies coming together and following the guidelines and recommendations of the Commissioner of Police, if it is within the responsibility or authority of the Commissioner to issue guidelines as to how they must operate?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The Commissioner does have the authority and indeed does issue instructions in respect of security companies offering 24-hour monitoring. Of course, there is also the matter of the licensing of mobile radios. In respect of companies simply offering security guards, the Commissioner does not have any specific control over those.



**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** It seems clear that the proper legislation or regulation is not in place. It seems that the Honourable First Official Member has some concern at least about the situation. Would he give an undertaking to look at the possibility of actually bringing a law to cover this operation which is ongoing in the Cayman Islands and seems to be ever-increasing in keeping with the demand for protection from crime?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I have ongoing discussions with the Commissioner of Police on this and looking at the ramifications, while I do not want to over-regulate, I think the Member is correct. I do have concerns about the staff in some of the security companies. As soon as we have the facts together, a decision will be made on whether to move forward with the necessary legislation.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Earlier, the First Official Member said that the Commissioner of Police has the authority to issue guidelines and directives to these security companies. Would he kindly direct us to the legislation which gives the Commissioner of Police the authority to administer, in the broad sense, security companies?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Maybe I did not make myself completely clear. I said that the Commissioner does have the authority to regulate the companies which offer 24-hour monitoring because this is the police component; the requirement for police officers to answer the calls.

What I do not have at hand (and neither does the Commissioner) is the relevant section. I have asked him to make that available to the Member.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I would just like to suggest that maybe the breakdown with not knowing could be because the reports from the security companies go through 911. I assume 911 is a separate section, but they do the dispatching. It could be a grey area and the reason why the Commissioner does not know exactly where these companies are reporting to.

My question was more on the line of security guards. Whose authority are security guards operating

under? We know they are put there to do a very similar job to the police in some cases, to provide law and order at functions with masses of people. Are they licensed to protect themselves, or to do crowd control? Who licences them? Who regulates them? We even have security guards by our front door. What are they allowed to do? What are they not allowed to do?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** In the case of non-Caymanian security guards, there is the requirement for a work permit. Apart from that, those guards or any other civilian would only have civilian rights to defend themselves. They would not be allowed to carry truncheons or any weapon of any sort.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I guess that does answer the question. However, I just want to make it clear. You are saying that we are paying security guards for security here. The reality is that it is no different, except for the price we are paying them, than having a regular civilian standing by the door? Is that what we are saying?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** As the situation pertains today, I think the answer is yes, the security guard is not by law allowed to exert any more force than any Member sitting inside this Chamber.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Would the Honourable First Official Member be able to give an undertaking to see if it is possible to develop legislation that would enable security guards to exert reasonable force in situations since we are using them in situations now where alcohol is being distributed? By the time the police attend to the matter the situation might be definitely out of control.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe I gave a provisional undertaking to the Second Elected Member for Bodden Town. I am in discussions with the Commissioner on this matter and pending the outcome of those discussions we will look at the matter of legislation.

**The Speaker:** Two additional supplementaries after your question.

The Elected Member for East End.

**Mr. V. Arden McLean:** For many years I have wondered why we cannot extend to off-duty policemen the opportunity to go out and earn extra money by being security officers in their uniforms. I understand that in other countries that is possible. Would the First Official Member comment on whether or not that is a possibility?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The Police Law does empower the Commissioner to do just that. It is called "special duty." He can give special permission to off-duty police officers to carry out this function.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Now that certain undertakings have been made, could the Honourable First Official Member also undertake to ensure that adequate training is provided in any form of legislation for these officers? After all, police officers are, in my view, well trained to handle these situations. From the complaints I have received, these security officers are not. A lot of them are ex-army officers from other cultures. They are extremely aggressive, they do not know how to culturally handle themselves in Cayman, and it is presenting a real problem. I think this is a serious situation that needs urgent attention.

Also, since the Commissioner does have special powers, it would be interesting to note if any budget could be put together to see if we could have additional police officers provided to the Government with the view that we could secure certain contracts for security.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The point the Member raises about training was one of the aspects I was referring to when I said discussions were taking place to look at these ramifications. Naturally, any legislation would have to ensure the training component. We have to look at whether training would be carried out by The Royal Cayman Islands Police (RCIP), and the funding for that, or how it will be done. Yes, I can assure the Member that this is one of the aspects that is under consideration in determining just what is done about the legislation if we move down that route.

**The Speaker:** Final supplementary.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** The First Official Member was correct in stating that his undertaking was a provisional one based on the failure of the security companies forming their association as suggested by the position paper prepared by the Commissioner of Police. Can the First Official Member indicate why it would be desirable to have an association rather than legislation to govern the security companies? Would the association effectively meet the concerns expressed by the Parliament here today?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am informed that actually the association has been formed. It is just that it has not moved ahead as it should. Perhaps it is a little slow. I do not want to use the word "dormant" but it is somewhat slow.

On the question of the desirability of a self-governing body as opposed to legislation, if the association can govern itself and meet the concerns of Parliamentarians, then I think that would take care of the problem. Most, if not all, of the concerns raised today have been put forward by the Commissioner of Police. I suppose the good thing about having an association is that basically there is one body negotiating with government as opposed to having several companies; however, we are looking at the matter. It is very probable that the outcome will be legislation, although I think, that if the organisation as a whole could govern itself by means of training and all the other concerns here, then the same aims could be accomplished.

The outcome of the discussions will determine this, but it is very likely if the organisation is not able to meet all those concerns that we will have to go the route of legislation.

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

*[Moved by the Honourable Minister for Health and Information Technology]*

**QUESTION PUT: AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the First Official Member say if charges have been brought against any security officer?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** My understanding is that cautions have been issued to some security companies, but we are not aware that any prosecutions have been made against any company.

**The Speaker:** Moving on to question 78, standing in the name of the Third Elected Member for George Town.

#### QUESTION NO. 78

**No. 78: Dr. Frank S. McField** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what has been done, since the death penalty was replaced with life imprisonment in May 1991, to define the wording of life imprisonment.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** No action has been taken to define the wording of life imprisonment. Life means imprisonment for life.

#### SUPPLEMENTARIES

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I was inclined to let it go, you know.

**The Speaker:** Well, thank you!

*[Laughter and interjections]*

**Dr. Frank S. McField:** When we use the word "life" we could be referring to the natural life of a person, or we could be referring to a specific chronological time. In considering a sentence such as life, is it the position of the First Official Member that life is defined as the natural life of the person rather than any chronological time?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is given in its literal meaning, the natural life of a person. However, let me add that it is within the Governor's sole discretion to set conditions for parole. While life means the natural life of a person, there is the opportunity or the avenue for setting down guidelines for parole for persons serving life imprisonment.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Member say if he or the Governor has taken any action so far to make sure that the definition being used for life imprisonment is consistent with the human rights obligations the UK has at the moment?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am unable to say if the Governor has considered the matter in relation to the International Human Rights Commission.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** If the Governor has sole responsibility for this particular area, can the First Official Member say why Parliament is being given an answer to this question without consultation with the Governor.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The question the Member asked was not a substantive question, but a supplementary question. Naturally, I do not have the Governor present to consult with him. I gave an answer on the substantive question that was discussed with His Excellency before.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** As the First Official Member and all Members of this House, will know, the United Kingdom has made it plain that it expects the Cayman Islands to comply with its (the UK's) responsibilities and obligations in relation to human rights as defined in the European Convention on Human Rights. The obvious example is the decriminalisation of homosexual acts by consenting adults in private.

In light of that clear indication, would the First Official Member say what view the UK Government has taken in relation to the question of life imprisonment, or the imprisonment of individuals for periods that mean the balance of their natural lives?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my understanding that the only concern expressed and eventually brought into effect was that of capital punishment and its abolition. At that time there was no concern expressed in regard to the matter of life imprisonment. I am not aware of any concern being expressed since that time.

**The Speaker:** Two additional supplementaries.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say what the practice is in releasing lifers in the UK? Seeing that the Cayman Islands follow most of the UK practices, is that a consideration within this jurisdiction? There has to be some degree of hope. We cannot let these people out when they are 70 years old and then let them become a burden on society.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Some research is currently being done looking at the UK procedure as well as the procedure followed by some other jurisdictions. All of this will help form part of the decision-making on it. I do take the Member's point about keeping a person locked up until he is no good to himself or society.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I think the First Official Member now realises that there are ongoing situations in the UK, not only regarding human rights issues but also regarding practices they have been following in dealing with the whole concept of life imprisonment.

Does the First Official Member recall, in terms of chronological time, the term used in the UK for life imprisonment? Have there been any reports on the prison system here that would be referring to that particular time suggesting that we take that into account?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my understanding that a sentencing judge in the UK when sentencing a person to life imprisonment will either make a recommendation for a minimum period of time, or else simply leave it open as life imprisonment. In those cases, parole may be considered. Let me put it another way; after 14 years, the person will be considered for release.

I want to say one other thing. I noticed the Third Elected Member for George Town is a little frustrated by the fact that you have limited Members in regard to questions. However, I would encourage him by the fact that there is still another parliamentary question coming up on this matter. He will have yet another opportunity to ask some questions, even if you are not allowing too many supplementaries today.

**The Speaker:** The next question is 79, standing in the name of the Second Elected Member for George Town.

## QUESTION NO. 79

**No. 79: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister responsible for the Ministry of Health and Information Technology what is the current amount owing to the Cayman Islands Government in respect of overseas medical loans, overseas medical advances and local receivable balances; and a) what steps have been taken to determine what portion of that sum is collectible; b) what steps have been taken to collect the outstanding sum; c) what steps have been taken to improve Government's ability to collect accounts as they fall due.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The total amount owing to the Cayman Islands Government in respect of overseas medical loans, overseas medical advances and local receivables is \$46,828,520.14. This is broken down as follows:

|                            |                  |
|----------------------------|------------------|
| Overseas Medical Loans:    | \$ 9,689,308.53  |
| Overseas Medical Advances: | 16,329,677.39    |
| Local Receivables:         | 20,809,534.22    |
| Total:                     | \$ 46,828,520.14 |

In regard to the steps being taken to determine what portion of the sum is collectable, Health Services Department (HSD) presently has nine finance officers reviewing outstanding accounts and establishing those accounts which can be pursued.

The Health Service Collection Officers then make every effort to make contact with the patient and/or relative, to ensure that regular payments are being made on the account. If they are unable to establish contact with either the patient or the relative, the accounts are referred to the Treasury Debt Collection Unit for further action.

It is to be noted that this process will take a considerable amount of time due to the sheer volume of accounts that have to be reviewed and the limited number of staff available for the project. This exercise will eventually ensure that only collectable accounts are pursued in the future.

Health Services Department has submitted a list of overseas accounts for write-off. This list totals \$4,103,040.04 and consists of accounts which meet some or all of the following criteria:

- > 1. Collateral was not secured and registered with the Lands and Survey Department.
- > 2. Debts were referred to the Debt Collection Unit and efforts to collect from patients and signatories, deceased patients' estates, and life insurance policies were unsuccessful.
- > 3. Patients are not civil servants, dependants of civil servants, Members of the Legislative Assembly or Executive Council.

- 4. Payments have not been made on the accounts within the last year.
- 5. Based on age, assessed monthly repayment amounts and the value of the debts, patients and signatories could never repay within their lifetimes.

Using the same criteria, a list of local receivable accounts totalling \$1,148,482.19 is also being prepared for write-off. I intend to take a much closer look at these amounts with a view to recovering them through the courts before taking them to Executive Council and then Finance Committee. I know that a lot of attention has been given to this in trying to recover some of these through the courts without a considerable amount of success. Some success has been obtained.

To date approximately 25 per cent of overseas accounts and 5 per cent of local accounts have been reviewed.

Part (b) of the question asks, "What steps have been taken to collect the outstanding sum?" Health Services has employed nine debt collection officers who have been pursuing persons with outstanding debt by telephone, letters and personal visits. In addition, a collections module is being added to the Department's information system which will better record all payment activities and also alert the Chief Financial Officer to non-payments on agreed payment plans and missed deadlines for payment.

The Health Services Department is presently negotiating with a company which provides debt collection and customer service training to provide in house training for the accounts receivable staff. This training will enhance the capability of staff in the area of revenue collection. The Department is also in the process of acquiring the services of an accounts receivable consultant to review the Health Services Department receivables system and to design and implement changes that will increase revenue collections.

Part (c) of the question asks, "What steps have been taken to improve Government's ability to collect accounts as they fall due?" The Department has taken the following steps to improve its ability to collect accounts as they fall due:

- Two officers have been assigned to review all outgoing invoices to insurance companies to ensure that claims are accurately processed and sent to companies within seven working days of the date of service.
- Invoices for self-paying and agency accounts are printed and mailed within ten working days of the date of services. It is anticipated that by mid-August of this year an officer will be assigned to review these invoices for errors prior to mailing, thus removing a possible reason for delay in payment.
- Monthly statements are printed and sent to all patients within ten working days of each month's end.

The Department is also in the process of implementing a system notifying the insured patient when their bill is sent to their insurers. This letter will state that if within 60-90 days the insurance company has not made payment to the Health Services Department for the services provided, the patient will be held responsible for the full amount of the Bill.

It has been proposed that the Health Services Department upgrades its current information system to a Hospital-Based Information Network System. The Department is currently awaiting a response from several overseas companies that provide such systems. This system will allow it to improve its revenue capture and billing and its collection officers will be better able to monitor outstanding accounts and address non-payment before accounts are delinquent.

Finally, a sub-committee has been set up by the Health Insurance and Health Fees Advisory Committee to review the collections of the Health Services Department. The sub-committee has met on several occasions and is presently compiling a report of its findings and recommendations for submission to the full committee and onward through me to Executive Council. The Health Services Department stands ready to implement any changes identified as necessary to improve collections.

## SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I would like to thank the Minister for such a carefully thought out and comprehensive response.

He alluded to giving consideration as to whether or not legal action should be taken in relation to some of the accounts which it is proposed to write off prior to that actually happening. Can the Honourable Minister say what policy has been adopted, if any, in relation to the other outstanding accounts if all the other efforts such as phone calls, letters and personal visits failed? Assuming the amounts are determined to be collectable, will legal action be taken to recover these outstanding sums or not?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The collection unit at the hospital will make every attempt, even if it means personal visits to try to collect the outstanding amounts. Failing that, the accounts are then referred to the Treasury Debt Collection Unit for further action. It is my information that several hundred accounts have been taken to the courts and a number of these accounts are being successfully serviced. Patients have ordered for deductions to be taken out of their salaries and paid into government. However, as you can see

from the outstanding balance, much more needs to be done.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In the substantive answer, the Honourable Minister listed two amounts that are considered not collectable, amounting to a little over \$5 million. Can the Honourable Minister say what is the success rate of the nine finance officers hired to work on the remaining amount, which I suspect is around \$40 million? What percentage has been collected thus far?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** It might be helpful if I provided all Honourable Members with an overall summary of the debt and the percentages involved.

Mr. Speaker, 4.2 per cent, represents something like 699 accounts valued at \$1.9 million of the debt that is being adequately serviced. The definition of adequately serviced is those accounts that have reduced their account balance by at least \$50 per month and will repay the debt within five years. The 18.5 per cent which represents 1,301 accounts valued at \$8.4 million of the debt has been poorly serviced; and 73.3 per cent which represents 22,868 accounts valued at \$35 million have not been serviced in quite a long time.

I would also like to provide the aged summary of the debt for Members: 55 per cent of the debt which represents \$26.2 million is less than three years old; 27 per cent, representing \$12.9 million is three to six years old (these amounts are collectable and would not be subject to the statute of limitations); 18 per cent representing \$8.5 million of the debt between seven and ten years old is highly unlikely to be collectable regardless of what legal position we take.

Also, on the resident summary of the debt, this type of information has only recently been recorded so these figures are indications only. However, I am reliably informed that some 53.2 per cent, representing \$24.6 million is owed by Caymanians or status holders, while 15 per cent, representing \$7 million is owed by non-Caymanian residents; and 2 per cent, representing \$1 million is owed by visitors. This leaves a factor of 29.4 per cent representing \$13.6 million for which the residential status is not known.

Summary of account type: Some 72.6 per cent, representing \$13.6 million of the debt is owed by self-paying patients; while 16.4 per cent, representing \$7.6 million is owed by insurance companies (this has been verified by audit); 11 per cent, representing \$5.1 million is owed by agency (that is, Cayman Airways).

The debt consists of, from local receivables, some 23,076; and overseas receivable approximately 1,020. That information should be of use.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** According to the Minister's most recent answer as I understood it, almost \$22 million (approximately 47 per cent) is owed by persons who do not necessarily have any ties to the Cayman Islands. Can the Honourable Minister say what the policy is when a person goes to get medical care in regard to ascertaining this information; and secondly, of the \$7 million, the \$1 million and the \$13.6 million where status is not known, how much of that relates to local receivable and overseas medical?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The procedure followed is common to all patients going to the hospital. They have to provide an indication of their ability to pay whether it is through an insurance company or self-payment. The procedure is fairly standard.

Regarding the 29.4 per cent that equates to \$13.6 million where resident status is not known, efforts are being made to get these figures put in place as soon as possible.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I see why the insurance companies in this country are so profitable—they are not paying their bills!

Can the Honourable Minister say what prevents us from collecting this money from the insurance companies at least?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Before answering that, I would like to just pass on some information I just received. Of the non-Caymanian resident, most of that is in respect of emergency services where they just go in and a follow up has to be done for payment and so on. They do not pay when the service is rendered. However, this matter is being looked into.

In regard to the insurance companies, we have been having quite a bit of problems with that. As a result, I have set up a Health Insurance and Health Fees Advisory Committee. They are now in the process of preparing a final report and as soon as that is ready, I will be tabling it in this House.

As Members will recall, we recently had a motion passed to take the whole question of the Health Insurance Law into a select committee for revision. There is much tightening up that needs to be done. One area we plan to tighten up on is the insurance industry.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate why we are not writing off the entire \$8 million if it is not collectable?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Of the \$4 million plus that I suggested be written off, and the \$1.1 million for local costs, even though we have the revenue section of the hospital, it is pretty well felt that these are uncollectible bad debts. We will still make a last ditch attempt to try to collect whatever we can even if it means taking the people to court. The one downturn on this is that these patients when taken to court will approach Members of the House in this respect. I expect that if Members will explain to them that the service rendered to them must be paid if at all possible because government is paying a considerable amount in respect of indigents in this country. Individuals who can make payments must make those payments. Members must bear in mind that when patients come to them complaining about being taken to court, they must explain to them that their obligations must be met.

Regarding the \$8.5 million, 18 per cent of the debt between seven and ten years old, is highly unlikely to be collected. While this is true, we will continue to make every effort to try to collect those amounts.

**The Speaker:** Two additional supplementaries.  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** We knew that this whole area was a financial disaster, but it is quite grim.

Can the Honourable Minister say why, at this point in time, we can dream of implementing such an atrocious policy as outlined in point 4 of his substantive answer, **“The Department is also in the process of implementing a system notifying the insured patient when their bill is sent to their insurers. This letter will state that if within 60-90 days the insurance company has not made payment to the Health Services Department for the services provided, the patient will be held responsible for the full amount of the Bill”**?

This takes the insurance companies off the hook and places the onus on the citizens of this country who are paying the premiums. Furthermore, it has been brought to my attention that there are numerous instances where through negligence—and that is all I can call it—staff in the Health Services Department spend their time generating volumes and volumes of statements for \$35 and \$40 bills when they fail to make claims for items that cost as much as \$28,000, causing the 90 days to lapse. Are we then saying that

the Health Services Department does not have the computer systems and, or the necessary personnel to file claims on time? Are we now telling the people of this country, who have been mandated to have health insurance, that they are going to be held responsible?

For the record, I cannot support any such policy. If any of my constituents come to me with that—

**The Speaker:** Please turn this into a question.

**Mr. Rolston M. Anglin:** The question is, will the Minister give an undertaking that . . . Enough of this consultant's crap! We will get a proper system of qualified accounts, an accounts receivable manager and we must pay them. I am glad that the new Permanent Secretary (PS) for personnel is here. We must pay them adequately. Forty-six million dollars means they should be paid adequately to manage this process. This is an atrocity. We cannot put the onus back on the insured.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I am not quite sure what I am supposed to answer after that dissertation. The Member asked a question and answered it himself. However, I know what he is driving at.

Just to explain: It is not expected that the patients will have to pay the amount without pressuring the insurance companies. What is meant here is that if the revenue division of the hospital finds it difficult to collect from the insurance companies they will expect the patients who are paying the insurance policy to put pressure on the insurance companies to make payment to the hospital. However, we would like to make them know that they are ultimately responsible for the payment of the debt. This is not only done in Cayman. This is a policy that is worldwide.

We can only do so much at the hospital. However, if somebody is insured and the company refuses to pay, we are asking that patient to also put pressure on that company and ask why the bill has not been covered by insurance. I think that is reasonable.

I do not share the Member's enthusiasm that this is crap. This is standard procedure throughout the world.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** In the last paragraph of the response the Minister indicated the creation of a Health Insurance and Health Fees Advisory Committee to review the collection of the Health Services Department. It becomes apparent that while there is a policy in place which is intended to ensure those who attend the hospital for treatment are able to demonstrate their ability to pay either by virtue of appropriate insurance or Independent means, it is plainly obvious



that system of determining the ability of patients to pay is not working. If it were an effective means of ensuring the patient had the ability to pay, we would not be where we are now.

Can the Honourable Minister say whether or not part of the remit of this subcommittee is to look at that particular policy or rules governing the ability of patients to pay with a view to tightening up, making it more stringent so that the number of non-paying patients who seem to fall through the cracks continue to drive up the amount of money owed to government can be reduced?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I need to clarify at the outset that the amounts I read out here this morning are not really in respect of individuals who are unable to pay. We have a process of determining through financial analysis those individuals who are unable to pay. We put them in the category of indigent. They are looked after. There is no problem there, but they are not included in this. What I read out this morning are individuals who should be able to pay, but who refuse to pay. We feel these individuals have the ability to pay, but many feel that if the service is provided through government, they have no obligation to make payments; this has to be corrected.

**The Speaker:** That concludes Question Time for this morning.

Item 6, Statement by the Honourable Minister responsible for the Ministry of Planning, Communications and Works, Leader of Government Business.

## STATEMENTS BY MINISTERS/MEMBERS OF THE GOVERNMENT

### REMOVAL OF CAYMAN ISLANDS FROM FATF LIST ON 22 JUNE 2001

**Hon. D. Kurt Tibbetts:** Mr. Speaker, although by now it should be known by most people, I am pleased to announce formally to this Honourable Legislative Assembly that as of 22 June 2001, the Cayman Islands have been removed from the Financial Action Task Force (FATF) list of non co-operative countries and territories, one year after inclusion on the list. We were de-listed because FATF member countries have accepted that we have addressed issues the FATF identified, through the enactment of legislative adjustments, and that we have taken concrete steps to implement these changes.

I should be very clear about this: These legislative adjustments and their implementation represent the extent of our necessary commitment to the FATF. They are the result of extensive consultation and dia-

logue with relevant industry representatives, and of course presentation and explanation in this Honourable House.

In concert with the de-listing, FATF has also withdrawn recommendation 21, under which member countries were able to issue business advisories to their financial institutions. These advisories have proven to negatively impact the ability of our financial service providers to be very competitive in the global marketplace. This means we can expect in due course that those FATF member countries who have issued business advisories in the past will revisit them. Indeed, as of 2 July, the United States, in a continuing vote of confidence for the Cayman Islands, lifted its advisory. This was done through Financial Crimes Enforcement Network (FINCEN) set up by the US Treasury Department, and that is equivalent to our FRU. We very much appreciate this action on their part.

Honourable Members will recognise that these are significant accomplishments, ones which were top priority for this Government to secure. I wish to sincerely thank all of my colleagues in the Legislative Assembly for the foresight and insight shown by the safe passage of the vital legislation required to support the de-listing of the Cayman Islands.

The Government wishes to thank the Private Sector Consultative Committee for the long hours spent in consultations that helped to guide the process. This committee, which still has a vital role to play, comprises representatives from the various associations attached to our financial industry and has very broad representation.

We must also say thanks to the Financial Reporting Unit (FRU) and the Cayman Islands Monetary Authority whose management teams and staff members rose to the challenge and worked tirelessly to fulfil their role in the process.

On a personal note, I would like to thank the members of the negotiating team, Honourable Financial Secretary, the Honourable Attorney General, the Minister of Health and the Second Elected Member for George Town. Certainly on many occasions times were tight, but we managed.

Special thanks must also be given to Mr. Fred Fielding of the law firm Wiley, Rein & Fielding, in Washington; also, Mr. Joe Tomkins, of the law firm Sidley & Austin, in Washington, who act as our legal advisors on that front. We also have to say a special thank you to Miss Maria Sheehan, from our public relations firm in Washington, Hill & Knoulton, who tirelessly worked in opening doors for us and helping us with the presentations that had to be made.

On the home front, we cannot forget the Assistant Financial Secretary, Deborah Drummond, who has in my words "lived" this process perhaps more than anyone else, although on most occasions being in the background. I think also worthy of mention is Dr. Chris Rose, of the Secretariat, a very good resource person.



As a major international financial centre, the Cayman Islands simply must be on the right side of international anti-money laundering standards. These are set by the FATF. Therefore, regardless of questions one might have on the FATF process, the focus, I must suggest, must be on the fundamental principles and objectives.

I am particularly gratified by the support of the financial services industry throughout this de-listing campaign. It was important to the Government that full and frank discussion of the issues be encouraged so that real solutions and responses could be put forward. We wish to continue in this mode, to ensure that our industry continues to develop on all fronts now that our regulatory credentials have been fully recognised.

I need not say that it should be our firm promise to ourselves, not to be found ever again in the position we found ourselves last June. One of the ways to do this is by establishing a multidisciplinary oversight group on anti-money laundering matters. We need also to keep in mind our ongoing implementation obligations, based on the legislative changes made. We have said to the FATF that we would have no difficulty with their maintaining contact with us as one of the de-listed jurisdictions on ongoing implementation, via the Americas Review Group in consultation with the Caribbean Financial Action Task Force (CFATF).

The Government also wishes to take this opportunity to congratulate the three other countries that were also de-listed on 22 June. The Cayman Islands looks forward to renewing work within the CFATF in the leadership role to which we are accustomed.

Mr. Speaker, we need to put the identical effort and energy we used to address the FATF matters into charting the way forward. The Government is aware that there may not be complete understanding in the wider local community of what has transpired to date, which may lead to a degree of uncertainty about the future. Let us be certain of one thing—the Cayman Islands mean business. We have already gotten some valuable insight from the Private Sector Consultative Committee as to the way forward in a meeting held on Wednesday afternoon. We will be continuing the process by developing a business plan with the financial industry, but we also understand that there is an immediate need for more clarity as to government policy in some key areas of particular relevance to the financial services sector, and by association to the wider business community. This then is “job one.” We will be developing such a policy statement with all possible dispatch, and we expect to articulate this publicly within a few weeks.

Mr. Speaker, in the short interim I would say that it is fundamental to our overall position that the Cayman Islands observe international standards—not speculative pseudo-standards, or the disadvantaged end of double standards, but actual international standards. In this regard, we stand ready, willing and able to participate on a meaningful basis in any process

seeking to set such actual international standards for all players, whether they happen to be members of the relevant club or not. We remain astute to the best interests of the Cayman Islands; we remain committed to playing our rightful role internationally as a major financial centre; and we remain confident that together we can build a strong, prosperous future.

The Government recognises that this is but one of the many pressing issues which is of immediate concern to all of us here in the Cayman Islands. The general slow down in the economy, immigration matters, financial reform and the need to create cohesive national fiscal policies by the Government are but a few.

Unfortunately, there is no magic formula to cure all of these ills overnight. While we understand the frustrations some of our people are experiencing as I speak, it must be understood that the solutions are not easy when we have to take into consideration the diverse needs and desires of the people.

We are forging forward and will be addressing all of these issues as quickly as we possibly can. However, our approach to the decisions made must be from the best-informed position possible. With this in mind and recognising that government has a responsibility to keep the people informed, we will be embarking on a series of statements to update the public on all matters concerning the wellbeing of the country and these statements will commence this month.

Thank you, Mr. Speaker.

**The Speaker:** Moving on to item 7 on today's Order Paper, Other Business, Private Members' Motions, Private Member's Motion No. 17/01, Pension Deductions to be moved by the Second Elected Member for Bodden Town.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 17/01

##### PENSION DEDUCTIONS

**Mr. Gilbert A. McLean:** I beg to move Private Members' Motions, Private Member's Motion No. 17/01, Pension Deductions, which reads as follows:

**“BE IT RESOLVED THAT fifty per cent of the funds collected from deductions from employees' wages and employers' contribution under the National Pension Law be invested in the Cayman Islands.”**

**The Speaker:** Do you have a seconder?

**Mr. Lyndon L. Martin:** I beg to second the Motion.

**The Speaker:** Private Members' Motions, Private Member's Motion No. 17/01, has been duly moved and seconded. Does the Mover wish to speak to it?

**Mr. Gilbert A. McLean:** Thank you.

**The Speaker:** On a point of procedure, I have received notice of an amendment. Do you wish to read that, and re-read the amended Motion?

#### AMENDMENT TO MOTION

**Mr. Gilbert A. McLean:** Yes, Mr. Speaker.

The amendment reads: "**BE IT RESOLVED THAT at least fifty per cent of the funds collected from deductions from employees' wages and employers' contribution under the National Pension Law be invested in the Cayman Islands within a period of ten years commencing in 2002.**"

**The Speaker:** Would you read the amendment? Then we will vote on that.

**Mr. Gilbert A. McLean:** The amendment is, "**In accordance with the provisions of Standing Order 25(1), (2) and (3), I, the Second Elected Member for Bodden Town, give notice of amendment to Private Member's Motion No. 17/01 by – 1) adding the words 'at least' between the word 'that' and 'fifty' in the first line; and 2) by adding the words 'within a period of 10 years commencing in 2002' at the end thereof.**"

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I beg to second the amendment to this Motion.

**The Speaker:** The amendment to Private Member's Motion No. 17/01 has been duly moved and seconded and is open for debate.

If there is no debate, I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: AMENDMENT TO PRIVATE MEMBER'S MOTION NO. 17/01 PASSED.**

**The Speaker:** I have waived the two day notice on the amendment. Please continue.

#### PRIVATE MEMBER'S MOTION NO. 17/01 *As Amended*

**Mr. Gilbert McLean:** Thank you, Mr. Speaker.

This Motion has been brought as a means of directing public attention and the attention of Legislators to the fact that each year the Cayman Islands is collecting from its people millions of dollars that is being sent out of the country with no capital advantage to the country whatsoever.

Also, this is a Motion which I promised the people of Bodden Town that if elected I would bring to the Legislative Assembly for the reasons that we should have first call on making use of the money which we take from ourselves and vest for considerable numbers of years which is what other countries of the world are doing with it. The benefits to be derived if we were to accept this Motion would be mammoth.

Every economy has been able to achieve substantial development over the course of history by principally garnering the savings of its citizens. It subsequently invests those savings into locally generating resources, where an attempt is made to optimise the competitive advantages within a given economy. In an open economy such as the Cayman Islands, the rapid pace of development over the past twenty years has been funded primarily by inflow of foreign capital, largely in the form of foreign direct investment. The role of local savings has been very much marginalised to the extent that it is not seen as of much relevance to the sustained growth of entrepreneurial activity in our economy.

This is a major misfortune and has put us behind other islands that are less well off than us. For in many other islands we find that the persons there, indigenous people who have capital, come together and pool those funds to make major investments in the various countries. By so doing, they spread the risk among themselves and should losses occur, then it does not hit anyone heavily.

It also adds the advantage of the pooling of minds in making these things work. We do not have that in Cayman. We find more non-cooperation among business persons than we find cooperation. The competition is extremely high and fierce whereas we have neighbours who are smart enough to pool resources to improve the local economy, which improves business for themselves and opportunities of employment, therefore creating money and commerce.

A critical implication of our pattern of development has been the marginalisation of locally owned enterprises. Almost any enterprise in the Cayman Islands of any consequence is foreign owned, except the supermarkets and such. All the other businesses almost in totality are foreign owned. One of the things that caused it is the lack of available capital and the lack of our local people with capital combining their capital to go into joint ventures with one another—a major point that has been missed by our collective failure to do what we could do. This places us in a position that those who own the capital, investing it, controls and shape the growth of our economy.

Few people would attempt to argue that that is not what is and has been happening in Cayman. We

hear everyone saying that we need something to stimulate the economy. People are losing jobs and all the rest of it. Yet there still is not enough motivation for cooperation among our own people with capital in pooling it to make success. Therefore, I suggest that it also means the Government in effect is required to shape its policies to cater to the foreign capital and the foreign entrepreneur when it comes up with more acceptable policies that would be true blue for our own.

When national pensions were introduced in the Cayman Islands by coming into effect of the National Pensions Law, it meant that a significant proportion of money paid in wages and due to wages being paid began to take place. In about another year all persons will be paying 5 per cent deducted from salaries and employers will also pay 5 per cent. That is 10 per cent of all the money in the Cayman Islands that is paid in wages. We are talking about millions of dollars.

I certainly know the intent of the law. I have heard it stated that it is "forced savings." Many people do not save and it is one way of government helping itself to not turn into a welfare state where everybody passed working age turns to government to carry them through the years after they cease working. I understand the principle of it quite clearly. I generally agree with this concept.

We are not talking about taking out of a person's salary this month and paying it out next month or next year. We are talking about the long haul. We are talking about 30 years—a whole generation! Funds collected and sent out of the Cayman Islands, legally and supposedly belonging to the persons from whom it is taken to be collected decades afterwards in monthly remittances from these pension providers. In truth and in fact, if you do not live long enough, you are not likely to collect anything of what has been taken from you. It is a major source of money.

I am told by members of the Chamber of Commerce administration that the Chamber plan alone collects \$1 million a month. I make that to be \$12 million in one year. I understand there are at least two other companies or plans that are large ones. So, for the purpose of my argument, let us say that each of those collected \$1 million a month. That would be \$36 million. Let us toss in all of the others providing pensions. We could come up with a reasonable working amount of \$40 million per year leaving the Cayman Islands. Can we afford \$40 million to be taken out of the Cayman Islands every month?

**The Speaker:** Every year.

**Mr. Gilbert A. McLean:** Sorry. Every year! Thank you, Mr. Speaker.

Can we afford \$40 million to be taken out of the Cayman Islands every year? We are not talking about CI dollars either. We are talking about hard currency, which means US dollars (accepted internationally as the trading currency). The population is 40,000. Can

we continue to milk CI \$40 million out of this economy, change into US dollars and send out of here? We have no chance of receiving that again for the next 30 or 40 years, and then only in little dribs and drabs.

We also need to take into account that as the pressure grows on the Cayman Islands from external forces such as the Organisation for Economic Co-operation and Development (OECD) countries, the United States and all the industrialised countries, that although we have arrived at a supposedly accepted position now (being taken off the blacklist as stated by the Leader of Government Business) when will they create new requirements for us that we will have to meet?

I suggest that one of the things that resulted from the whole exercise with OECD is that we have lost certain capital that used to be here. I do not mean the capital that came from wheelers and dealers, or tax evaders, I am talking about good and lawful money that was here purely for investment purposes. So, we are less well off because of that. The question is: Can we afford to allow that to happen to us?

We are not talking about money from Argentina, The Bahamas, England, St. Vincent, Jamaica, whatever! We are talking about money being taken out of the Cayman economy deliberately, legally, and it is a must! There is no such thing as it is not going. It has to be taken and sent out.

When there is less hard currency coming into the Cayman Islands, there is certainly less to be sent out without affecting the availability of such funds. I do not have to be an economist to understand that very basic fact. Every country in the Caribbean has tried to get monies and they normally have to go to the US with that in hand for hard currency. Is it in any way logical for us to set up a system in the Cayman Islands whereby we take from ourselves \$40 million a year and send it out of the country with the hope of receiving it in 40 years?

As I said earlier, there is no doubt that foreign investment has far outstripped any kind of serious capital pooling locally that could help our economy and keep monies within this economy. Because of this, we have fallen behind with businesses of any type that one would look to invest long term funds in, even though there are a few. There is the Caribbean Utilities Company, and a few others. However, its ownership is another question and because of this, we have not helped ourselves to have investment vehicles as we should, in which we can invest.

While we admit that, is it sound for us to continue in this particular mode? Or should we not now at this stage get smart and say we are going to change it? We have been through the OECD problem, now we are going to get smart and proactive instead of reactive and stop whining, saying we are good boys and get real understanding that nothing is for free in this world. You pay for it one way or the other. I recall the late Haig Bodden once talking about his career at a reception held at Lantana Restaurant for him, as the

most successful insurance agent in the Cayman Islands. He said he realised that there was no Santa Claus. Have we reached that point yet?

I trust that we the newly elected representatives of the people will begin to get smart. I suggest that there needs to be a move where we can connect our domestic business with the offshore sector in this economy; where we can utilise our own capital; where we can plan an active role and benefit from it instead of being facilitators as we are now. We can become captains of our own fate. If we do not, I suggest that we are going to pay a very bitter price. We have a reduction in foreign currency. If we keep, by our own action against ourselves, reducing that, and we come to the point where we have to borrow it back, as has been the case with many of our neighbouring countries in the region, we will have to pay a serious price. It is then, as the saying goes, that the man extracts his pound of flesh from us.

I suppose we have all heard of World Bank, International Monetary Fund (IMF) and some of the things that have happened when one reaches a situation where one has to turn to those to fix one's economy. One of the first "fixes" they put in place is to tell you *'Listen, make your currency worthless so that the dollars that I am giving you will be supreme.'* For anyone who has any doubts about that, Politics 101 in most universities will teach him about the politics of money.

Situations such as this has caused me bring this Motion to the House, asking us to look at opportunities that may be possible within this economy. In fact this Motion was set for the first meeting, but did not reach the Floor and it was postponed to this meeting. I had at least one person dancing up and down in my face several weeks ago telling me how it would be a terrible thing to invest this money in Cayman—asking what do we have to invest it into in Cayman and how it would be nothing but a loss. Well, I want to know who sits on his fanny in Cayman and sends it over to New York or London and guarantees whether or not it will be a loss. If it is a loss, what do we do? We tell the persons whose money we took, *'Well, we are sorry, that particular company went bankrupt and all your money that was invested is lost.'* Is it a nicer way to lose it in a company in the US or England, or losing it here where we can at least look at the building or whatever and see that?

So, when I hear all of this highfalutin argument about 'risk' – "it is too risky" – that is what it is all about. That is what the high yield instruments are all about—taking risks, buying Bill Gates' stock and so on because you believe they will not break up the company, while it is ahead and monopolising the software world and making lots of money. If the judge breaks it up there goes the earnings. Do the people who offer to take our money cry, lament, or offer to make up any losses for us? Of course not! That is ridiculous to even think.

Whether or not the Chamber of Commerce thinks that it is a good thing is immaterial to me. I know it is not the Chamber of Commerce paying these funds on behalf of the people of this country. The people are paying those funds by having those funds deducted from their salaries on their behalf.

It speaks of an investment of at least 50 per cent of the funds taken in. I realise that we could not do that tomorrow because to meet the present criteria as set down in the regulations, we would not have that type of thing locally available. I amended this Motion after listening to colleagues and different persons to say over a ten-year period. Now, the geniuses here who are supposedly investing our funds in the best possible fashion in New York, London, Germany and all of these places, they do not know who the people are over there. It is all being done electronically or through one bank or the other. They can sit here and assure us of how well our monies are going to do. Do you mean to tell me that those geniuses cannot find any ways or means in ten years to invest some of that money here? We should fire every one of them.

I got quite a letter from the Chamber of Commerce and the man associated with Butterfield who invests the money they send through their scheme saying it is illegal and they should not think of doing it. I say we can do that. The people who said we would never go to the moon would never be there now. However, there were those who said, "No, we can go to the moon", and we went! Now, they frolic all the time in outer space, talking about going to live there, growing crops there and I guess they will soon have a night-club there and all the rest of that and we will all want to have a night out in outer space. However, it is because people said we can do it.

If we have so much money and if the world is asked to have such confidence in us as a financial centre, then please tell me I am wrong. Should we not have enough confidence in ourselves to find investment vehicles within this country? I suggest that in the minds of many people there are things they would wish to do, but cannot because of capital. Foreign capital is not going to come here to assist local entrepreneurs. Foreign capital will come here to assist itself and its owners with regard to profits, ways and means of avoiding taxes in the country from which it came. We need to find something for ourselves and our own.

We have to start by seeding the process. Up until now, this is about the third year these funds have been collected, no seeds have dropped yet. Now, there may be those who are better informed than I, and I have heard of one bank that supposedly invests 10 per cent of what it gets here, but I hear it is no more than the section of that bank investing it somewhere overseas. Anyway, I will listen attentively to the arguments that may be made after I stop speaking.

I believe that 50 per cent of the funds being extracted from the Cayman economy each year can be invested in the Cayman Islands. If you take a ten-year period, I would say in the first year make an attempt to

invest 10 per cent. I understand 10 per cent is easy to calculate. Have you heard that *money makes money*? If we start the process, I believe money can be made. In the next ten years, invest such amounts of money as possible to invest. Suppose in ten years it is not a full 50 per cent, but 48 per cent invested? Would anyone want to shoot someone for only getting 48 per cent invested? I would be more than happy to know that 48 per cent of the funds were invested in Cayman. At least my children will have something to look forward to and we would be generating some capital for ourselves.

Available data on the Cayman Islands suggests that a conservative estimate of medium to long-term credit currently outstanding in the domestic market, that is the portion of loans and advances the Cayman Islands residents with maturity in excess of five years, is in the region of \$250 million. Now, if foreigners with foreign money can have that kind of confidence to invest those funds in Cayman to its residents and Caymanians alike, should we not have enough courage to invest a little \$10 million or \$25 million, or \$50 million in our own country? It is ridiculous to think that we do not.

I wish to bring to the attention of the House that the asset allocations are set out in regulations. That means that the Governor, or his Executive Council or the Governor in Executive Council passed these things here. Just as they were put here in 1998, they can be changed in 2001. There is no compelling reason why that must be the reason why the order remains. Have any of these pension providers undertaken an investment that they have taken up for ten years without any review? No! That would be ridiculous. At this very minute they are trading on the stock market in New York and so on. That is no excuse.

The same way it is said here, "An administrator shall not invest the assets of a pension fund in derivative securities, venture capital, limited partnerships and real estate." it can be changed to allow certain investments if it is found to be acceptable.

In the same way it says (and I just love this) in section 4(a) of the Regulations, "At least 70 per cent of the market value of the assets of a pension fund shall be denominated in the currency of the United States and no more than 25 per cent of the market value of the assets to be in the currency of the Cayman Islands." You would have thought it would have been otherwise.

So, the same way the Chamber of Commerce got the Government to write this, because they knew this was best for us and all of those people who are benefiting right now from dealing with these pensions on behalf of the people of the Cayman Islands, it can be changed to where it can be of use to the Cayman Islands.

I believe in the resolve of this Motion. I believe we need the capital that can be generated from utilising these funds within the Cayman Islands. I know the economy of the Cayman Islands will be helped, and

the people from whom the funds are taken. I hardly need to look for a better reason than that to find good reason to bring this Motion.

I trust that the Government will take this on board to deal with it and if not, that is fine too, for I have done what I promised I would do. Certainly it does not change my belief that it is the right thing to do. However, having outlined what I have here, I will leave the Motion and recommend it to Honourable Members. Thank you.

**The Speaker:** At this time we shall suspend proceedings until 2.15 pm, but I ask all Honourable Members to meet informally with me in the Committee Room at 2.10 pm.

#### PROCEEDINGS SUSPENDED AT 12.49 PM

#### PROCEEDINGS RESUMED AT 2.35 PM

**The Speaker:** Please be seated.

Debate continues on Private Member's Motion No. 17/01, Pension Deductions. The Motion is open for debate. Does any other Member wish to speak?

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you, Mr. Speaker,

As the Minister who holds responsibility for this area, I am duty bound to speak to the Motion on behalf of the Government. I would like to begin by saying that I stated in my campaign my intention to explore the area called for in this Motion. Indeed, I shared the same manifesto with the Mover.

I explored the possibility and would like to offer to this Honourable House what I found out in the course of that exploration. I wish to say at the beginning that this whole business of pensions as a protection for workers emerged as a concept because it was realised that it is impossible for even the most frugal of persons to save by conventional means enough money to offer them a comfortable existence in retirement. This is especially important given the fact that in most societies people live longer, enjoy greater health up to a considerable old age, thus necessitating on their part the provision of some special dispensation of money so that they can have not the luxuries in the Golden Age, but the necessities. So that rules out saving as we know it by conventional means for more reasons than one.

However, the obvious reason that many of us have to use our savings is for vehicles that are necessary to get us out of daily inconveniences. It is recognised that just having a savings account and placing money in a conventional savings account would not do for somebody planning a retirement because of the fluctuating balances that savings' accounts are prone to have.

It is true, as the Mover said, these monies that are collected in the Cayman Islands belong to the subscribers. It is also true that we should have first

call on these monies. However, there are certain parameters within which these monies operate. Right now these parameters are set out by legislation. In the Regulations we have a clear indication of how the monies must be invested.

I want to refer to the Regulations, section 3, where the administrator is charged with how he or she should invest these monies. Section 3(1)(a), (b), and (c), sets it out clearly. No total amount is invested in one instrument. That is designed to "spread the risk" as the expression goes. It is also true that the younger the age of the contributor, the better their position is for entertaining greater risks. A person who is coming into the fund at an older age would be cautioned by the administrator to take a more conservative line. It is recognised that the way in which these funds are invested in instruments, bonds, including US Treasury Bonds, grade bonds, corporate bonds, Euro bonds, treasury bills, company shareholdings, there is fluctuation according to the stock market. We had a recent experience of that in that many short-term funds took dives because of the fluctuating stock market.

The fundamental underlying principle in the investment of any pension fund is the security of the fund in the long term. That is why many countries prefer the funds to be invested by entities other than the government, preferably entities that are experienced and prepared for the liabilities and responsibility that they have to face in managing the funds in such a way that returns yield the expected results. That rules out even CDs with fixed rates which do not usually yield attractive returns.

One thing we have to be conscious of in this case is that the funds have to be invested in such a way as to spread the risk to prevent any one instrument failing and wiping out the whole portfolio of investment. That means that the funds are invested to spread the risk among any number of instruments.

I want to focus a little on the Cayman Islands as a jurisdiction in which the funds could or should be invested. It is true that some of the funds should be invested in the Cayman Islands. It is my understanding that some are, but we have to realise that the Cayman Islands is growing in significance as far as certain investment instruments and entities are concerned. One of the things one would not wish to do is over subscribe because when you sell shares and they are over subscribed, the value of the shares has a tendency to dip or stay at a certain level which might not yield the best returns.

While there is merit to the argument that it is Caymanian money, and that some of the money should be invested in Cayman, we have to balance that against the market forces and the availability of market entities in the Cayman Islands in which to invest these funds. The Cayman Islands is not unique in investing these kinds of monies in US Treasury Bonds and Euro Bonds. These are age-old proven instruments. While they may not be gilt-edged all the time, many people know them as instruments that even if

they take a fall in the short term are bound to reach stability and yield attractive returns in the long term.

It is tempting to say that much of this money could be invested in the Cayman Islands in mortgage loans. While that is true, one also has to look at the volatility of such investments. One thing that I understand we have to guard against is persons not living up to the terms of the loans when borrowing from pension funds, because in a sense they are borrowing their own money. While it is true that the funds we invest is our own money, it is of critical importance that this money is kept so secure that there is an absolute guarantee that it yields the returns it is supposed to. So, any layoff into home mortgages has to be achieved against the backdrop that it is going to yield unflinching returns.

I am not saying this is going to happen in the Cayman jurisdiction, but the business of managing pensions is such a delicate business. It calls for such meticulousness, that the textbooks are rife with cases of pension funds being mismanaged and gone awry. The most classic case is that of Robert Maxwell. He was allowed to operate the pension fund of his employees. Everyone knows what happened to that pension fund.

Another classic textbook case is that of the Teamsters Union in the United States. The Teamsters manage their own pension funds. They use it for a slush fund and it is a truism to say that every president of the Teamsters has been under investigation if not indicted for mismanagement of pension funds. There is merit in hiring outside administrators, people and entities that have to stake their reputation, and convince the pensioners that they are the best ones to administer the pension funds because (a) they have experience in so doing, (b) they have credibility; and (c) they are prepared to accept responsibility and eventual liability, not only from mismanagement and misappropriation, but for loss due to carelessness and bad investments.

So, I want to underscore that there is a certain sense of security in having the pension funds administered the way they are in the Cayman Islands. Having said that, there is nothing wrong encouraging those administrators to look at instruments available in the Cayman Islands and lay off some of this money. However, to do that now, even to have them lay off 50 per cent over the next ten years would mean that we would have to amend this legislation in a significantly different way from what it is now. I am not convinced that that would be in the best interest of the pensioners at this time, even if we break it down on a yearly basis, as suggested by the Mover.

One reason for that is that our stock market and the other instruments and entities we have in the Cayman Islands to which significant portions of these funds could be invested is not at the stage where they could bear that amount of money. I argue, and my research bears me out, that although this money is overseas, although this money is invested in entities

over which we have no control, it is invested in traditional instruments and entities. Given the long-term nature of the investments, the money is as safe as it can be. We also have to remember that the Caymanian business culture is a relatively new and growing business culture. We are not yet as sophisticated and aware of all the intricacies and nuances of these kinds of instruments and entities.

It is good to be able to consider this and debate the merits and demerits of such a venture. However, we must remember that no government, no matter how economically well off, could afford to take responsibility in this day and age for repaying pensions to those persons who lose it through the government making a bad move. From time to time, we hear about the United States Social Security system being bankrupt. Whether or not that is so, we hear it. It is a fundamental fact that these monies have to be kept almost sacred where they are kept away from the hands of politicians. I am a believer in that. I believe that the hard-earned funds of the people must be secure. If I can recall the debate in the early stages, that was a universally accepted concern. They wanted to find out if these monies were going to be secure.

There is risk involved in any kind of investment. However, I do not believe that the risks involved in these investments are undue or should be more frightening than anything else. It is also true that the monies invested are significant sums. While it is true that this money, for the most part, leaves the Cayman Islands, let us not forget that the balance to the equation is that there are significant amounts of monies lodged and invested in the Cayman Islands by outside entities so there is a balance. It is not accurate to portray it as a void, to show that the flow is unidirectional. Monies go out, but monies also come in. While it is true that we have to watch the outflow, we have to also ensure that we take care and make the best advantage of the inflow.

Therefore, it is important that the investors of these funds have the option. Let us not forget, every pensioner, every contributor gets to see on a regular basis the performance of the monies they have invested because it is a stipulation that subscribers get periodic reports of how their funds are doing. They have the option, bearing in mind the administrator's advice, to change or alter the percentage of their investments within certain discretionary areas. Indeed, it is recommended that the younger the contributor, the more aggressive they can be in terms of risk because it is a long-term investment. At no time will all of the subscribers be taking their pensions at the same time which allows the fund to take certain ebbs and flows. Significant too is that none of the pension schemes are defined benefits. They are defined contributions. That in itself offers a certain basic protection to the subscribers.

Whether or not we have the best system in the world is a moot point, and not relevant to this debate. What is relevant is that all of the plans are safe, offer

reasonable rates of return, and offer a fair amount of security in terms of long-term investment and guarantee that the subscribers are going to be able to earn significant and encouraging returns on their money. The point also needs to be made that wise people will not only depend on their pension investments for a secure future. So, having monies in a pension fund is not an excuse for not having other investments or other arrangements for one's retirement years. That is just the basics.

The strength of pensions as they are in the Cayman Islands is twofold: First, it allows the subscriber certain independence and releases him from dependency upon the state. Secondly, it frees the state from the obligation of providing for the citizen. The responsibility of the state in this instance is to see that the funds and the administrators of the funds abide by the law and regulations as set out by the state so that the state becomes the guarantor. The state becomes the entity which oversees the management and ensures that it is proper, but the state itself does not have any direct role in managing or investing the funds. That is good and reassuring to all parties involved.

I think this Motion allows us to take a healthy look and helps us articulate some ideas as to the way forward. The Motion has merit in this sense. This whole business of pensions in the Cayman Islands is not ten years old yet, so we do not have a whole corpus of experiences to build upon. We are not yet in a position to say, *'based on our experience, this is what we think could be done.'* This Motion allows us to take a first look at what we are trying to do and achieve. It gives us the perspective and encourages us to take our relatively new experience and juxtapose that against countries which have a far longer experience than we do. It also gives us some idea of what we might like to do in terms of a way forward. However, I believe that we should let our laws and regulations play out some more before we attempt to come up with any significant changes that may alter the long-term course we plan to take.

When the funds have reached a certain age and we derive the spin-off we expect and gain the experience, we will be in a better position to say we believe it is time to take an introspective look. However, we are just starting. No significant amount of returns has yet been gained on our investment. So, I would have to caution against any suggestion that we hold back some of this in the Cayman Islands.

Let us not forget that the Cayman Islands are an interdependent element. We are part of the wider world economy. Events in the Cayman Islands are as much influenced by what happens in the United States and Europe and the Far East as by what happens in downtown George Town. Indeed, it would be foolhardy to say that we could create our own economic empire here just by such a move. We have to play and understand the market forces and gain from that understanding before we can successfully venture out into crafting our own instruments.

While I would not discourage a conservative investment, I would guard against a significant amount. Even over a decade, 50 per cent is a significant investment. We have a stock exchange here which is growing. We have some other companies which are certainly attractive to investors, but we do not have them in the numbers which are of such a magnitude to attract significant investments over the long term. That is why we have to look overseas.

Let us not forget, this whole business is conditioned by one word—"risk"—managing risk, spreading risk, and eliminating certain risks.

I like to be informed about how empires are built, both political empires, but more importantly economic empires. Often economic empires influence political empires. I especially like to read about Jewish entrepreneurs. It seems that these people were and still are to a certain extent, the world leaders in money management.

The house of Rothschild, was started by the patriarch Amshel Rothschild who sent his four sons out into the world. This is interesting. He did not send them all to one jurisdiction because he wanted to spread the risk. He wanted to guard against a total wipe-out and failure. He sent one to Italy, one to London, one to France, and one to Germany. At the beginning he did not send any to the United States. After the market forces played out in such a way, the one in Germany left and emigrated to the United States Amshel Rothschild called his sons in before he sent them into the world and told them the reason why he wanted them to go in four different directions. They took the money he gave them and invested it. He did not want them all to go to the same place. The wisdom of spreading the risk is spread out in the house of Rothschild and all of the things they control and stand for.

That was not the only one. His rivals did the same thing. The Brontmans, the Reichmans, every one of them. The Jews got into whisky, banking and manufacturing. They manufactured whisky and did not drink it themselves. The name of the game was to make the most money at the least risk. The Rothschilds had so much money that for years they controlled the whole of Europe. Kings, princes, prime ministers borrowed money from the house of Rothschild. They virtually ran Germany before the First World War. One has to be mindful of this whole business of risk in investment.

It is interesting to note that Robert Maxwell was a Jew, but he did not understand the business of managing risk. He took the pension money, and his principle was flawless. The problem was, in practice it did not work. His philosophy was that if he managed the money for the house of Maxwell, it would mean he could make more money because he would have to pay the house of Maxwell management fees, but he did not realise that he did not spread the risk. All the risk was borne by the house of Maxwell. So, when the empire began to fall, when the world took an eco-

nomical downturn, Maxwell had to lay out more and more money to manage the pension fund until he was so short of cash he began to borrow money from the pension fund he was managing. He got into a quandary he never got out of. Many people say it was that which eventually cost him his life because he was found mysteriously washed up along the shores of some Mediterranean island, his yacht abandoned.

We have to bear in mind that it is crucial to have the ability to understand how to manage these funds so that the risk is spread. That is why the law and the regulations stipulate these instruments and the minimal rate of returns. I found out that it is an awesome responsibility. The managers and administrators of these funds have certain legal responsibilities. They can be held liable, as happens many times in other jurisdictions. I believe that our pensions' law might not be the best law in the world, but I believe it serves the purpose.

The National Pension Law requires that the pension plan administrator invests the contribution from employees and employers in accordance with the criteria set out in the laws and as prescribed by the legislation. I want to read what that means: "The administrator must exercise the care, diligence and skill in the management and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another." I want to pause here to interject that these managers and administrators are trustees. If they make a mess as trustees, they can be held personally liable. It is not a free ride. That is why it is not an involvement to which all and sundry run. He must also use all relevant knowledge and skill, which because of his profession or calling he ought to possess or appoint an agent who can. He also has to comply with the regulations. They require the administrator to comply with asset allocation requirements which in brief stipulate placing between 40 per cent and 70 per cent of the market value of the assets in equities between 20 per cent and 40 per cent in investment grade bonds, or preference shares; and up to 25 per cent in fixed term deposits or the equivalent.

If we were to invest this money in the Cayman Islands we would have to change the law because we do not have some of these instruments here at this time. The reason why these instruments are recommended and the percentage of investment stipulated is because it is calculated that these are the kinds of returns necessary to make the pension fund viable accompanied by the least risk possible.

It would be simple if the Government had stipulated that each worker needed to set aside so many dollars per month in a CD. At the end of your working life, however, would you have enough to tie you over to meet your bills and allow you to live comfortably? No! Or, would what you have by then be much less than what you need? The reason it is done this way is for the Government, without directly involving itself, to guarantee that every person who works and for whom they work make a contribution to free the Government



of any direct responsibility, and also to guarantee to the worker that his investment will be such that he can depend upon it.

It is not all that is needed; it is but the basics. It is expected that over the long term the investors' money will be safe. In the short term there are peaks and valleys. However, the short-term losses will be more than compensated by the long-term yield of the investments. Equities must remain as the major part of long-term investment and retirement planning. You do not get equities from mortgage loans, or CDs. These are special instruments. If one followed the history of the stock market, one would realise that for all the dips and falls, the rises more than compensate.

I read where during the Great Depression, many people lost their fortunes. Believe it or not, many people became millionaires also. These monies have to be managed by knowledgeable persons because even out of the 1920s stock market crash, many people jumped from multi-storey buildings, just as many or more people became millionaires by watching the market trends and buying and selling according to the market movement.

I believe that while there is merit for us to examine these funds, at this time, there is no convincing reason why the Government should alter the law and regulations from the way they are. Government believes that investors must be assured that their investments are safe, and that they will yield returns which will allow investors to realise their ambitions. It is therefore accurate to say that, at this time, such a situation does not exist in the Cayman Islands to warrant this kind of investment.

That does not rule out the fact that we should not be observant and monitor the management and investment of the funds. Government believes that, given the relevant new beginning, the fact that we need to accumulate some returns on the investments, they are best left as they are currently stipulated to be managed in the law and regulations.

We are just now reaching the stipulated contribution level of all the entities. It is therefore wise to stay at this level and let the investments yield returns before we make any move to change the investment pattern, particularly as we cannot be sure of all the risks involved if we change to the pattern which has been suggested.

The Cayman Islands offers good scope for certain types of investments. I believe it would be unwise to change the law and regulations from what is stipulated at this stage to anything which carries an element of uncertainty. Therefore, I cannot encourage Government to accept the Motion. What I will encourage the Government to do is continue to keep the matter of pensions and pension contributions under review and encourage it. As the opportunity avails, and entities emerge in the Cayman Islands that are secure and attractive, it will encourage investment in those entities in sufficient portions as to benefit Caymanians. However, what must always be borne in

mind is that the risk on these investments must be spread to its maximum.

I hope that my argument has been convincing. Certainly, Members are entitled to their opinions. The experts bear me out. I have consulted far and wide and while it is attractive and might be idealistic, we have to be practical. The bottom line is that these are investors' monies and they must be kept safe. Above all, Government should be cognisant of the Robert Maxwells, the Teamsters, and all these other people, Bebbe Roboso, and all these others who went off and invested pension money in hare-brained schemes and at the end of the day saw the money evaporate. Pensioners did not have anything and hundreds if not thousands were left in a quandary. There is an old saying in Latin, coined by Augustus Caesar: "*festina lente*"—hasten slowly. Thank you.

**The Speaker:** The Motion is open for debate. Does any other Member wish to speak? Does any other Member wish to speak?

The Third Elected Member for George Town.

**Dr. Frank McField:** Mr. Speaker, I am going to see if I can make heads or tails of this debate. I must say that I was an advocate of using pension funds and insurance monies to try to create local investment possibilities in my earlier days. I have a few concerns at this particular juncture, but I like to note that the debate by the Minister of Education was a little not like my economics, somehow. So I would like to just see if there is any way that I can somehow expound on some points there.

My understanding of spreading the whole risk is that there are choices. People can exercise choices and they are because their feeling is that they will benefit by exercising those choices. If the individual had to exercise choices at this time, they would choose not to be involved in pension schemes. I think that I have been able to gain as much from many persons who are forced by law to contribute to pension schemes.

I am saying that what the Government considers to be beneficial is not always what the private individual or the private company will consider to be beneficial because they are looking at benefits from different perspectives. It is good to talk about the very capitalistic Rothschilds and their adventures in capitalism and international capitalism. It is a good story, and a very Jewish story at that, and probably that tradition has been going on for many thousands of years in terms of spreading the risk. What we in the Cayman Islands have to pay attention to is that we are starting out as persons who are making it mandatory for citizens to save for old age. In so doing, we are taking a certain amount of money out of the pockets of these people. Also we are taking a certain amount of money out of companies operating in the country. In other words, national pension legislation automatically denies or

limits the cash flow which would normally exist in our society.

The Government believes this is a prudent way of managing society, although businesses and individuals might see this as not being prudent. There are a lot of small businesses complaining about the fact they must pay pension and health insurance. They believe they would best be able to function if they did not have these types of economic burdens.

If it is the intention of the Government to look at the overall good, saying that people should save for their old age, and that Government should take the added step to disassociate itself with the actual administration of the pension funds, then all the administration should really do is make the regulations to cause the investments to be invested prudently. The monies being invested prudently always seem to end up with giving other jurisdictions more funds, more credibility, more security. In other words, America and American instruments and entities seem to be getting larger and larger as a result of the poor world always saying that, if it is going to benefit in the long run economically, they have to invest in the American economic instruments and entities.

That in itself economically under-develops those countries that are pursuing such policies in that the money they are collecting by virtue of government legislation is assisting with the further development of the US economy and instruments. It is further assisting with the devaluation of the instruments within our territories. It is a predicament we find ourselves in.

Some of us would hasten to believe that that is not a serious predicament requiring serious consideration. If the persons who are working in our society are paying into a pension fund year after year, after year, waiting until they get to be 65 years old to retire, to benefit from those funds that they are compelled by legislation to pay into each week or month, that is a far-fetched carrot that the Government holds in front of them. Whereas, if people could have some access to the benefits of their collective investments, then they would probably feel more that it was a useful condition and not an unnecessary servitude the Government had compelled them to endure.

I am saying that if people are able to become small business persons as a result of the existence of small business loans; if people are able to get mortgages and get homes they can live in; if they are able to rear their children in a way that will give them some kind of self-esteem, then would not a certain degree of risk be worthwhile?

When we are considering risk from the point of view of an underdeveloped native, we must not consider it in the same way as that of a developed metropolitan person who sees risk differently. He has already gone beyond those particular types of needs we believe these investments would be useful in assisting to correct. In Paris or London where housing might not necessarily be an issue; where people have different possibilities to have access to mortgage money or

scholarship money, or money for training or home improvement, it is a completely different kind of predicament.

When all these countries started to develop, when people did not know where capitalist development was leading them, everybody was acting with a certain lack of knowledge and there were certain risks that they were all taking. Mistakes were made in terms of investment, and in the way in which economic strategies were developed and the way government saw its role in the economy. It can be said a lot of the pension plans which existed were abused by the administrators and we can say that those mistakes do not need to be repeated. We can now term that particular type of administration as involving risk—but only risk in retrospect.

The countries which have gone through those stages of development do not place them in the same position of need as we in the Cayman Islands are placed. We have a lot of banks operating in the Cayman Islands. They charge very high interest rates. It is apparent to all of us that they consider us a high-risk jurisdiction. For this reason they charge us an additional 3 per cent or 4 per cent over par in order to be able to make sure the risk is somehow rewarded. This goes to show it is not always the degree of risk we look at, but the profits that result from those risks.

If part of the problem in regard to our indigenous local development is the lack of capital and the lack of cheap capital, it means that we would like to pay the principal and the interest so the interest did not cause us to default because it is so high, and the business could not generate sufficient cash to maintain the payment of the principal and the high interest. If local economic development is being stagnated by these oppressive conditions, then it is understandable why we are thinking about ways to try to alleviate the situation.

One of the ways seems to be that if our people are generating a certain amount of capital as a result of their participation in the economic system, somehow, some of that money should be used locally to give them the kind of social benefits which should run parallel to the kind of economic progress our country is making.

That is a real predicament government is faced with at this particular time. This Government, in particular, needs to be able to find ways to solve these types of problems. Nobody is saying that the Government would be creating conditions to make it possible for pension funds to be plundered. I think what the Mover of the Motion was saying, not just in his debate today but through part of his political career and in his campaign, is that, if we take the money we accumulate and put it in an area where we are getting less for it, then the money being brought and invested here does not seem to be totally logical.

It would appear that the sole reason for taking our money elsewhere to get less money for it than that which is being brought here to be loaned to us is that we are minimising or spreading the risk by moving our

money outside and waiting for foreign money to come inside to be loaned to us. In that sense, it is an amazing predicament we find ourselves in. It is a parody of Colonialism that people devalue themselves and their environment to the point where they are willing to pay more for what is brought in, than what they are willing to pay for what remains here.

The interesting point, if the foreign monies brought to the Cayman Islands can generate so much interest and such secure interest for foreign investors, why would it not generate a good investment result for the people of the Cayman Islands?

I feel that we are running all over the world to see if we can get from the Caribbean Development Bank, or other banks, some money for low-income mortgage. The fact that we are talking about low-income mortgage does not necessarily mean because the persons borrowing the money are low wage earners—they are not working and will not pay. I think we sometimes confuse the issue of low income with the lack of income; it is totally different. If somebody is not making an income, obviously they can not afford to borrow and pay back. However, there are people who remain as low income earners and remain in their job for ten years, twenty years. They are some of the most stable producers in our society, and some of the most dependable creditors.

I remember my mother and father were what I would consider to be low-income wage earners. They worried more about what they owed people than a lot of rich people who knew that if the bank lent them a few thousand dollars and they could not pay it back, the bank would have an interest in lending them a bit more to take a bit more risk with them hoping they would be able to pay it back.

I am not saying that the quality of the borrower today is the same as it was yesterday. Obviously, society has come to a point where debt is a very important part of the entire flow of our economy. If we cannot give people today what it will take them twenty years to pay for, we would not be living in the kind of consumer society that we are living in.

The Caymanian does not want to wait twenty years to get the house, no more than the American wants to work twenty years to get the house. A person wants to be able to borrow in order to afford it, and pay for it over a period of time. That is the nature of the society we are living in. I believe that there is a possibility for society to do that.

Where I might find a little problem with the Motion in the sense that the Movers are saying is the part where at least 50 per cent should be invested within the period of ten years commencing in 2002. I believe what is used out of this fund could be less. It does not have to be that sudden. We could take our time in terms of trying it. There are reasons to believe that this Motion is not totally out of sync with what many of us believe is a necessity, that is to find monies to invest in local projects for economic development and to promote harmony in society.

If banks and trust companies that operate here are to redefine investment in the Cayman Islands as being more secure and less risk-oriented, then I believe it is time that government plays a role in assisting with the change of that particular status. That could be done by showing that government is interested in having a say in what geographical areas our money is invested. If we say it should be invested in first mortgages; if we can make good definitions, then we need to get the persons who put these regulations together; who knew what the perfect safe investments would be to examine our local domestic environment again and see whether or not they can find some investment in our jurisdiction that might be able to qualify as safe. That attempt by government should at least result from this Motion.

I hope that the next Member who speaks on this Motion will help to give me an indication of the position that I will take. I have briefly tried to talk out loud in terms of finding my position on this. I hope when the Mover makes his submission he will take into account some of the points I have made in terms of trying to rebut some of the comments made by the Minister of Education.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I think by consensus, because there are a few meetings that have to go on this afternoon, and since the Third Elected Member for George Town has just completed, looking at the time of the afternoon it is, I think Members would be content if we were to adjourn at this time.

With your permission, I would move the adjournment motion.

**The Speaker:** I will entertain a motion for the adjournment.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am, Monday.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Monday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 3.53 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 9 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**9 JULY 2001**  
**10.41 AM**  
*Eleventh Sitting*

*[Prayers read by the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.]*

**The Speaker:** Please be seated. The Legislative Assembly is in session.

Item number 2 on today's Order Paper, Administration of Oath, Oath of Allegiance to Mr. A. Joel Walton, Deputy Financial Secretary, to be the Honourable Acting Temporary Third Official Member.

Mr. Walton, would you come forward to the Clerk's table? Would all Honourable Members please stand.

**ADMINISTRATION OF OATHS  
OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**  
*(Mr. A. Joel Walton)*

**Mr. A. Joel Walton:** I, Joel Walton, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to Law, so help me God.

**The Speaker:** Mr. Walton, on behalf of all Honourable Members I welcome you to this House for the time of your service. Please take your seat as the Honourable Acting Temporary Third Official Member.

Please be seated.

Item number 3 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Second and Third Official Members, and the First Elected Member for Cayman Brac and Little Cayman.

Continuing with Questions to Honourable Ministers and Members. Postponed Question 76, standing in the name of the Third Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**POSTPONED QUESTION NO. 76**  
*(Postponed Friday 6 July)*

**No. 76: Capt. A. Eugene Ebanks** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what is the current criteria for having past criminal offences removed from one's record.

**The Speaker:** The Honourable First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. James M. Ryan:** The Royal Cayman Islands Police (RCIP) maintains a database of convictions recorded by the Courts and sentences imposed. From this data, the RCIP is able to issue a record of convictions and corresponding sentences deemed a 'Police Certificate', but commonly referred to as a 'Police Record'.

The Rehabilitation of Offenders Law (1998 Revision) provides for some convictions to become 'spent' after prescribed periods of time referred to as 'rehabilitation periods' ranging from three to ten years. There are also provisions that set out the possible impact of subsequent convictions on the determination of the 'rehabilitation period' of both the original and subsequent conviction.

There are, in turn, other convictions that the Law excludes from ever being considered as spent. 'Police Certificates' issued by the RCIP are prepared in accordance with the Rehabilitation of Offenders Law (1998 Revision). The provisions, or criteria, of this Law are applied to exclude 'spent convictions'. 'Police Certificates' issued by the RCIP do not show 'spent convictions'.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Would the Honourable Member clarify if the spent convictions are currently falling off police records for the purposes of people obtaining police certificates from RCIP?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my understanding that this is being practised, subject to human error. Spent convictions are removed, or do not appear, on police records.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Would the Member then say if this removal is automatic, or does the offender have to specifically request that those items be removed from the record?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The removal of spent convictions would be automatic and does not have to be requested by the individual, or ex-offender.

What I would like to point out, though, and this may be something which is causing confusion regarding what The Rehabilitation of Offenders Law states. Suppose a person commits an offence and the conviction falls in the category of three years before it is spent, and, at year two, the person commits another offence, not necessarily the same offence, but an offence of which they are convicted, then that first offence does not automatically fall away at year three. The offence will not be removed until after the new offence has been spent.

I have had one or two cases referred to my office where a person said he had committed an offence in the mid-1980s that should have fallen away, but it was still on his record. When I asked if he had a subsequent offence before the period of time for it to be spent had lapsed, he said he had. That then requires the earlier conviction to remain on the record until that later subsequent conviction has been spent.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Would the Honourable Member say if there is one schedule for offences involving drugs, and possibly another for causing grievous bodily harm? What is the time frame for having those things fall away? Are they different categories?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I attached the schedule to assist Members. I will take a minute to read this and to say that the rehabilitation period is tied to the sentence, not to the crime committed. It says:

**“A sentence of imprisonment for a term exceeding six months, but not exceeding thirty months [the] rehabilitation [period is] ten years.**

**“A sentence of imprisonment for a term not exceeding six months [is] seven years. A fine or**

**any other sentence, subject to rehabilitation under this Law not being a sentence to which any of the subsections (3) to (8) of section 5 apply, five years.”**

**“An order sending the offender to a rehabilitation school under paragraph (b) of section 20(1) as read with paragraph (a) of section 20(3) of the Youth Justice Law, (1995) three years.”**

It is tied to the sentence, rather than the crime.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Would the Member say if the database kept by RCIP is a computerised database, and if so, do they still keep a person's entire record in a separate database? In other words, do they have one that shows the entire profile, and then one that shows everything without the spent convictions?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The RCIP are in the process of computerising this information. It is currently done manually and the record shows all convictions. The spent convictions will be edited out of the database and it will only record those that are not spent, if any.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I was not sure if the Member meant that as the person makes a request the item gets edited out. Since he has indicated that is the case, who is responsible for making sure that when a request is made for a police record nothing that should be edited out is reported in error? Who is ultimately responsible for checking those before they are distributed to the public?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The head of the Criminal Investigation Department (CID) is responsible. In fact, it is my understanding that his deputy will check these to see that spent convictions do not appear on a police record when being prepared.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In view of the fact that there are so many cases heard in the courts on a yearly basis, my understanding is that there are some 3,000 to 4,000 cases heard there . . . granted, they do not all carry imprisonment sentences. Can the Member tell us how many people it takes to keep these records up to date, bearing in mind there are that many cases going through the court each year?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am told it takes three people to do it, but we currently only have one. If it takes a bit longer we might have to get a police record; that is the reason.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston Anglin:** In looking through these rehabilitation periods, and having had certain representation made by my constituents and seeing their police records, I wonder if the Member would say if these periods are in line with United Kingdom (U.K.) standards.

The reason I ask, and I beg your indulgence. . . If it is “**a fine or any other sentence subject to rehabilitation under this Law not being a sentence to which any of the subsections (3) to (8) of section 5 apply**” it remains for “**five years**”.

I had a constituent whose dog bit someone. He was fined and he had difficulties obtaining a U.S. visa because that conviction was showing up on his police record. That is the reason I asked if these periods are in line with U.K. standards.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I understand that broadly they are in line. I am not able to say that specifically each one is in line with the U.K. I would say that the piece of legislation I referred to earlier, The Rehabilitation of Offenders Law, is not a very clearly written piece of legislation. There are plans to try to have it updated and hopefully presented in a little more readable form than it stands. We can certainly look at it, get information from various jurisdictions and no doubt when this happens and it comes here to the Legislative Assembly, Legislators will have an opportunity to give input into the rehabilitation periods.

**The Speaker:** Before calling on another supplementary I would appreciate a Motion for the suspension of Standing Order 23(7) and (8).

The Honourable First Official Member.

#### **SUSPENSION OF STANDING ORDER 23(7) and (8).**

**Hon. James M. Ryan:** Mr Speaker, I move the suspension of Standing Order 23(7) and (8) to allow Question Time to continue after the hour of 11 am.

**The Speaker:** I shall put the question, that Standing Order 23(7) and (8) be suspended. Those in favour say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question time is continuing.

**AGREED: STANDING ORDER 23(7) & (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

#### **SUPPLEMENTARIES**

**The Speaker:** Any supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Member would tell us what time frame we are looking at, and, more importantly, he told us that the police force is currently trying to computerise their conviction records. When is it anticipated to be completed since it is now in process?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am told that there is an enormous amount of back records that need to be transferred to the computer system. The computer system, the OTRIS system, is being installed and the hardware for it is scheduled to be in place in September. So, I would think that we should have it up and running by the end of the year, if not before.

On the matter of a timetable for the review of The Rehabilitation of Offenders Law, I will direct that the matter be reviewed. I do not want to nail down a time, and I know there is a lot of legislation to be done, and I am not saying that it is not important. I am certainly going to try to get it done this year if at all possible, but I think probably toward the end of the year. We will work on it as expeditiously as the legal drafting department can. As soon as instructions are given I will move ahead on it.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for today.

Out of an abundance of caution, although there is no Government business on today's Order Paper, I would ask for a motion for the suspension of Standing Order 14(2).

#### **SUSPENSION OF STANDING ORDER 14(2)**

**The Speaker:** This reads, “**On all other days than Thursdays, Government Business shall have precedence over private Members' business.**”

The Honourable Minister for Planning, Communication and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

I move the suspension of Standing Order 14 (2) to allow Private Members' Motions to continue on a day beyond Thursday.

**The Speaker:** I shall now put the question we suspend Standing Order 14(2). Those in favour please say Aye. Those against, No.

**AYES.**

The Speaker: The Ayes have it. Standing Order 14(2) has been suspended.

**AGREED: STANDING ORDER 14(2) SUSPENDED TO ALLOW OTHER BUSINESS TO TAKE PRECEDENCE OVER GOVERNMENT BUSINESS.**

**The Speaker:** Moving on to Other Business. Private Members' Motions. Private Member's Motion No. 17/01 entitled Pension Deductions. The Motion is open for debate.

Does any Member wish to speak? Does any Member wish to speak? Final call, does any other Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 17/01

#### PENSION DEDUCTIONS

*(Continuation of debate thereon)*

**Mr. Lyndon L. Martin:** Mr Speaker, as the Seconder of this Motion I endorse what has been contributed so far by the Second Elected Member for Bodden Town. I also thank the Third Elected Member for George Town for his very positive and insightful contribution.

The issue covered in this Motion goes a lot farther than just pensions. The impact of pensions and the accumulation of forced savings have a larger economic impact and we must look carefully at our current situation in this country to truly appreciate the merit of this Motion.

Mr. Speaker, we commonly refer to the Cayman Islands' economy as standing on two pillars, the twin pillars of financial services and tourism. As we can all appreciate, any house built on two pillars alone is not a stable foundation. However, years of advocating and purporting diversification of our economic base has not been met with any real results. It is commonly accepted that one of the reasons for the failure of any

plans aimed at diversifying our economic base is lack of capitalisation.

The twin pillars which we rely on so heavily are pillars that generate substantial economic wealth. However, the ownership of that wealth is in the hands of predominantly foreign investors. So, over the years, we have developed two industries that resulted, by their very nature, in significant amounts of the wealth being remitted overseas.

For the past five decades we have experienced economic prosperity that has made us the envy, certainly, of the Caribbean. In the early days of the economic boom through the eighties, we were experiencing growth rates that would put us at the envy of the world. However, that prosperity was not accompanied with an effective, progressive immigration policy that would have resulted in the accumulated economic wealth during that period of prosperity, where indigenous Caymanians would have benefited. This prosperity can be characterised as periods of economic balloons—periods that did not have true sustainability behind them. Consequently, our population is one that finds itself challenged to provide necessary economic diversification, and a larger and more diverse economic base because it lacks the capitalisation necessary to do the investment.

As a country, at this stage of our development, what we should be seeing are private individuals monitoring trends in our country and coming out with business initiatives—indigenous Caymanians stepping up to the plate to provide the services and products that are being demanded. There is one simple example I am quite familiar with, so I will refer to it. It is amazing if you review the tariffs of this country and the figures for the importation of a product that is so easily produced, like eggs, which have such a fixed demand, an inelastic demand. We should have individuals who look at the immense amount of eggs imported in this country and see how easy it is to set up a facility.

We should have had an indigenous Caymanian, who found himself in a position where he or she could go and make the necessary investment, produce and substitute the importation of a product with a local product, providing a wider domestic commerce base that will ultimately help in the sustainability of our economic prosperity.

However, Mr. Speaker, it is not the lack of ideas, ambition or know-how that prevents our people from getting into such initiatives that this economy needs so greatly; it is the lack of capitalisation. The Chamber of Commerce can bear it out that most businesses in this country, including our national airline, suffer as a result of lack of capitalisation.

Government, itself, suffers as a result of lack of capitalisation—soft money that it could invest into projects and generate cash flows. That will not only sustain the repayments on the bonds that are necessary to raise this money in the instance of government, but will also make positive cash contributions to

the coffers of the Cayman Islands' Government. We find ourselves in a position where due to our periods of economic prosperity and boasting, thereof, we are no longer eligible for soft loans from the Caribbean Development Bank (CDB). We are finding where we are trying to fund our projects at commercial interest rates.

**The Speaker:** If I could interrupt you for just a moment. You will tie this to pension deductions?

**Mr. Lyndon L. Martin:** Mr. Speaker, I am making an argument of the need for capital investment in the Cayman Islands and I will tie the Pension Fund investment locally directly into capitalisation.

**The Speaker:** Please continue.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker and I appreciate your point.

The economy we have built finds itself in the year 2001 with a conservative estimate from the *RIA Express*, *Quik Cash* and *MoneyGram*—three institutions that make money by sending money earned in this country overseas. That is the nature of their business. Those three institutions cater predominantly to your working man—your low-income individual, because those who work in corporate Cayman are going to wire their money to their accounts overseas.

Over the years through our prosperity we did not have an immigration policy that gave those, whom we have made a part of our country and economy, stability in this economy. They continue to send their money overseas because they are not sure of their tenure here. Immigration has contributed to the Caymanians not truly benefiting as much as they should have but it has also contributed to the fact that those foreign nationals, who have been working here for prolonged periods of time, have no stability so they send their money overseas. A conservative estimate is CI\$2 million per month, CI\$24 million per year, through those three institutions.

Mr. Speaker, when we add it to those who are using the other mediums of transferring money overseas, such as wire transfers, Western Union and the other institutions that cater to that direct investment, the portion of the Gross Domestic Product (GDP) of the Cayman Islands is estimated at \$686 million (as adjusted for inflation, the real GDP), a significant portion of that leaves this country.

The argument I have put forward would come to some \$70 million from personal emoluments which leaves this country. We have also developed an economy in which the ownership of the wealth is by predominantly foreign nationals. So, not only do personal emoluments leave but corporate profits also leave the country.

Mr. Speaker, I do not advocate to having accurate figures but I have fairly good estimates on this because there is a lack of such information. However,

from my preliminary review, it would appear that some 40 to 45 percent of the GDP that is produced in this country is remitted overseas. This is compounded by the pension deductions.

At this point I would make a point of clarity. The Motion reads to the National Pension Law, but as we know they are two pieces of legislation that govern pensions in this country, the National Pension Law and the Public Service Pension Law. It is my intention to incorporate the two and not limit it to just the National Pension. So, I am including the Public Service Pension Fund into my contribution so my figures of annual deductions will be greater than that detailed by the Second Elected Member from Bodden Town because it includes the Public Service Pension Fund.

Mr. Speaker, 10 percent of all salaries and wages in this country accumulate into a massive fund which currently is predominately invested overseas, in the United States of America. This compounded on the other economic leakages, previously detailed, and we must take into account that when money leaves this country there is an opportunity lost. If that money stayed here it would not only yield the exact amount but it would have had a multiplier effect because that money would have stayed here and would have been invested here. It has a multiple effect.

Mr. Speaker, with the multiplier effect on the leakages we are remitting and losing more economic wealth in this country than we can afford. I urge those with the responsibility and the resources in the Government to survey and report upon the effects of economic leakages. When we report figures such as the GDP and our per capita income, it is not reflecting truly the state of Cayman's economy because a lot of that leaves the country.

I have made a point so far that a significant amount of money leaves our country and a great portion of that is the 7 percent of our GDP which is directly related to pension deductions. It leaves this country and goes to another country to be invested—hard-earned money by Caymanians—in things such as low-income mortgage schemes and capitalisation programmes.

We need to fully understand that pension in this country is a much broader concept than simple benefits at the time of retirement. Pension must be looked at from its social and economic role. Pension must be looked at as a means that an economy uses to assist the populace with sustained orderly social economic growth and development. We must ensure that when our populace reaches that age of retirement they do not suddenly stop their contribution to the social and economic development of the country. They must still have a means to contribute into the economy and participate in the community.

The Government recently elected some seven or eight months ago, provided this country with a hope of a government that would be fresh, proactive, contemporary, and progressive—a new style of governance. I am suggesting and submitting to this Honour-



able House that we accept this goal for our pension scheme. This is one that will provide our populace with a method that they can still contribute to society and to the economy once they reach their golden years. In a small country of some 39,000 people it is imperative that when our populace, (which is fairly aged looking at the demographics), reach that age of retirement they do not suddenly drop out of the economic picture. We must make sure they maintain their dignity and integrity because they can support themselves. If we do not, the opposite effect occurs. They do not become positive contributors to the economy. They become a drain on the economy if there is no effective pension law in place. They become a drain on social services and they take out and do not contribute. So, the pension is needed.

However, in Cayman's context, it goes even further. In addition to having an economy which was built on burst periods with no sustainability and without having a proper immigration policy in place and the resulting accumulation to the indigenous populace, we also have an inbred cultural problem in this country. Caymanians, by their nature, think individualistically rather than collectively. We do not bond together as groups of individuals who pool our funds and invest together. We want to look at what we can do for ourselves. We are building small individual empires rather than a large collective empire.

Mr. Speaker, I give special note to certain exceptions to this, such as, respected families like your own, who bonded together because of blood relationships and have made good and positive contributions to this economy. While on that subject I think it is important because it helps us build a foundation for why we need to assess and force collective investments through a pension scheme requiring 50 percent to be invested locally.

Mr. Speaker, our history was one in which a merchant class was developed. As a result, normally your merchants were also your ship owners or closely connected. Our men went to sea on these boats and the wives stayed home and ran credit with the merchants. When our seamen returned home, the wages owed to the seamen would be applied against the credit accrued and in normal circumstances the credit far exceeded the wages owed. So, the merchants always had the ability to control, direct and manipulate life in this country.

That merchant class still continues because when our seamen returned home, rather than pooling their funds and providing this country with some of the services they needed, they took an individualistic approach. They built their own house, bought their own cars and looked at themselves only. As an individual, he or she did not have the funds or the resources to venture into some of the opportunities now prevalent. However, the merchants succeeded and it still remains that those very same merchants who developed from this period are still the same merchants who are operating. That is the only ownership we

have in this country of its economic resources, those that developed over a long history.

The rest of our development and the rest of our needs have been met by foreign nationals. I must make it clear that I commend the merchants because it is the only part that has allowed us to gain a certain portion of the economic prosperity. We failed as a nation, as individuals and as a culture to bond our resources together. We are an individualistic country. We think individualistically rather than collectively.

Pensions were introduced in this country some three years ago. This forced individuals to save and created a collective fund—a fund where everyone was contributing and which is now in excess of \$200 million. It is the first time we have had a vehicle that has forced savings and collective savings together.

Mr. Speaker, in broadening the scope of pension, it is my goal as a Legislator not only to have safe pensions and to ensure that when an individual comes to the point of his or her retirement that he or she has some fixed source of income, it is my goal to ensure that the fixed source of income is not being used to rent an apartment. It is also my goal to use some of the collective savings to better that individual, during his productive time, to own a home, a business, and be part of the economic wealth of this country. So, when he comes to his retirement age, he has paid off his mortgage, that he got through a low-income housing scheme funded by the issuance of bonds from the Housing Development Corporation, for example, to raise a source of low-interest money. He is now sitting in his home that he owns and generates a cheque each month because of his pension.

So, pension plays the two roles of ensuring a steady, fixed source of income and also to ensure that, when the individual reaches those golden years, he has an infrastructure, personally and island-wide, that he can appreciate. He also has good medical services to help him in his golden years when he needs it because the Government has accepted a Motion that requires 50 percent of the \$200 plus million to be invested locally. That then allows the Cayman Islands Government to issue bonds to fund its much needed capital projects, including better schools, hospitals and general infrastructure. Therefore when that individual reaches his golden years, he has the funds to support his life and he has the infrastructure so that his golden years are really 'golden'.

Mr. Speaker, in this country we have 15,108 residents, according to the census in 1998, who were renting their accommodation rather than mortgage-owned or personally owned. That is telling me that we have an issue. This is because there are far too many people renting, considering the total population is only 39,000. We must broaden the goal of our economic role to include housing. We must seek to provide home ownership to our people. In a Motion that was unanimously accepted by this House recently, it was accepted that we need to address the issue of low-income mortgages. It was stated that one of the great

challenges was that we needed a source of good low-income money.

It is my position that through the Motion such as the one before this House right now, we can ensure that our citizens are getting the type of representation they deserve. When previous parliamentarians stood in here and passed a pension law, they were not thinking of whether the public would be accepting something popular or not. They were thinking of what is best for the public in their future. We must do something of equal significance by widening the impact of the pension not only to generate a steady stream of income but to ensure that the individual can truly enjoy and benefit from that income when it is realised, when they reach a certain age of retirement.

The decision to support or not to support this Motion has two parts. Simple question in a nutshell. First, should we as legislators and as a country, want some or all of the money that is generated in this country to remain and to be invested in this country? On that question I have spoken and in my position it is a definitive, "Yes". We should want the money to remain here and to be invested here.

The second part of the question is: can we have this sort of money invested in this country and have the appropriate financial instrument and vehicles without subjecting the pensioners to adverse risk? I also submit to that portion of the question, my answer is a definitive "Yes" and I will address that. Prior to addressing it I want to talk a little bit about a country that is nationalistic rather than individualistic.

For all of us who know a Bahamian and nationals from so many other Caribbean islands, we know that one of the things which differentiates them from us is that they are nationalistic. I want to talk a little bit about the Bahamas.

The Bahamas governs its pension under the National Insurance Act. The National Insurance Act provides for the National Insurance Board (NIB). I will read a little bit of the Mission of the NIB in enacting the National Insurance Act and Regulations: **"To provide social security coverage in the form of benefit payments to insured persons and their dependants against the following contingencies; sickness, funeral, invalidity, maternity, retirement, drawing it to the pension, and on the death of the family's bread-winner survivorship, industrial injury including disablement, death and medical care."**

**"Secondly, to provide minimum level of social security coverage for persons who do not qualify for such benefits as of right. And thirdly, to effectively and efficiently administer and manage the national programme and fund in accordance with the fiduciary principle laid out in the National Insurance Act and Regulations and thereby assist with the sustained orderly social economic growth and development of the country."**

I simply read the Mission to illustrate where in the Bahamas it is covered under insurance law. It is covering pension; it is covering the use of a fund similar to the fund we are addressing, although it is wider and larger. The National Insurance Act Schedule 3 with the 1998 amendments, the section captioned 'Powers of Board to invest: Part 2: Investment'. "The Board may invest any monies forming part of the National Insurance Fund whether in a state of investment or not, either temporarily or permanently in accordance with the provisions of this schedule". This is the important section. It says, "...provided that the Board shall not invest in property or securities outside of the Bahamas without general or special directions of the Minister after he has obtained the concurrence of the Minister of Finance".

The Bahamas ensures that its funds generated in its country are invested locally. It has the provisions in it which allows them to invest overseas but they have to get permission. However, I do not advocate that we should draft our legislation in the same way that requires the permission of a Minister because that has other problems.

This Motion does not seek to address it. It simply seeks to legislate that 50 percent is invested locally. The other 50 percent can be invested overseas as long as it complies with all of the safeguards provided in the National Pension Law. A country that is truly progressive, a country that is truly nationalistic, ensures that that money is invested locally, ensures that the economic impact is felt by the same people who are generating it.

Our National Insurance Bill is quite comprehensive. It provides the *dos and don'ts* of pension in the country. It was introduced as a Law not as a scheme. It should have been introduced as a scheme where people could have appreciated that it did not simply legislate how you do and do not do it and regulate the use of the fund. However, it did help but as a scheme it would have introduced areas to ensure that a benefit was coming back to the people. Our Law outlines the instruments that can be used. The Law was written after wide consultation to ensure that the Law required the professional pension providers to have a balance between risk and safety, high returns to fixed income. It ensured that that diversification was there; it ensured that the pensioners were not going to be subject to adverse risks beyond the level of acceptability to the individual.

Our Law also went on ... and I am reading from the National Pension Funds Regulations (1998 Revision) which covers in Section 4 the *don'ts*, things that we cannot do with pension money. This Motion does not seek to violate any of the *don'ts*. This Motion is not advocating that we invest into real estate which is a speculative investment at best. Our Laws clearly state that we cannot invest in real estate. It does not suggest venture capital, it simply says, invested locally. Our Law provides where 45 percent of the money can be invested locally now. The current Law

has three sections that allow up to 45 percent to be invested. Although it was suggested that to accommodate this Motion there would be major amendments needed to our legislation, is not the case.

It is my suggestion that there is only one amendment needed in the instruments that we can invest in, to allow for up to 50 percent and that is quite clear. Where it says, "**bonds issued by United States Treasury**". Mr. Speaker, I am an advocate of being able to invest in the bonds issued by the Cayman Islands' Government. This year, we are looking for almost \$56 million which I am not sure has been secured as yet and I will not comment on that. It would be nice and that itself would absorb a year's worth of pension contributions. I do not see anything that would suggest that next year and the year after that we are not going to need a large sum of money. There is a massive amount of infrastructural work that is needed in this country.

This is the only amendment that I see is needed and it is an amendment that I think is a safe amendment, because I have the confidence in the Cayman Islands' Government. For those who would suggest that it is not safe to invest in the Cayman Islands' Government through the professional pension providers and I, for one, am not suggesting that in any way, the Minister responsible for pensions alluded to the fact that the state gets involved in pension. No, Mr. Speaker, the professional pension providers will still be there but now they are required to invest 50 percent locally so they can invest in government bonds, bonds issued by the Cayman Islands' Government to raise funds to support our capital projects.

Mr. Speaker, for anyone to suggest, especially anyone in this Legislative Assembly, who has the responsibility right here and now, to control, influence the future and stability of this country and this Government and to suggest that we do not have the confidence for our pension providers to invest into government is stating that we do not have confidence in our own ability to shape the future of this country. I strongly suggest and submit that this is a simple situation of the chicken and egg. They say we do not have the instruments in which to invest this money but if the money is there the instruments will be created and the Motion gives ten years, a decade, for the instruments to be created. It provides the Cayman Islands up to ten years to be able to come up with the infrastructure necessary to issue bonds so that the private pension providers, those professionals that have a responsibility to their clients, can purchase bonds from government.

We have things such as water in this country which we know that the public will buy, if it is provided to them but we do not have water throughout this country. Why? The only answer is that we do not have proper capitalisation to fund these projects and once they are funded they will generate positive cash frames because people will always need water. That is one example.

On the argument of lack of instruments, this country has a public utility company, Caribbean Utilities Company (CUC), which is guaranteed 15 percent profitability. They have to go to Canada to raise their money. We have our own local Stock Exchange. Why can they not be traded on the Stock Exchange and their shares listed? This being in accordance with the Law because the Law says small to medium capitalisation equities which are traded publicly. Up to 10 percent of the total value of the pension fund can be invested. Why should they have to go to Canada where Canadians can buy and benefit from one of the only securities that you are going to be guaranteed a 15 percent return?

Mr. Speaker, with such investments, why should the Canadians be benefiting where the Caymanians are the ones who are generating and paying it to CUC, and creating the demand to ensure that they are getting that 15 percent? Why should they not be benefiting from it? Why should their pension scheme not be growing as a result of such a beautiful and attractive investment? I challenge anyone who can discredit the attractiveness of such an investment.

Why should a Caymanian not be able to come up with a business idea, prepare a prospectus, go to the Cayman Islands Stock Exchange, negotiate with them, go through the auditing regime, go through the necessary procedures to ensure that there is feasibility, list his ventures and raise his funds through Cayman's Stock Exchange, and develop a secondary market? Mr. Speaker, the instruments are not the problem, maybe the problem is the will.

There is one thing that can always be counted on when you talk on pensions in a country. It will always be adversarial and confrontational because you are talking about something extremely important. The Mover, or the Seconder, or anyone else of this Motion is not in anyway suggesting that we do anything to reduce the effectiveness of the pension scheme of its mandate of providing a secured fixed income for the retirees. It is simply adding to it. It is allowing it to accomplish that goal as well as the funds to be invested to accomplish some other very attractive and meaningful goals that a government should have which advocates good governance.

The Law creates a fiduciary relationship between the providers of pension and the pensioners. It creates a relationship in which the pension provider has an obligation to seek maximum return for that individual within an acceptable level of risk and within the Law that governs it. This Motion in no way threatens that fiduciary responsibility. It does not suggest that it will bring the level of return down on a pension. That is my position when I say it will not. The professional pension provider is simply now carrying out his fiduciary responsibility with one additional parameter in place and that is, that 50 percent should be invested locally.

Mr. Speaker, in my mind and in my way of thinking, the "should we?" question is quite straightforward.

ward. Should we expect that the people of the Cayman Islands who work hard for their money, which accumulates into a national pension fund, would agree to the fact that some of that money ought to be invested locally? That is a simple question and the answer is even simpler, "Yes". To suggest that there is an inadequate amount of instruments or vehicles in a country that is so starved for investments is ludicrous. We must find the vehicles. We are the legislators of this country. If we have ten years we must find the instruments to ensure that this can be done. That is the "can we?" question.

Mr. Speaker, we should and we can. This Motion is the do and it is the will. I make my position quite clear when it comes to the vote, I will be doing for the people of the Cayman Islands and be voting and supporting this Motion. I ask for each member in this Legislative Assembly to give this Motion their support when it comes to the vote.

Thank you, Mr. Speaker.

#### PROCEEDINGS SUSPENDED AT 11.58 AM

#### PROCEEDINGS RESUMED AT 12.22 PM

**The Speaker:** Please be seated.

Debate continuing on Private Member's Motion No. 17/01.

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I rise to offer my short contribution to the debate on this Motion that seeks to have the National Pensions' Law and, by inference, the regulations thereto amended to require that at least 50 percent of the premiums paid in relation to pension plans in this country be invested locally and that such an event does happen within ten years of the passage of the Motion.

I acknowledge that the intention of the Motion and of the Mover and Seconder thereof are laudable, but, I believe, misconceived. Both the Mover and the Seconder developed very attractive arguments based on the need for more capital investment in the local economy. That is entirely true. Lack of capitalisation does and has inhibited the development of a number of local industries. I do believe that every effort should be made to develop and encourage access to capital by local entrepreneurs. I do not believe that the way to do that is by having the Law mandate that 50 percent of the pension fund be invested in the local economy and thereby create that needed capital.

I believe in the debate which has ensued by the Second Elected Member for Cayman Brac and Little Cayman, and the Second Elected Member for Bodden Town, who moved the Motion, that both Honourable Members have ignored the fundamental objective of a pensions' scheme, and the National Pensions' Law.

The fundamental objectives of the Law and of any pensions' scheme, is not to create a source of

local capital available and required for investment in the local economy. When the National Pensions' Law was passed in 1996, it established a mandatory pension scheme aimed at ensuring that, at the culmination of employees' working lives in these Islands, there would be sufficient means available to those employees for them to live out the balance of their natural lives. There would be a degree of decency and dignity and no need for other gainful employment or the country and government to provide them with handouts to ensure they could live. That is the objective of any pensions' scheme.

The fact that the money paid into those pension funds is invested in the local economy or elsewhere is a valuable spin-off. I do not for a moment seek to belittle that. However, we should never lose sight of the fundamental objective of the Law and the philosophy which underlies it.

The legislation contains various safeguards throughout to ensure that the hard-earned money of those employed in these Islands is safely invested in vehicles, which in the long run will yield positive growth and consequentially sufficient returns. Therefore, those who have invested in the fund will have available to them reasonable sums to ensure that they can continue to live decently at the end of their working lives.

The Law also provides in some length for the qualifications and requirements of those who are required to administer a pension fund. Section 8(3) of the Law provides that **"an administrator shall ensure that the administration, custodianship, and investment of the pension plan and fund are undertaken by qualified and experienced persons or bodies."**

In Section 17 of the Law it provides for the degree of diligence, care and skill which are required of an administrator.

Section 17(1) provides that an **"administrator shall (a) exercise the care, diligence and skill in the administration of a pension plan and in the management and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another; and (b) use in the administration of a pension plan and in the management and investment of a pension fund all relevant knowledge, and skill that, by reason of the administrator's profession, business or calling, he ought to possess."**

Section 17(2) provides that **"An administrator or, where the administrator is a pension committee or a board of trustees, a member of the committee or board, shall not knowingly permit the administrator's private interests to conflict with his duties and powers in respect of the pension fund."**

The whole objective of the legislation and the two sections to which I referred, is to ensure that qualified individuals are charged with the administration of a pension fund and with the investment of that

fund. There are serious consequences for mismanagement by an administrator of a pension fund.

The National Pension Fund Investment Regulations deals with the issue of asset allocation. Set out *in extenso* are the areas in which an administrator can invest the fund and it breaks it down the various percentages that are permissible in various categories of investment vehicles. Under regulation 3, which deals with asset allocation, it is possible for the administrator to invest 10 percent of the market value of the assets of the pension fund in small to medium capitalisation equities which are traded publicly. It is also possible for an administrator to invest a further 10 percent of the market value of the assets of the pension fund in fully secured first mortgages in these Islands and a further 25 percent of the market value of the assets of the pension fund can be invested in fixed term deposits or cash held with a bank rated as investment grade or a clearing bank in these islands.

So, it is possible for an administrator to invest a maximum of 45 percent of the pension fund in assets or vehicles within these Islands. What the Motion seeks to do is to mandate that an administrator must invest at least 50 percent of the pension fund in these Islands—a very different thing.

I was at pains at the start of my debate to demonstrate the responsibilities, requirements and expectations of an administrator of a pension fund. These are qualified individuals who have the ability, the know-how and the experience to understand the market and the impact of changes within the global economy on investments.

As the Law and regulations currently stand, within the parameters prescribed in regulation 3 which deals with asset allocation, these qualified administrators have the ability to examine the market and determine where, within the parameters of that regulation, the best investments are from whence the best returns can be obtained with the least possible risk.

What the Motion seeks to do is tie the hands of the qualified administrators and mandate, regardless of the state of the local economy, the risk involved in investing 50 percent of the pension fund of these Islands, no matter how dire the consequences may be.

**Mr. Gilbert A. McLean:** On a point of order, Mr. Speaker.

#### POINT OF ORDER

**The Speaker:** May I hear your point of order?

**Mr. Gilbert A. McLean:** There is nothing in the Motion before the House which states that administrators of pension funds must invest in instruments in the Cayman Islands no matter how dire the economy of the country, or how much risk is involved. In fact, it provides that it must be done over a ten-year period and expresses no amount to be invested over that

period of time. Therefore, the Member is misleading the House.

**The Speaker:** I hear your point of order. My concern is that the amendment to the Motion said, "...at least 50 percent." I will call that a point of order.

**Mr. Alden M. McLaughlin, Jr.:** If the Member is now proposing to amend his Motion again, I am prepared to give way and allow him to carry out that exercise. Unless that is the case, I stand by what I say that the consequence of the proposed amendment which the Motion proposes is to mandate that at least 50 percent of the pension fund in these Islands must be invested in the local economy regardless of the consequences.

**The Speaker:** The only thing that you did not say ... you put a timeframe on that within a period of ten years.

**Mr. Alden M. McLaughlin, Jr.:** Yes, Mr. Speaker, and I said that at the start. It is within a ten-year period commencing in 2002.

**The Speaker:** Please continue.

**Mr. Alden M. McLaughlin, Jr.:** There seems to be some discontent with what I have said, but there are logical consequences that flow from actions.

The Cayman economy, as much as we all hold it dear, and although it has been tremendously successful over the course of the last three decades or so, it is by world standards a very small one. Consequently, the various investment opportunities available are small. While I am as nationalistic as anyone else and I indicated at the start of my debate that I too would like to see available more capital for entrepreneurs to have access to and while I understand that it is necessary to do various things to stimulate the economy, I do not believe that we can subject the hard-earned money of contributors to a national pension plan to the type of risk that investing 50 percent of it in the Cayman Islands involves.

The percentage which should be invested in these Islands is a matter that should remain to the extent permitted by the regulations within the remit of those who are most qualified to make those decisions about investments; those who are paid to do so.

Looking at it from yet another perspective: if this Motion were accepted and it did require the Law and regulations to be amended so that at least 50 percent of the pension fund had to be invested locally, and the local economy did not perform the way we all hoped it would, and, as a result, the pension fund suffered major losses, who is going to be responsible for that? The blame would be placed fairly and squarely on the Cayman Islands' Government. That is who will be held responsible.

Further, to compound that, in the event the pension fund does not perform and does not provide adequate returns to enable the contributors to the fund to receive sufficient money to live a decent and dignified lifestyle, whose door are they going to come knocking on for assistance for their housing, living expenses and health care? Government!

Mr. Speaker, as I said, when I commenced my debate, I entirely understand the objective of the Motion, and while it is well intentioned, I believe that it would be wrong thing for us to interfere with the National Pensions' Law and Regulations. This would create uncertainty, anxiety, risk and develop a feeling within employees of this country that, notwithstanding the assurances they previously received and which they believed, now government is going to interfere with that and make provisions which tie the hands of their expert administrators in such a way that it could negatively impact their pension schemes and the returns they hoped to derive therefrom during their twilight years.

For all of those reasons, I cannot give this Motion my support.

**The Speaker:** Would Members prefer to take the luncheon break before the Mover....,

## READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

### APOLOGIES

**The Speaker:** Before doing that I wish to offer apologies for the Honourable Minister for Health and Information Technology, and the Third Elected Member for Bodden Town.

We shall suspend until 2.15.

### PROCEEDINGS SUSPENDED AT 12.47 PM

### PROCEEDINGS RESUMED AT 2.40 PM

**The Speaker:** Please be seated.

Debate continues on Private Member's Motion No. 17/01. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

If no other Member wishes to speak, would the Mover care to—

The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I rise to make a very short contribution to the Motion before us. Let me begin by saying that I understand where this Motion is coming from. I see the merit of it. I understand the need to have capital investments particularly in today's age when the economy seems down, not only in

the Cayman Islands but elsewhere. However, there are a few points that I would like to bring to the fore.

One of the biggest concerns I have had over many years is the problem of any government getting involved in the private sector and borrowing or spending private citizens' money. In particular, we look at the social security system in America. Over many years the government of the United States has played with social security which in essence was created for the same purpose of a pension. Today, the U.S. government is scrambling to try to put the monies back into social security which were wasted without consideration for the recipients.

While I know this Motion is not calling for government to spend this or give government the right to invest the national pension money, nevertheless, I have heard other speakers talk about the building of the hospital and the like and government borrowing. Certainly when borrowing, government looks for an extremely low interest rate. I believe the purpose of any investment is to try to get as much return on that investment as possible. Because of the limited amount of investment possibilities here in the country with great returns, I believe it would be foolhardy to ask anyone to invest that amount of money in these low-interest loans.

I believe the architects of the regulations to the Pensions Law had similar thoughts in mind when they made provisions under the asset allocation section of the regulation, that certain amounts could be invested in the Cayman Islands. For instance, the small to medium capitalisation equities would be ideal in this country to invest the 10 percent provided for. Then another 10 percent could be invested in fully secured first mortgages.

There is a 20 percent possibility in fixed term deposits or cash at a bank in the Cayman Islands. Like previous Members have said, that equates to 45 percent that could possibly be invested in the Cayman Islands. I have not heard anybody say how much of that possibility has been invested in the Cayman Islands. Maybe it would be interesting to hear how much that is. I will not speculate.

I would like to see money invested in this country as well. I do not want to see the administrators of these funds handicapped by saying there is a specific amount that must be invested in the Cayman Islands. If we look at the schedule in the regulations, it names the Cayman Islands. It says, "Stock Exchanges on which securities must be traded in order to be traded publicly for the purpose of these regulations." There are very few companies in this country traded overseas or registered on overseas stock exchanges. I can think of one, CUC. It is registered with the Toronto Stock Exchange, and I believe the Cayman Water Company is with the National Association of Securities' Dealers (NASDAQ). I think those are the only two. I think the others, like Cayman National Bank (CNB), are traded locally.

The provisions in the regulations make it possible for the administrators to do this. There are a number of stock exchanges listed in the schedule for that and I believe the reason so many were given, is to enable the risk to be spread out much better in the investment of these funds. I also believe that the asset allocation was specifically done to prevent a total loss of those funds when that possibility arises where we have a fall in the stock and investments.

In any investment, we expect good returns. This is the reason why we invest and spread the risk out over many different areas. Certainly, the stock markets are down now, and I am sure the returns are much lower than they were two years ago. That does not mean that we have to use that money to try and revive an economy by lending it out in low interest loans. Yes, it takes some time for these returns to get back to the level that we all expect them to be on. When we extrapolate, we cannot live 20 years from now on mere basic investment of these funds. There has to be some risk taken to try to make the returns bigger.

Because of the local market, I do not believe that by investing 50 percent in that market we will get as good a return as we would by spreading that risk over other markets such as the large capitalisation markets.

A previous speaker mentioned that there may be up to \$200 million available in that pension fund, collectively. Half of that is \$100 million to be invested locally over the next ten years. If this Motion gets passage, in the regulations there is provision for 45 percent, which is \$90 million.

Perhaps it would be easier for us to add another five percent, and maybe on the secured first mortgages, government might be receptive to changing the 10 to 15. Then we will get some 15 percent. Right now, if it were 10 percent, that would be \$20 million that could be invested in the secured first mortgages which could also be used for affordable housing in the Cayman Islands.

I believe that if we put forward the proper plan and proper repayment, that those administrators would jump at the opportunity to invest \$20 million within the Cayman Islands, particularly if the Government was securing it. While the returns may not be as large as investments in a high risk area, I am sure that \$20 million would do well in the investment in the Cayman Islands.

I mentioned earlier that I have no knowledge of how much is invested here. It is my understanding that the administrators of these funds do invest locally whenever the opportunity arises. It is also my understanding that it is not a requirement for the administrators to inform the superintendent of pensions, but it is understood that, whenever the opportunities avail themselves, they take advantage of those opportunities locally.

I prefer that way of giving the administrators flexibility. In case we were to say 50 percent and that

equates to \$100 million, and for some reason or another investment opportunities were not available on the Island. The administrators would then have an abundance of cash probably deposited on fixed term deposits or held in a cash account in this country under subsection 3(c)(6) of the Pension Regulations.

If that were the case, then we would have them investing in all opportunities and there could be the possibility that they could have \$50 million on their hands which would be gaining three or four percent, which really does not pay. If they were unrestricted to invest it they could be putting that in large capital markets where more returns would accrue, thus giving the pensioner that much more opportunity at retirement time.

I understand that the Bahamas mandates it must be invested locally. Well, I support them investing locally. Certainly, in the Bahamas, there are many more investment opportunities when it comes to capitalisation equity, than what is available in the Cayman Islands.

We have our Stock Exchange but a lot of those companies do not have ... well, the large capitalisation equity means equity of a company that has equity capitalisation equal to, or more than that of the company ranked 470<sup>th</sup> in the equity market capitalisation in the *Standard and Poor's 500 Index* from time to time. We know we do not have any of those. We may have the medium term ones which are those other than what I previously described as per the regulation.

I agree that if there was some way to get the 45 percent that is currently possible to be invested in this country now. I would certainly support that 45 percent being put back into this community, particularly if the returns on the long term basis were good. I cannot, in all fairness, tie the hands of any administrator by Law in this country. There has to be some flexibility. Time is moving on and they have to invest this money.

Not all administrators are as prudent as we would like them to be. By the same token, they have certain responsibilities under which they have to operate and when they do not, there are certain consequences. Those consequences are laid out within the Law. When we tie their hands and they say, 'You did it therefore the national pension 30 years from now cannot fund the amount of pensioners,' then the egg is on our face as Legislators.

I, too, have a responsibility as a legislator to ensure that the people's rights are protected, in particular, their monies and their hard-earned cash which they contributed to the pension. One of the things we need to ensure is that every working person in this country has a pension. I believe enforcement of that aspect is much more important than where that money is invested. I believe that there are employers in this country who have yet to provide a pension plan under the Law. That is more important than us talking about where the money is going to be invested.

We have to look at getting our people on a plan. Under the regulation in the Law, I believe if the money

is there, they are well protected. There are employers in this country who collect the monies from the employees and have no plan. That is what the Superintendent of Pensions needs to be looking at. We need to police that. If they do not have it we need not talk about where we are going to invest it. That is where we need to start. If they are not doing it with the insurance, I am sure they are not doing it with the pensions.

There are many stories about deductions being taken, but no contributions being made with insurance and pension. You may find out about the insurance as soon as you get ill but the pension is the one that can be abused. That is long term. In a lot of instances those who are just going into the workforce when they are ready to retire may find out that their employers were not contributing to any plan and then the country has to take care of them. We need to look at that.

I understand where this Motion is coming from and I support the concept. However, it is going to be difficult for me if I do not know how much is currently being invested in the Cayman Islands. There has to be some figure placed on that. I am sure the administrators of these pensions are qualified people. I am sure they would make sound judgements, or I would like to think they would. If they do not then I am sure it will be pulled from them.

The mere fact is that they are living in this country and understand the economic downturn. It would be in their interest to invest in this country as well. Without the country, they have no job! I would like to hear from the Mover of the Motion as to what information he has on how much is currently invested in the Cayman Islands under the National Pensions' Law in accordance with the regulations.

I have some concerns. I cannot tie the hands of any administrator. I will not support government meddling in anybody's private money. We know what history has shown us. That is, every time government gets its hands on a big sum of money they play politics with it. If they know it is available they are going into the piggy bank. They are going into the candy jar. Then they feel no obligation to refill it! That is worldwide. Much closer to home we have had instances where the environmental protection fund was abused. The reason it was put there was not defined. They called it the "green fund." Maybe that is because it is supposed to be for the birds and the bees and the trees. No one defined it, and then the financial portfolio was instructed to transfer it to build roads.

I cannot support anything that is going to erode the trust people must have in their hard-earned money. I will not support anything which indicates that government is going to meddle in people's hard-earned cash. That must be removed from government because, while I recognise the Motion does not call for that, my fear is that that will be next. Then Government will be bringing in a Motion—and everybody has to understand that we are only here for four years—

**The Speaker:** Let us not anticipate legislation.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

Nevertheless, we are here for four years and the country is not going to stop. The same legislators will not be here forever. Therefore, others can abuse whatever is put in place now.

I cannot support .... Provisions need to be made for the future too. Let someone else do it. I will not be a party to government getting mixed up in meddling with the people's money, and 20 years from now they sing their Shaggy song, "It wasn't me." I can say today that it was not me.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Acting Temporary Third Official Member responsible for Finance and Economic Development.

**Hon. A. Joel Walton:** Mr. Speaker, I have listened to the speakers so far this morning. From my reading of the Mover's comments and that of the Minister of Education, I fully sympathise with this issue. It is a difficult one to grapple with.

I sit here myself as a member of the Board of Trustees of the Public Service Pension Fund. I am now its deputy chairman on the one hand and also a participant in that very same fund. I sit here as a Deputy Member with responsibility for economic development. A lot of the issues which were raised throughout the day and previously alluded to, mentioned the whole need for development, the need for financing and things of that nature. So it is a real difficult issue to get a handle on. It is a real paradox in that you are at all times trying to balance the rights of the private individual with the needs and priorities of the State.

The Minister of Education in his contribution explained the Government's position in that the Government was not able to accept the Motion but did undertake to keep the matter under review. The Minister went on to make the point that this whole area of pensions is a relatively new one for us. It is very much in its infancy and that, in light of that particular situation, it is probably best to give it some time to develop until a later date. There is possibility for any government to look at an option to assist locally and it could be made mandatory at that time. I think that makes good sense in light of the situation.

I just want to say a bit about my own experiences as a member of the Public Service Pensions Board of Trustees. Although the Mover did not mention the Public Service Pension Fund in the Motion itself there has been some subsequent debate about that. Therefore, I will spend my time on that more than on the broader issue.

From my experience on the Board of Trustees, we at all times are on the lookout for investment opportunities locally that fall within the criteria of the



schedule to the Public Service Pensions Law (2001R) which basically outlines approved investments as follows: 1) Cash, including certificate of deposits; 2) Treasury bills; 3) Foreign government issued bonds; 4) Investment grade corporate bonds; 5) Equities and debt securities of companies that are traded publicly; 6) Collective investment schemes registered on internationally recognised stock exchanges including open-ended and closed-ended mutual or pooled funds which invest in investment grade bonds, mortgages or equities.

Number 3 was quite interesting to note. There has also been some discussion about investing some of the pension fund monies into local government bonds. Certainly we will have to amend the Law to facilitate that. It is an area that I think we need to look into. Just to say that, if a government bond is attractive, we will invest in it once it is possible to do so by Law.

What is a pension? It is a personal savings' account, or investment for retirement. As a trustee, the responsibility of any trustee should at all times be maximising the wealth of an individual beneficiary, pensioner or pensioner to be. A tall order! It forces you into a position of fiduciary responsibility of the highest level. It says to you at all times-search out, with the advice of your investment managers, the best possible investment returns at the least possible risk. Of course, they go hand in hand, possible at all times.

Therefore, if there is an investment opportunity in Cayman, Cayman Brac and Little Cayman, wherever, that fits within the schedule of improved investments that is attractive to the Board of Trustees, they and the professional investment manager will invest in it. I think to go beyond that, i.e. to mandate a certain percentage, will create some limitations to the Board of Trustees and the investment manager. In this particular situation where a pension is a person's private and personal retirement income, governments, no matter which one, need to bear that in mind.

On my other side, where we have the responsibility in the portfolio of finance to promote economic development, certainly the Public Service Pension Fund alone is expected to be around \$80 million by the end of this year. This is a very attractive opportunity for us. We think of things like low income housing, a very real need, and other social programmes, very real needs. I submit that there are other ways of dealing with that problem.

For example, in the case of low income housing, the Minister for Housing has made . . . in fact, just this week I was able to talk with the Caribbean Development Bank (CDB) about a proposal made by Government here to get some assistance for low income housing finance. The bank has put together a very attractive package to help the Government and the people of these islands in that area.

I am saying I think we need to bear in mind the need to exhaust all other possible opportunities, as the government has done, by securing help through

the CDB for low income housing. This is before we consider fettering the hands of persons who have one primary objective, that is, to make sure that, when persons retire, they retire with an income that can sustain them through retirement and, hopefully, also help them invest on their own steam in the domestic economy. That is the point. People do not just invest in whole retirement incomes because they want to hold them. This is the point I would like to make.

It does seem attractive to try to bring it in now, and I sympathise and understand that. We need to bear in mind at all times that we are talking about individuals and their investment income for retirement.

I would like to mention a couple of other points. The ability of the Caymanian market to produce investment opportunities for these pension funds. One speaker alluded to the fact that there are possibly only two publicly listed companies operating locally. One is CUC and the other is Cayman Water Company. I think the Cayman National Corporation is traded locally but not listed internationally. A lot of the funds we now have in place obviously require that equities be listed and approved in stock exchanges.

One of the things we have been looking at in the portfolio ever since the establishment of the Cayman Stock Exchange (CSX), is the need for us to introduce a domestic trading capability. Currently we do not have that. Again, it goes back to what the Minister of Education mentioned, the need for us to try to develop vehicles locally first. At that time we could then consider other measures, possibly like those mentioned by the Mover and Seconder, as a way of encouraging domestic investment and domestic entities. Until that time comes, it is going to be difficult, even over a 10 year period, or even a 20 year period, to really develop that amount of local domestic capital formation where you can find opportunities to put that money into. It is just severely limited at this point in time.

There was a lot of discussion about money. Just remember at all times that the basic reason money comes to Cayman so freely is because it can leave so freely. When it is here, there are viable and attractive investment opportunities for that money. We do not as a Government and as successive governments have done, restrict the movements of that money. I think the Organization for Economic Co-operation and Development (OECD) in its attempt last year had the same principle in mind that somehow money went into a country and stayed there. It does not work that way.

While I accept the argument that, perhaps from Cayman's development, the domestic population and domestic businesses have not been able to get as much as they might have been able to get under different circumstances from the development, I think we need to bear in mind that there is another side of the coin as well. While we can seek to capture some of that money and keep it here, it certainly is not the

way that economies work. Certainly, the Cayman Islands does not depend heavily on foreign investment.

The last point I would like to make is that there are other ways for us as a country to secure money to finance development and address some of the social problems we have, like housing. One such way was that proposed by the Minister for Housing. I would really recommend to this House that we focus on trying to identify and pursue those areas, as opposed to seeking to mandate ways in which private individuals invest their money. Thank you

**The Speaker:** Would it be convenient to take the afternoon break? We shall suspend for 15 minutes.

#### PROCEEDING SUSPENDED AT 3.34PM

#### PROCEEDINGS RESUMED AT 4.01 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continues on Private Member's Motion No. 17/01 as amended. Does any other Member wish to speak?

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I think we have listened to various arguments on this Motion. Perhaps the one common thread from all sides of the argument is one in which administrators of local pension funds would carefully look for prudent local investments of any portion of these funds to be done through any local instruments. Certainly, the desire is for that to become the reality.

The only position, which causes varying degrees of difference, is, in my view, because of the way the Motion is worded. As is the proposed amended version, and, if I understand it correctly, it reads as follows:

**“BE IT RESOLVED THAT, at least, fifty percent of the funds collected from deductions from employees' wages and employers' contribution under the National Pension Law be invested in the Cayman Islands within a period of 10 years commencing in 2002.”**

The way the Motion is worded, means it is seeking legislative amendments, as would have to be the case, for it to be accepted. It calls for, at least 50 percent of the funds collected to be invested in the Cayman Islands in some form by whatever instrument, or other types of investments, within a 10 year period beginning next year.

To clarify the Government's position, as stated by the Minister, the Government would very much encourage these fund administrators to be looking from now at whatever possible means conducive to them to invest some of these funds into the local economy. The Government certainly encourages that.

The principles that have been laid down which oppose the Motion simply state, in summary, the diffi-

culty in legislating this matter. If the Law states that this given percentage has to be invested locally and fund administrators find where they have other options, which would allow for greater returns on these investments for example, if the funds were invested elsewhere, then there is a specific infringement on the rights and the responsibilities of these fund administrators to ensure that, with proper risk assessment, the best returns are had for the people who subscribe to the pensions. Again, the difficulty with it is that the first and foremost responsibility is to the people who are paying the money. In that responsibility one has to make the best judgement calls to realise the best return on that investment.

You see, Mr. Speaker, while arguments are being put forward, there is one important factor that has to be considered. If I am subscribing to a pension fund today at age 30, when 30 years have passed and you reach the age of 60 the normal cost for a person to live in this world based on economic history is going to be many times what it costs today. Simple fact! Returns from this investment must surpass normal inflation rates enough so by the time you get to that age of retirement what you have vested will allow you a yield that can be collected on a monthly basis, which should be able to cover your needs at that time. That is the basic principle of a pension fund.

The reason why it is not recommended to do the average investments is because the returns would not allow for that to happen. This is similar to everyone having the self-discipline to put money into a regular savings account and getting the little interest that is paid to that account. That is where the whole problem lies, in the formula.

Again, Mr. Speaker, to make it absolutely clear, the Government's position is, we would encourage the fund administrators strongly to look at investments locally where reasonable returns can be had from the whole spectrum. So, if it warrants it to be done locally then certainly we wish for them to do so. In our opinion it is not the right thing to mandate by Law because we are also saying to them, “We are not sure that we want to leave it to you to get the best return for the person who is subscribing to the pension”.

Arguments have been put forward in other areas to show that not only should we be looking for the best return but we should be looking from a nationalistic point of view whereby investing this money, locally, will allow for certain infrastructural developments to take place. This will cause individuals, as they grow older, to be able to reap those benefits, which may be determined as indirect benefits compared to the actual money the pensioner will receive on a monthly basis. I believe in summary that is the argument that has been put forward.

Now, there are a couple of things I believe need to be addressed and let me go through them to try and clear the points the best way that I can. I am going to refer to the difficulties that will ensue with some of the arguments that are put forward. Mr. Speaker, I

crave your indulgence here because I noticed that you did ask the Second Elected Member from Cayman Brac, when he was speaking to certain issues, how he was going to tie this in with his argument. I simply wish to use one of the examples used to show the difficulty and it will relate at the end of the day.

**The Speaker:** Please continue.

**Hon. D. Kurt Tibbetts:** Thank you.

Earlier on in his delivery, the Second Elected Member for Cayman Brac, referred to what he called a "simple example." With your permission, I will quote because it explains it better.

He said: "**One simple example that I am quite familiar with, so I will refer to it. It is amazing if you review the tariffs of this country and the figures for the importation of a product that is so easily produced like eggs which has such a fixed demand and an inelastic demand. We should have individuals who look at the immense amount of eggs imported in this country and see how easy it is to set up a facility. We should have had an indigenous Caymanian, who found himself in a position where he or she could go and make the necessary investment, produce and substitute the importation of a product with a local product, providing a wider domestic commerce base that will ultimately help in the necessity for sustainability of our economic prosperity.**"

What I understand from the Second Elected Member for Cayman Brac's argument is that capitalisation of that investment is perhaps one of the areas where such funds could be allowed to be invested. If he was not saying that it is fine because that is not my real point. When he spoke of a tariff . . . you see when you use these examples you need to ensure that perspective is taken from the point which you raised. We stand in here and we argue about the price the consumer pays and the increase in taxes on food items but we speak to tariffs. So, if we are looking at a tariff which is going to increase the cost of the item to the consumer, I am not so sure what the point is.

That is not the main point but notwithstanding that I thought I would pick that up to say I know how it is over there. Any day of the week when you are debating your topic you hold your line of argument and try to get your points to make sure that you score your points. At the same time perspective must be gained with that point. If we are going to talk about allowing someone to start egg production locally and to ensure the sustainability of that industry, we introduce tariffs so that the imported cost of eggs—

#### POINT OF ELUCIDATION

**Mr. Lyndon L. Martin:** Excuse me, Mr. Speaker, a point of elucidation.

**The Speaker:** Will you give way?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Just for the point of clarity, the example I drew was at the time in my presentation where I was showing the inadequacies of capital formation through co-operative efforts of individuals working together. The reference to tariff was to quantify the volumes coming into the country now of a particular product, not in anyway indicating that there should be any extra amount paid for importation. Local production would be sustainable simply because of the volume that is currently demanded by the populace now.

Also to clarify: in a later part in my presentation I made it clear that we were not advocating for the pension funds to be used for venture capital. So that states we were not suggesting the pension money be invested into a venture of this nature because the Law clearly prohibits investment into venture capitals.

**The Speaker:** The Honourable Minister for Planning, Communication and Works, please continue.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

I see the Second Elected Member from Cayman Brac was quick enough to pick up that second point too, and since he clarified that I will not refer to it.

I will move on but I was just going through his delivery and was picking out what I thought needed mention.

Mr. Speaker, in the Member's contribution he referred to the Bahamas. I think perhaps this is the most important point I wish to make in my contribution to show that while we all should . . . I am certain the Government will support and recommend that these administrators look to invest locally it is going to be very difficult to have it as part of the legislation.

The Member mentioned the Bahamas. He said, "The Bahamas govern their pension under the National Insurance Act." He also quoted from the National Insurance Act where the Mission of the National Insurance Board is, "To provide social security coverage in the form of benefit payments to insured persons and their dependants against the following contingencies; sickness, funeral, invalidity, maternity, retirement, drawing it to the pension, and on the death of the family's bread-winner survivorship, industrial injury including disablement, death and medical care."

"Secondly, to provide minimum level of social security coverage for persons who do not qualify for such benefits as of right. Thirdly, to effectively and efficiently administer and manage the national programme and fund in accordance with the fiduciary principle laid out in the National Insurance Act and Regulations and thereby assist with the sustained orderly social economic growth and development of the country."

He then spoke of, and I quote: "I simply read the Mission to illustrate that where in the Bahamas it is covered under an insurance law, it is covering pension. It is covering the use of a fund similar to the fund that we are addressing although it is wider and larger."

He goes on to read under the "Powers of Board to invest" . . . where it says, "provided that the Board shall not invest in property or securities outside of the Bahamas without general or special direction of the Minister after he has obtained the concurrence of the Minister of Finance."

He goes on to say, "The Bahamas ensures that its funds generated in its country are invested locally. It has the provisions in it that allows them to invest overseas but has to get permission."

Mr. Chairman, in speaking to the Director of the National Insurance Board, who is in charge of the fund, a Mr. Lenox McCartney, this is how the Bahamas do what they do. They have this fund which is tied in both with some types of insurance, as I have read from the Member's contributions before, but it also deals with pensions. You have a Public Service Pension Fund, which is contributed to, like we do, by the Government and members of the public service. Payments from that are made directly out of the Treasury.

Then there is the National Insurance Fund, which is contributed to, again, by government and private sector, which allows for some type of social security or pension benefits. However, Mr. Speaker, he was quick to say to me that at present none of the funds are being invested outside the country. So, the Member is quite correct in this statement. At present, none of the funds are being invested outside of the country. In fact, the past two actuarial reviews they have had put them into a position where they now accept that they are spending out of the fund to pay out for generations to come. Basically, the fund is living on borrowed time.

What is going to have to happen, and we have gone through the same thing here, we have had debates time and time again here. We speak to our own fund and we speak to the past service liability. When I say our own fund, I mean the Public Service Pension Fund and the Past Service Liability, and why government has had to be funding pension payments out of general revenue because the fund is not self-sustaining. We are now putting what is needed in the fund for it to become self-sustaining, hopefully, within a few short years rather than many years.

It is obvious what was explained to me—and this is not to put the methodology down with what obtains in the Bahamas—was that they now have to restructure and three things have to happen. In order to get the fund right, the gentleman compared the fund they have now to several other jurisdictions which have run into trouble. Like in years gone by when the Social Security Fund in the United States was under funded and in trouble.

There are three things they have to do now. First, the Government is going to have to increase its contribution. Second, the private sector employees and employers are going to have to increase their contribution. Lastly, they are going to have to seek investments outside of the country, which brings better returns than what they have at present. The situation that obtains, at present, as nationalistic as it may be—I have his name and his phone number—is not bringing the returns that are needed for the fund to be anywhere near self-sustaining based on the actuarial review.

So, Mr. Speaker, the point is simply that while you may wish to see certain things happen, you have to ensure that you have the best position possible to bring about the results that are desired. You cannot say . . . I should not say you cannot but I would think that logic would allow, as difficult as it may seem and as desirous a position as that may be, you simply cannot just think that this is the case. If this money is invested locally, while it may do things for the economy, it may not bring about the best results for the people who subscribe to the pension fund. I think that is the problem. It is unfortunate that is the case. Again the Government takes the position that because the primary beneficiary is the person who subscribes to that pension fund, you cannot legislate in a manner that might restrict the returns which may be had from the subscriptions that are put into the pension fund. That is where the philosophical difference is with the position being taken and what the Motion hopes to accomplish.

There is no difference in our minds with regards to what we would like to see. All we are saying is, we have all these fund administrators with their own abilities and expertise to decide what is the best case scenario with regard to these investments. Hopefully, they will include local investments. I really do not know at present how much is being invested locally.

Also, there was mention made about a bond issue being done by the Government. There was a fair amount of talk but I will not go into a lot of detail with that. The gist of what I understood is, because government does not have a bond issue, at present, if we put into Law that this percentage of the pension funds would have to be invested locally that would help to make these bond issues happen and people would invest. That again is a problem. A problem two-fold, because first of all (and I categorically state this) if the Government has a desire to create a bond issue there is no need to look towards any of those pension funds to fulfil its subscription to that bond issue.

No disrespect, but Jamaica, three months ago, had a bond issue of U.S. \$275 million and in five weeks it was over-subscribed. There are tons and tons of funds, which are seeking investments, which are fairly safe with reasonable returns. A bond issue will not be a problem for the Cayman Islands once that is the leaning.

The second issue is, and this is the important one, when you look at the Government. If we were to have a bond issue then we are going to barter and come to the point where, again, you strike a balance where you are sure you will get full subscription for the bond issue but at the lowest rate that you have to pay out because that is the name of the game. It is the Government who will have to pay it out, meaning the money that is contributed from the citizens of the country which will be paying the interest on that bond issue.

The fund administrators wish to get the best returns that are possible on the pension funds that are available. So again, if they can get better returns from the Government on the bond issue then you do not want to force their hands. If the Government does have a bond issue with an agreed rate of interest paid by the Government, an acceptable level for the fund administrators with their risk management procedures and the returns that they are expecting from the pension fund, then that is fine. You do not want to legislate this for instance and the Government is then in a position where, on one hand, it has to protect its own citizens by seeking the lowest rate of payment as a return on the bond issue. At the same time, the citizens should get the benefit of the best return on their pension fund. So, there are some conflicting interests there.

Mr. Speaker, I just brought a few of these points out. There are a couple more that I noticed. The Second Elected Member also mentioned that the way the Law reads now—

#### **MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** If I may interrupt you for just a moment?

We have reached the hour of interruption but if you will be finishing within a reasonable time, ten or fifteen minutes, is it the will of the House that we continue?

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I will be finished in a couple of minutes.

**The Speaker:** Please continue.

**Hon. D. Kurt Tibbetts:** I was just saying that the Second Elected Member for Cayman Brac also mentioned in his debate that the Law now allows for 45 percent of the funds to be invested locally given the description of the instruments that he referred to. I think that when the Law was being drafted and crafted this was borne in mind. It reflects the position that you would like to take—to encourage these people, if they find the right investments, to make up to 45 percent investment locally. The Member then said that it would call for just a minor amendment.

The difference in what is being proposed and what obtains is that the 45 percent which is allowed now is not mandatory. There is an option.

**Mr. Lyndon L. Martin:** Mr. Speaker, a point of elucidation, again, please.

**The Speaker:** Will you give way?

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I think I am speaking it clearly because I read what he said.

**The Speaker:** If you will not give way, please continue.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, let me quote him. He spoke to this venture capital and I have no problem with that because I am not dealing with it. He said: **“It does not suggest venture capital, it simply says, invested locally. Our Law provides where 45 percent of the money can be invested locally now. The current Law has three sections that allow up to 45 percent to be invested. So where it was suggested that there would be major amendments needed to our legislation to accommodate this Motion that is not the case.**

**“It is my suggestion that there is only one amendment needed into the instruments that we can invest in to allow for up to 50 percent and that is quite clear.”**

I am simply saying that where the Law allows for it now, what is being sought is for it to say that it has to be. That is my point. It is not a question of not allowing the Member to clear the issue, but I understand what he was saying quite clearly.

This is not the most important point. I think regardless of the amendments that would have to be made to the Law if the Motion was going to bring about, (without a shadow of a doubt), better results then if it meant for the whole Law to be redrafted, so be it. It is not major in the issue.

Mr. Speaker, I believe that if nothing more—although I believe that there is more than that—the purpose of the Motion is to bring to the forefront the fact that these funds being vested and invested should be looked at with a view to investing in local instruments and other means, if at all possible. I believe that there will be more thought put into that because there has been widespread debate on the Floor of the House about it. I have to say that given all the arguments, for and against, the Government cannot at this point in time accept the Motion as it is worded. Had the Motion asked for the Government to consider, we would certainly have accepted the Motion, and reviewed the facts from that perspective.

The way the Motion is crafted simply calls for the Government to accept the Motion. It means that the Government needs to make the legislative changes that are necessary. I do not think the Government is in a position at this point in time to be able to prove

that it is in the best interest of all concerned to do so. As a result of that, although the Minister has already given the Government's position, it is impossible for the Government to accept the Motion.

## ADJOURNMENT

**The Speaker:** I shall now entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Community Development, Women's Affairs, Sports and Youth.

**Hon. Edna M. Moyle:** I move the adjournment of this Honourable House until 10 am on Wednesday morning.

**The Speaker:** The question is that this Honourable House does now adjourn until 10 am Wednesday, 11 July 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.38 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM WEDNESDAY, 11 JULY 2001.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**11 JULY 2001**  
**10.35 AM**  
*Twelfth Sitting*

*[Prayers read by the Third Elected Member for West Bay]*

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item number 2 on today's Order Paper, reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport, the First Elected Member for Cayman Brac and Little Cayman and the Fourth Elected Member for West Bay.

Questions to Honourable Ministers and Members— Question 80 is standing in the name of the Second Elected Member for Bodden Town

**Mr. Gilbert A. McLean:** Question number 80 is directed to the Honourable Third Official Member responsible for Finance and Economic Development, who I see is not here. I do not know why it is directed to him.

**The Speaker:** If I could interrupt you for one moment. The Honourable Member is not in the Chamber. With the permission of the House, shall we move on to question 81?

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if the Member would give way please. About question 80—although on the Order Paper directed to the Third Official Member, the truth is that I have the answer, and I should be answering it. If the Member would ask it again and direct it to me I could answer it.

**The Speaker:** Returning to question 80, the Second Elected Member for Bodden Town.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 80**

**No. 80: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works are any steps being

taken to reduce the cost of electricity utilities and to cease the guaranteeing of a 15 percent profit to Caribbean Utilities Company Limited

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Caribbean Utilities Company Limited (CUC) currently operates in Grand Cayman under an exclusive franchise granted on 7 January 1986 for 25 years. This agreement provides for an allowable 15 percent rate of return.

Since November of last year, my Ministry has met with the principals of CUC, on several occasions, to discuss a variety of matters relating to their operations and licence. On 28 May 2001, CUC had a meeting with the Government to present its interim rate of return and advised of their intention to raise rates by 2 percent effective 1 August 2001 to provide for the company to realise their allowable 15 percent return. At that meeting, the Government made it abundantly clear that it did not support the rate increase and CUC agreed to defer the effective date until 31 October 2001 and to conduct a review of their rate structure.

CUC has also indicated to the Government that it is amenable to enter into discussions towards a new licence agreement and Government has recently agreed to enter into negotiations with CUC on certain conditions.

Government has taken the basic position that there should be no further rate increases while discussions are ongoing, and that any new licence must clearly demonstrate the benefits to the public and justify any government action in that regard.

Government is cognisant of the need to control inflation and the general cost of living. At the same time, the country's continued development hinges on the provision of reliable services including key ones such as electricity. The level of service, however, comes at a cost—

**Mr. Gilbert A. McLean:** On a point of order, or procedure, Mr. Speaker.

**POINT OF ORDER**

**The Speaker:** May I hear your point of order?

**Mr. Gilbert A. McLean:** The statement as it continues to be given by the Minister is not in the written question as circulated. Perhaps he has more than what has been circulated.



**The Speaker:** That is correct. I think he is speaking extemporaneously though.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Perhaps inadvertently I have been pre-empting supplementary questions. I do apologise. The actual answer ends on the first page, where it says, “**and justify any government action in that regard.**”

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if there is a government audit to ensure compliance with the 15 percent allowable profit?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I am assuming that the supplementary question is asking if there is an audit now being done, or intended to be done, or how it is being done. I think the Member is asking if it is done on a regular basis.

Executive Council earlier on this year authorised the technical audit to be carried out because the franchise calls for it at certain intervals. The terms of reference are being developed for tenders to be put to relevant auditing firms. This type of audit is not a regular audit, but requires certain qualifications for such an audit to be conducted thoroughly. As soon as the tendering process is complete, the audit will be done.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say how soon the agreed negotiations with CUC, towards making changes to the present licence, might be taking place?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Following the last meeting with the principals at CUC and Executive Council's approval, a letter was sent outlining what was in the substantive answer. That letter will be dealt with at their next board meeting on 13 July at which time I expect a response. Once I get that response, I will certainly advise Members. We await the result of their board meeting.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In the interim, has the Ministry or the Government thought about getting advice from a power utility expert which may help in knowing the why's and wherefore's of the whole process of power utilities, which might be of use in negotiating a new contract?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** We are awaiting the reply from CUC to find out what line will be taken and if the terms we have requested are accepted—namely, no rate increases to be effected during the proposed negotiations. Once we have a reply from them, then we will be seeking the relevant expertise required. At present, we have not gone that far because we are awaiting their reply to see what form the negotiations, if any, will take.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say if, in the licence with CUC, there is any clause which requires CUC to get Government's approval for an increase and if it does not have Government's approval, then it cannot proceed?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do not have the franchise in front of me, but I am fairly confident that the answer I will give is correct.

Generally speaking, CUC is allowed a 15 percent rate of return on their capital investment. Within their annual audit or financials, if what that produces shows a rate of return that is less than 15 percent, under the franchise agreement CUC has the authority to make whatever adjustments in their rates they require to achieve that 15 percent rate of return. Basically, they only have to advise the Government. As a matter of course, even if Government objects, it does not mean that CUC cannot go ahead and affect that rate increase.

I have to say that that franchise was in place from 1986. When this Government encountered that same situation with CUC, we were able to negotiate, rather than just locking horns and they deferred their increase. Further, we are hoping they will take the present opportunity to come back to us and agree to no further rate increase until we can see exactly what we can re-negotiate, as a franchise, with them.

I can also inform the Member that, at present, if nothing happens, CUC has until 2011 with the current franchise under those existing terms and agreements.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate at what intervals the “regular audits” are specified in the franchise?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Unfortunately, I do not have that specific answer with me and I do not have a copy of the franchise. I will certainly get the answer and let the Member have it.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I appreciate the Minister's commitment. Can the Honourable Minister indicate if it is his portfolio or the Portfolio of Finance and Economic Development which is now responsible for reviewing any request for rate increases and ensuring what I think is an agreed upon formula for CUC is adhered to?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** When the Government took office in November and I became the Minister responsible for the Ministry of Planning, Communication and Works, the responsibility for what the Member just asked about rested with the Ministry. Apparently there was some change some years ago, so it is an inherited situation.

If there are any questions – and I am not suggesting there are in the Member's mind – the fact is that as in the past when dealing with matters such as this, the Ministry and the Portfolio of Finance work quite well together.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister tell us if the Government has taken a position on how much, in today's age, that rate of return should be?

**The Speaker:** The Honourable Minister for Planning, Communications and Works - I think he is asking for an opinion, but if you wish to answer it you may.

**Hon. D. Kurt Tibbetts:** The fact is that the Government has not taken any fixed position. What I can say to the Member is that rate of return could be as little as possible. This is the position the Government would want to take. Of course, I am certain the Member will appreciate that, in matters like this, there has to be room for negotiation. Going back to a previous supplementary, it is along those lines that we will be seeking opinions from people with relevant expertise to give us some sort of platform from which we can

continue any ongoing negotiations regarding that rate of return.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** We hear about deregulation with the communication companies. Can the Minister say if any thought has been given to deregulation in regard to new negotiations with CUC?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** In this day and age, given the climate when it comes to competition, that thought certainly has to be borne in mind. What I think is fair comment to the Member, in answering his question, is that while that thought is not discarded, the fact is that they have an existing franchise that allows them to continue until 2011. I think it would be only fair to allow the company to come forward with some type of proposal for a new franchise agreement. The situation would have to be looked at in the light of what exists and what they propose, with the baseline criterion being the benefit passed on to the consumer.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 81 standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 81

**No. 81: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for Tourism, Environment and Transport what is the present status of the proposed permanent moorings in George Town Harbour.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** The proposed permanent moorings' project was stopped by the previous Government due to financial constraints and technical difficulties.

The installation of permanent moorings proved to be a very costly project and one that the Port Authority concluded would strain their financial position to the point where it would be untenable.

Technical problems also arose when the plans were presented to representatives of the cruise lines. These problems involved safety during the securing of vessels.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say if this proposed project was to be funded by central Government, or was it to have been done through the Port Authority?

**The Speaker:** The Honourable Minister responsible for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** If they had gone ahead it would have been financed by the Port Authority through a loan arrangement.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say what the estimated cost of installing the moorings was, and give some idea as to how this would have been done?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The port director informs me that the lowest bid for four moorings was \$5.8 million. Cruise lines, however, required two moorings per ship, similar to the deployment of two anchors to limit the amount of swing. The cost of two such moorings was approximately 50 percent of the cost of the lowest bid. The cruise lines wanted to have two moorings installed for a trial period of one year. The cost of two moorings per ship would have increased the cost of the project to above \$11 million.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert McLean:** Do cruise ships now in anchoring, use two such moorings to stop the swing?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Yes, I understand that they do.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** My understanding is that these were moorings other than the anchors that are currently stored on the dock. Is that correct?

**The Speaker:** Before asking for an answer to the question, I would appreciate a suspension of Standing Order 23(7) and (8).

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

**Hon. W. McKeeva Bush:** Mr Speaker I move that the relevant Standing Order be suspended in order to take questions past 11 o'clock.

**The Speaker:** I put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The moorings that have been on the dock since the late 1980s were not part of the plan, as I outlined in the answer. Those anchors proved to be useless as far as the cruise ships were concerned. What was discussed and looked at by technical people, including a study done by the Port Authority. It was found they could not be used and the ships would not use them.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say why the ships would not use them? Is it because of insurance risk?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** As I understand, a study that was done by the technical people in the Port Authority found that they could not be used but the ships found that they could not use them as such.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I would still like an answer to that. If I may, currently the ships anchor with the same anchors in our harbour. I know that the anchors on the dock can be restored by sandblasting and the like. I wonder, are the cruise liners dictating to us? Or is it because of the insurance liabilities that they cannot use the anchor other than the one on the ship?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** Mr. Speaker, I doubt that anybody could say, at least with this Government, that the cruise ships are telling us what to do. I think we have worked in partnership to resolve any problems. However, as I understand it, the problem with the anchors is that the ships now anchor with their own anchors, which would be a different situation than if you permanently placed them. As I understand it, the ship could not make a complete swing in case they had to do so.

Now, I am not a seaman, this is what the technical people say.

**The Speaker:** Two additional supplementaries.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I am a seaman, but I sailed in the engine room. You, Mr. Speaker, sailed on the deck. We both know that there are thrusters which the passenger liners currently use to prevent them from swinging. You put two anchors down and use your thrusters on the rear of the boat to keep her from swinging onto the shallows. I am therefore asking if the cruise liners can use two of their anchors and each time when anchoring drop them in a different spot in the harbour instead of destroying the spot when pulling up, because they have to put out at least 50 shackles. Why is it that we cannot put down the same anchors and they moor on them? I do not understand the safety—

**The Speaker:** Will you please turn this into a question?

**Mr. V. Arden McLean:** Can the Honourable Minister say what problems would be involved in safety during the securing of the vessels on the permanent mooring?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** I am being told that if cruise ships are on their moorings when in harbour they can move quickly if they have to. If we put them on the permanent mooring then it would not have the desired swing and they would have to leave on the basis of somebody doing it for them. I do understand also that there was a liability factor for our side of the issue.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I would like to ask the Minister if he would be prepared to give the House an undertaking to revisit this whole matter because there are hundreds of thousands of dollars worth of equipment now on the dock, which has not been used. The

whole situation seems to be rather uncertain. Would he revisit it and inform this House in due course on the matter?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** What I will do is ask the Port Authority Board to look at the situation again and to consider all the technical matters in regard to the anchors purchased back in the 1980s and also to look at the costing matter. I will certainly give a report to the House at the appropriate time.

Since 1982 or 1983, when the anchors were purchased, I believe that successive governments have done that sort of review. If that is what Members desire, that is what I should attempt to do and Government will do that.

**The Speaker:** Moving on to question 82 standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 82

**No. 82: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport is there an official policy of Government for the Department of Vehicle Licensing to refuse persons wishing to register new vehicles where it is claimed by the department that such a person owes duty/fees on a previous vehicle, even where that vehicle has not been used for years.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport

**Hon. W. McKeever Bush:** There is no policy in place that would require the department to take such action. However, Section 15 of the Traffic Law 1973 (2001 Revision) provides that there is "continuous liability" for vehicle licence fees until the vehicle is suspended. The Law provides that the director of licensing, upon application by the owner of a vehicle, may suspend that vehicle's licence. It follows that unless and until a vehicle owner takes such action, the licence fees associated with that vehicle continue to accrue.

As part of the licensing department's strategy on reducing the number of unlicensed vehicles on its register, as well as to recover outstanding debts owned to the Government, the department has been questioning all expired vehicle licences on the department's register. A person questioned about an expired licence has the option to pay the outstanding fees, provide evidence of prior suspension of the vehicle from the register, or seek to have the outstanding fees waived by the Honourable Financial Secretary.

## SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The question directly asks if there is a policy to refuse and the answer says there is not. If it is not in the Law to refuse to register a new vehicle when all the requirements are met, how is it that it is being done in numerous cases? In situations about which I have had complaints, so under what section of the Law is refusal being done, when someone is said to have owed money on a previous vehicle?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I have the Director of Licensing here with me. It seems the Department has been attempting to collect the continuous liability that the Law speaks about. In doing that, if a person buys a new vehicle and they have not complied with the Law in discarding the old vehicle and come to license that new vehicle, the Department was taking the view that, if they have the funds to license the new vehicle, then they should clear up, or make provision to clear up, the outstanding matter on the old vehicle.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** What the Minister just said is exactly the case as has been represented to me in at least a dozen instances, by people who have been refused the licensing of their new vehicle because there is a request to pay the old. Some of these instances are persons who just have enough to register the new car. If I am understanding the reply correctly, the Minister is recognising that what is happening in the Department is illegal and also unwise in that it is hindering itself from collecting money that is readily available which can be collected on the new vehicle.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** What the Director tells me is that, once they raise a question with a member of the public who comes in to get a new vehicle licence, once that is raised and pointed out to them, they come back and pay.

Now, I see what the Member raising the question is saying. I will certainly look at how we can deal with it differently. What the public has open to them is to clear the matter up on the outstanding old one, either by telling the Department what the situation is, or having it waived by the Financial Secretary. I know that many, many times, constituents and others have come to me in the past, not since I have been a

Member and have pointed out the situation. I told them to get the Financial Secretary to assist them since the vehicle was not in use and they failed to alert the Department and to get the outstanding fees waived. That has always been done, it has never been rejected.

I understand on the fine point of what the Law says and what is happening. I will look at it with the Department.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Would the Minister be prepared to give an undertaking. Since it has come to light, that if the Department is carrying on an illegal act to issue a policy statement that that should cease and the proper procedure, (which would be the legal department) for contractual claim would ensue in due course?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I must say that I would have to take other advice than that Member's as to whether or not this is illegal. In the interests of good public relations I certainly will attempt—as I said already to the Second Elected Member for Bodden Town—to look at it. I see the fine point in the Law, but I cannot accept that it is illegal and I certainly cannot accept her position that it is.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Is the Honourable Minister admitting that he has read the Law and knows whether or not it is illegal?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, that Member was right there when I read the answer out. The answer pointed out what Section 15 said. Obviously, I read it, or someone whom I trust, read it, and the Director of Licensing also has a Law degree.

In the mess that I found, I certainly cannot accept her ruling.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I know ignorance of the Law is no excuse, but I wonder if the Minister can give this House an undertaking that he will start some education programme for the general public from the licensing department letting them know that, once their ve-

hicle is deemed not roadworthy, they should turn in their licence plates?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, the truth is that is already being done and has been done for many years. This Law has existed since 1973. I entered this House in 1984 and that situation obtained. As I pointed out, as people approach me from all over, I say let us do what the Law says and go to the Financial Secretary and have it waived, since the vehicle was off the road.

As I have given the undertaking to the Second Elected Member for Cayman Brac and Little Cayman, I will look at the situation to look at how we can best serve the public.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Following on the Minister's undertaking, would he also include in the consideration the idea that amending the Law might be a better course? There are vehicles that have rusted to pieces or been in the dump for ten years and there are no plates available. The process of going to the Financial Secretary, while it is there and works, is something much longer and much more drawn out, than a person going straight to the Vehicle Licensing Department where they go to register their vehicle. An amendment to the Law might be in order.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** As I already indicated, I understand where the Member is coming from. That will be part and parcel of the review I intend to have.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I was specifically talking about the general public in my last question. The Department could be a little more aggressive in its campaign in letting the general public know that they have to suspend a licence whenever they deem a vehicle not roadworthy.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** As I said, the Director is here. We will continue that campaign and widen the campaign to look at other areas. Perhaps, if this House wants, we could look at amnesty. We have to

sit down and look at it. There will be a review to see if legislation is needed and what we can do best in the shorter term to best serve the public.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning.

Moving on to Statements by Honourable Ministers and Members of the Government.

Statement by the Honourable Minister responsible for the Ministry of Planning, Communications and Works, Leader of Government Business.

## STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF GOVERNMENT

### CAYMAN AIRWAYS LIMITED

**Hon. D. Kurt Tibbetts:** I would like to take this opportunity to provide Members with a brief update on matters relating to Cayman Airways, our national airline.

Yesterday the executive management team and the board of directors of Cayman Airways unanimously resolved to temporarily suspend flight operations of its existing fleet of aircraft. Members of the Legislative Assembly will be aware that there have been a number of incidents recently and, out of abundance of caution and since the safety of our passengers and our flight crews is of first priority, this proactive measure has been taken at this time.

The suspension was introduced from midnight Tuesday, 10 July and will remain in effect until each of the aircraft can be independently surveyed and an investigation into the airline's operations and support facilities can be completed. I will just interject here to say that an "audit" is going to be done.

The Civil Aviation Authority (CAA) and Cayman Airways have already begun these investigations and independent assistance will also be used from the United Kingdom CAA. It is expected that this review can be completed within one week.

Cayman Airways management and staff have been working diligently to source alternate aircraft to service the schedules during this time and will also be doing their very best to protect the reservations of passengers, should the need arise for them to fly on other carriers.

A joint press conference between Cayman Airways and the CAA was held this morning at 10 am, and a press release has been issued to advise the public of these important developments.

In closing, and on behalf of Cayman Airways, I would like to take this opportunity to sincerely apologise in advance to the travelling public for any inconvenience this situation might cause.

As soon as we have an update from the audit being conducted, Cayman Airways and the Ministry will be keeping the public informed on a daily basis as

to what the situation is. Just to let the public know, Cayman Airways is confident that it will be able to get its operations back to normal circumstances within a short period of time and everyone involved is working very diligently to ensure this happens as quickly as possible.

Thank you.

**The Speaker:** Statement by the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

### **CONTRACT FOR THE REHABILITATION OF THE RUNWAY AT THE GERRARD SMITH INTERNATIONAL AIRPORT IN CAYMAN BRAC**

**Hon. W. McKeeva Bush:** I wish to make a statement concerning the contract award for the rehabilitation of the runway at the Gerrard Smith International Airport in Cayman Brac.

Members will be aware that this project was completed this year and a ceremony marking the occasion was held in Cayman Brac last month. I have to report that the project cost \$305,094.38 more than it should have. Tenders for this project were received and submitted to the Central Tenders Committee on 31 May 2000. This was in keeping with the original schedule that included an award of contract on 1 June 2000 with a completion date by 15 October 2000.

Upon review of the tenders, the Central Tenders Committee directed that the CAA must have financing arrangements in place before they could award the contract to the successful companies, Island Paving and Lagon JVA. Government guarantee was required by the CAA in order to secure financing for the project, but the previous Government would not approve this guarantee despite the fact that they agreed for the project to go ahead.

Subsequent to the general elections in November 2000, the new Government instituted the required government guarantee and the CAA was able to secure the loan and award the contract to the successful company. Due to the delay in securing the government guarantee, the agreed acceptance period of the tenders expired and had to be extended on two occasions. This caused the project to be deferred and resulted in financial penalties to the CAA.

Works finally began on the project on 25 January 2001 and were completed on 29 April 2001—two days ahead of schedule. The project was also completed within the original contract sum, but eventually ended in a cost overrun due to the penalties associated with the delay in awarding the contract because of not having the guarantee. The contract with Island Paving and Lagon JV was for \$4,550,752.61 and the penalties for the deferral were \$305,094.38. The total contract cost was \$4,885,846.99. In other words, because of the past Government's refusal to approve

the required guarantee, we had to pay the contractor an additional \$305,094.38.

**The Speaker:** We shall suspend for 15 minutes.

### **PROCEEDINGS SUSPENDED AT 11.31 AM**

### **PROCEEDINGS RESUMED AT 2.41 PM**

**The Speaker:** Please be seated.

Item 5—Other Business. Private Members' Motions Private Member's Motion No. 17/01 Pension Deductions, as amended. Does any other Member wish to speak? (Pause) If not, would the Mover care to exercise his right of reply?

The Second Elected Member for Bodden Town.

## **OTHER BUSINESS**

### **PRIVATE MEMBERS' MOTIONS**

#### **PRIVATE MEMBER'S MOTION**

**NO. 17/01**

*AS AMENDED*

#### **PENSION DEDUCTIONS**

*(Continuation of debate thereon)*

**Mr. Gilbert A. McLean:** I am happy to rise and reply on Private Member's Motion No. 17/01, Pension Deductions, relating to the investing of at least 50 percent of the funds collected from deductions from employees' wages and employers' contributions under the National Pension Plan within a period of ten years commencing in 2002.

There is no doubt in my mind that we can ill afford to continuously send out of the Cayman Islands the millions of dollars being collected here annually, to be invested in other countries with no benefit of investment in Cayman.

Let me thank the Second Elected Member for Cayman Brac and Little Cayman for seconding this Motion and for his contribution which not only showed that he is a person convinced of what the Motion asked for, but that he researched the matter thoroughly and presented himself most lucidly.

None of the arguments I heard put forth by those opposing this Motion are logically convincing. It is not convincing that the only interest the Government should have is to see that money is taken from peoples' salaries each month, collected and sent overseas and that the first and foremost call on that money supposedly is to keep the people protected.

This Motion does not ask to change any administrators. It does not ask to change any managers. It does not ask to change any of the personnel involved presently with the investment of money from pension deductions. It has nothing whatsoever to do or say

about that. What the Motion asks for is that the same people, the managers and administrators, invest some of that money here.

The Motion asks that this amount be at least 50 percent over a period of one decade. I suppose some of us in here will be dead in the next ten years. It is possible. Things that will change in this world will change dramatically in the next ten years and the argument that all we need to do is continue to collect these monies and send them out of the country does not accord with sound thinking or good government.

Beyond all of the argument about having the peoples' money safe, also has to come the thought that it is an outflow of money—out of the Cayman Islands. Since it is coming from the Cayman Islands it has to have some present day effect on the economy here just like it is helping to bolster the economy of the other countries to which it is being sent. It is rather inconceivable that any government would attempt to overlook so mammoth and significant a fact.

The Cayman Islands is not benefiting to the extent it should now and over the proceeding years, for offering the opportunities for financial and commercial dealings in this country. The Cayman Islands got blacklisted and gets called every name in the world mostly by those countries which see us as competing with them in a way that is derogatory to our wellbeing. We have chosen to offer ourselves, our society, to do the business of financial services. Have we in turn gotten back from that what we should for taking the blows and criticism we have taken over the years? I say, no.

The most recent document I have seen, which I think bears out the point, would be a pamphlet I think all Members of the Legislative Assembly received, called *The Schooner*. It is Volume 4 of March 2001, the quarterly newsletter of the Cayman Islands Monetary Authority. On reading this, I see on the back page, "Statistical Update." Under the caption "**Locational Banking Statistics**" it reads, "**The first quarterly Locational Banking Statistics Survey that replaced the Annual Banking Survey for the reporting period 31 December 2000 was sent out to licensees for submission to the Monetary Authority by the 28 January 2001. US\$805 billion were reported in assets for that period. The next survey for 2001 will be for the reporting date 31 March 2001 and must be submitted to the Authority by 30 April 2001.**"

Are any of us in here brave enough to think of that kind of situation of US\$805 billion in assets that have been handled or finagled, or whatever, here in this society? Have we gotten fair recompense by the little \$18,000 or so that we charge the banks and people who do business here? I will not answer that. I will just leave that for everyone to think about.

We have come to a point where we have to look at the reality of our situation. We have to look at the reality of a Government which comforts itself that it has made a Law making it compulsory to have 10

percent of earnings in the country collected and sent out of the country. How long will that go on? It seems it will be indefinitely if we listen to the replies and arguments of the people who argued against it. If this fund grows and let us say it gets to \$100 million per annum, I wonder if the Government, (if still around at that time), would be satisfied to know that that amount of money is leaving the Islands and all we have to do is leave it alone and make sure that none is invested in the Cayman Islands.

Who does the money belong to? Should not the people, whose money it is, have some immediate call through proper investment in their own country? A lot of those persons opposing this Motion spoke very smartly about the facts. As the Law stands it allows up to 45 percent to be invested here. The question is, how much of it is? Did anyone raising this particular point say how much it was? Or did Government in any way try to say we have \$50 million already invested in Cayman? No.

Neither did the Government suggest that we put something there mandating that the people who handle pension funds report to an authority where we can at least have the statistical data of what each one is doing and know the true figure of the management of these funds in the country.

I still say that I believe zero is being invested here. I would have to see living proof to believe otherwise. What I would suggest to Government, rather than being comfortable with what the Law now provides, is that they should see to it that money is invested in the Cayman Islands instead of speaking about what is possible. All things are possible, Mr. Speaker. It is whether people make them possible or not.

We have a good comparison with the Bahamas. There they have a situation more comprehensive than ours, as mentioned by the Second Elected Member for Cayman Brac and Little Cayman and confirmed by the Minister of Communications. They, however, do invest their money in the Bahamas. The Minister confirmed, by speaking to someone in authority in the Bahamas, these facts, as we were told in his debate. He also pointed out that the monies being collected now had to be increased both by the persons who contribute and the Government or private sector who contributes to the fund. The point I wish to make is that the Bahamas is smart enough to use Bahamians' money to invest in their own country.

They can now, because of their actuarial reports, always look a field to invest that money. First, they did what was right. I did not hear anyone say that the Bahamas was lauding the fact that they will have to seek markets overseas. They were very proud to say they invested their money in their own country.

Again, we have heard arguments about these administrators and how they must not be touched or dictated to and all the rest of it. Government must stay away from any such thought. Why is it that it took the Government to create a Law that made this lilli-



pop for these people and the Government cannot be in a position to say it will invest some of that money here?

I am told that the money which goes into these funds is handled by the various administrators and managers who simply take their piece off the top and send the rest of it on. Are we going to sit here and believe that those people are on the computer watching the way the markets are moving in New York, London, and Tokyo making sure we get the best deals? It would be ludicrous to believe that. They invested there, they have fulfilled the requirements of the Law where they have invested in the best stock of this or that, for the best period of time for the best price. Now, if it does not turn out that way, what do they say? *'Oops. Well, we were in compliance with the Law and we did what we should do.'*

I ask again, is it better to lose one's pension savings in New York or London rather than losing it here in your own country? At least someone locally would stand to benefit one way or the other if there should be a loss, which we hope does not occur with any of the funds.

Another thing I heard repeated at least twice was that we have to keep these politicians away from the funds because if they get a hold of it ... this, that and the other. I have often wondered if the politicians in here who make those statements understand that they are making those statements about themselves. That is why I prefer to be a "representative" instead of a "politician."

The Third Official Member gave his views on the matter of the investment of these funds and he spoke about the money held for civil servants. This Motion did not really speak to those funds, but I think it is a wonderful thing if the Government would lead the way and find ways of investing some of that money here in the Cayman Islands; in fact, most of it, if at all possible.

One thing that struck me in the arguments against the Bahamas, in showing that the worst thing that could happen is for the Bahamas to invest their money in their own country, no one tried to inquire where the Bahamas invested their money within their country. To take up a similar example would be a good start for us. I would assume that they are investing wisely and having all the necessary auditing and accounting and so on in place. On the face of it, I believe that the Bahamas must be a sound centre for business and financial matters. I say that based on the fact that just about every bank in Grand Cayman is but a little branch of the banks in the Bahamas and have to take instructions from them to loans as little, relatively speaking, as \$100,000. Maybe we ought to get smart and try to catch up a little with their forward and progressive thinking.

If the opportunity in this Law now is to invest up to 45 percent, I say to the Government that one of their most immediate actions should be to see that investments start. If we are deathly afraid of investing

in our own country, start with one-quarter-of 1 percent and let it grow like the little seed into the big oak tree.

No one spoke about handicapping any administrators, but if we want to use what has now become the buzzword, we are talking about "empowering" them to be able to invest with the diversity of investments that everyone likes to talk about. My duty here must be to the people who elected me to look after their best interests as best I can, and as best as I understand it. I know it has to be in our best interests to get some utilisation under the very means set down in this Law of the money that is simply being sent out of the Cayman Islands.

No one's hands are tied by so doing. In fact, hands are unshackled and let loose to do what is hopefully right and what should be done. One gets the impression that the administrator is some special person from somewhere in outer space. According to the Law, section 8 says: "For the purposes of this Law, only the following persons may administer a pension plan: an employer; a pension committee; an approved provider; a board of trustees..." and so on.

Unlike the persons who know that this Motion is asking for something the country needs, yet are able to deny it . . . what can one say? The Third Elected Member for George Town spoke about under-developing ourselves, or developed countries helping to under-develop other countries. When I use this term, I do not mean something physical, like the Ritz Carlton or whatever project, I am talking about developing ourselves in terms of money, investing and handling of money. I think he is right in that regard.

It follows that if we collect, on a monthly basis, money from our society which is bought in hard currency, sent out of the country and if continued we are making less money available to ourselves here and enriching those to where it is going. In the same way, we are turning around and going to those countries for loans from which they gain again because of the interest paid. Someone should try to show those of us in this society who can think how that makes sense. There is no logic to that.

Assets totalling \$805 billion handled in one quarter in the Cayman Islands; what do we have to show for it? Do we have a percentage fee? No. Let us say \$40 million a year goes out of the Cayman Islands, supposedly to be invested. Are we benefiting any from it? No. When? In another 40 years? Well, what happens in those 40 years? Do others benefit from it? Yes! Why not we ourselves? Because we need people who will see, think, know and have the will to do something about it, rather than putting forward arguments based on pleasing people who are benefiting every week and every month from this whole process.

As I said when moving this Motion, it was something I committed to do on behalf of the people who elected me, so that in some way the people of this country could benefit from the use of pension funds within this country. I did not specify any particular way because I was relying on the genius of the administra-

tors and the managers. Are we saying they are incapable of finding ways of doing this, no matter how small? Are we satisfied in saying they can invest up to 45 percent of it now? Are they doing so?

I think we are missing one great opportunity at this point in time. As we hear of matters such as the Constitution, we have to go “slowly”, we cannot be hasty. This thing has to be done a certain way.

Mr. Speaker, in 1991 I was in this House and I heard the same thing—one decade ago! I placed in this Motion that the Government take one decade to find a way to invest up to 50 percent of the pension funds in this country—one decade!

There is movement and velocity and so on, but I am a Caymanian born and bred, as far back as I can trace my ancestry. I have never been able to conceive of what is “slow” in Cayman. I think “slow” in Cayman means almost stop!

It does not help when we have the newspaper—which in effect has a monopoly in the country—the *Caymanian Compass*, and I see we do have a representative of that paper here, bless the action of the Government in their Editorial of Monday, 9 July 2001. I am sure the Chamber of Commerce is exceedingly happy because they wrote me about a five page letter telling me all the reasons why it would be bad for the country and everyone else to have any of our money invested here.

This starts off real good, Mr. Speaker, where it says: **“The Government was right in rejecting a motion calling for half of the locally collected pension funds to be invested locally.”** That is a classic, Mr. Speaker. The local investment of collected funds should be rejected. It seems a shame that I should say anything more on this Motion having read those few lines.

I have done what I promised to do on behalf of the people of this country and now I will leave it for Members of this House to express their belief in their country or express it in countries overseas over which they have no control of the investment of this country’s pension funds.

Thank you.

**The Speaker:** I shall now put the question on Private Member’s Motion No. 17/01, Pension Deductions. Those in favour please say Aye. Those against, No.

**AYES and (one audible) NO.**

**The Speaker:** The Noes have it.

**Mr. Gilbert A. McLean:** May we have a division?

**The Speaker:** Certainly.  
Clerk, please call a division.

**The Clerk:**

## Division No. 12/01

### Ayes: 3

Dr. Frank S. McField  
Mr. Gilbert A. McLean  
Mr. Lyndon L. Martin

### Noes: 10

Hon. James M. Ryan  
Hon. Samuel Bulgin  
Hon. Joel Walton  
Hon. D. Kurt Tibbetts  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Alden M. McLaughlin, Jr.  
Mr. V. Arden McLean

### Absentees 5

Hon. W. McKeever Bush  
Hon. Linford A. Pierson  
Mr. Cline A. Glidden Jr.  
Mr. Anthony S. Eden  
Mrs. Julianna Y. O’Connor-Connolly

**The Speaker:** The result of the vote is three Ayes, ten Noes. The Motion fails.

## PRIVATE MEMBER’S MOTION NO. 17/01 NEGATIVED BY MAJORITY.

**The Speaker:** Moving on to Private Member’s Motion No. 3/01, Review of the Labour Law, to be moved by the Second Elected Member for West Bay

## PRIVATE MEMBER’S MOTION NO. 3/01

### REVIEW OF THE LABOUR LAW

**Mr. Rolston M. Anglin:** I beg to move Private Member’s Motion No. 3/01, Review of the Labour Law, standing in my name, which reads:

**“BE IT RESOLVED THAT the Government undertakes a review of the Labour Law in order to address the existing shortcomings and to bring it in line with current developments in Caymanian society.”**

**The Speaker:** Do you have a seconder?

**Mr. Cline A. Glidden Jr.:** I beg to second the Motion.

**The Speaker:** Private Member’s Motion No. 3/01 has been duly moved and seconded. Does the Mover wish to speak to it?

**Mr. Rolston M. Anglin:** Thank you.

This Motion, seeking to have a review carried out of the Labour Law of the Cayman Islands, is one that intrigued me from the time I was elected. When I look at the word “labour” and images are conjured up in my mind as to what labour is, I think back to my childhood. That is exactly where I came from—the labour class, the working class—as have many Members in this Honourable House.

In my years growing up, my mother worked as a maid in the condos on Seven Mile Beach, like a lot of women in this country still do. When my father returned from sea, he took up painting homes and buildings. The impact that has on one's life is obviously different for all of us, but from my perspective, it certainly taught me a lot about life. It had a great bearing on my value system, on the way in which I became orientated as an individual, on my personal world view and the way I saw myself fitting in. This is a heritage that most of us in Cayman have, that is, coming from the labour or working class. I daresay that is a heritage of which most of us are extremely proud.

During the campaign leading up to the 2000 election, many people showed me areas where they felt the Labour Law, as it stands, was deficient and did not serve to meet the needs of the vast majority of people who work in these Islands. After reviewing the Labour Law, I could come to no other conclusion but to agree with the assessment they had made.

Regarding my contribution to this Motion, I am going to look at particular deficiencies as I see them and also look at items that I feel should be spelled out in our Labour Law, matters that I feel important, but for some reason were omitted.

In no way do I intend to be excessively long in my contribution, because I feel that what we have before us is a piece of legislation which needs modernisation and amending. I will be straight and to the point.

Over the last few months, we have heard the Minister responsible for labour, expound on what would be the new regime in regard to employee/employer relations in the Island in regard to human resources, in particular the area of training and job search capabilities. He has spoken quite effectively to numerous new initiatives. I will not repeat those areas.

When one looks at the Law itself, one of the subtle things that I personally noted was that it speaks of "labour." When we think of labour, we can all agree that there is a certain stigma attached to the word; a certain image conjured up in our minds. I personally prefer to speak about "employment" and an "Employment Law" or an "Employment Act."

The first person who spoke to me about deficiencies, as she saw them, in the Labour Law was a female. She shared with me her view as to how antiquated and inadequate the maternity leave and maternity benefits within the Labour Law were. I thought it only fitting, once I reviewed that area and wholeheartedly agreed with her, that that should be the very first area which I address in my contribution to this Motion.

Section 19 of the Labour Law, dealing with maternity leave, currently provides that women—and I emphasise "women"—are allowed 12 weeks off. The first four are on full pay, the second four at half pay and the last four unpaid. Also, in Section 19(1), I see

a very critical phrase in the last paragraph. It says you must have completed 12 months of continuous employment otherwise your leave benefit will be prorated. You do not have to be a rocket scientist to know that probably the majority of families in these Islands could not financially survive, in this day and age; if the woman, who has become a major contributor to the workforce and home finances in this country, had to go for 12 weeks and receive the equivalent of six weeks' pay.

There is already a distinct possibility that many women in our country will be forced to return to work early, that is before the allowed 12 weeks have expired, merely because of financial constraints within their families. When we think about the physical consequence that is the lack of bonding with one's child when women are potentially forced to go back to work at an early stage, I think even the coldest of hearts would recognise that this is not a desirable situation. Especially when we all agree that the family unit is the bedrock of our society and our youth is our future, when every one of us, including our youth, all starts at the same place, we were all once a babe.

In those early months, where there should be that intimate bonding between mother and child, and indeed between father and child, we see the distinct potential for negative impact on that most crucial developmental stage by the way in which our Labour Law is written.

One could argue, just on this section alone, that our babies are seen as somewhat of a burden and that pregnancy is seen as undesirable. We cannot get the labour out of the female worker that we normally would because she will be home with her new infant child.

I did some research, and looked at how a few other countries approach maternity leave. The two I will briefly mention are Bermuda and the United Kingdom.

Under the Employment Act 2000, of Bermuda, we see that they allow 12 weeks off too—eight weeks at full pay, four weeks unpaid. They too, speak of having worked 12 months. However, they speak about 12 months at the expected date of delivery.

In the United Kingdom, their statutory provisions call for what is termed the "mandatory maternity leave" of some 18 weeks, six of which are at 90 per cent pay, 12 of which have attached a set statutory rate set out in the Social Securities Contributions and Benefits Act, 1992. I think it is Section 166. In regard to the employment duration, the requirement is having worked 26 weeks by week 15 before the expected date of birth.

When we compare what our Labour Law says, we see some similarities when compared to Bermuda, but we also see some very different legislation when compared to the United Kingdom.

I am of the view that all Laws reflect some form of collective consciousness. After all, the Laws apply to everyone. The Labour Law is no exception. When it

comes to maternity leave; I do not have any warm fuzzy feelings when I look at the way in which our Law is structured as to how long you have to work before you can even get all your maternity benefits. Indeed, the financial strain it will cause to the individual families.

In this era of social consciousness and awareness, when this Law is reviewed—and I am not being presumptuous, because the Minister of Labour has already said that the Law would be reviewed—I would like to see something more on the order of giving women at least four months off work with their new child and at least three months at full pay, with the last month at half pay. I do not think that is asking too much. At the end of the day, if we do not continue to produce good families, strong families, tighter knit families, environments where self-esteem is the order of the day and maximising one's potential (the national ideal we all strive towards), we will continue to go down that slippery slope of having an erosion of the social fabric of our Islands.

When one looks at maternity benefits and job security, and the Labour Law of the Cayman Islands, one sees there is no guarantee of position once the mother returns to the workforce. I think it is only fair that if we are going to be an Island that says family is important, continually building our population is important. We have to give, by way of legislation, some form of guarantee that when a mother returns that she will not have a loss of wages, no loss of seniority and will be put back into a comparable position within her firm.

Let us look at unfair dismissal as it relates to maternity. In the Labour Law, as it stands, it merely states "unfair dismissal," period. We see that a person is entitled to one week's wage for each year's service completed, up to a maximum of 12, and we also see that the labour tribunals can award another 12 weeks for a total of 24 weeks. However, where an employee starts a job and obviously is put on some form of probationary period the following situation obtains. For instance, when it comes to whether or not a female employee will be kept on if she either became pregnant during the probationary period, or was pregnant and not aware of it when she first got the job, we quickly see where an employer could find it much cheaper to dismiss her. In that situation the employer might rather do that than go through the process of giving her any form of maternity leave.

As our Law currently stands, assuming that the employer kept the employee on, let us say the employee got pregnant in the first week upon commencing employment. She would then have an entitlement of a prorated maternity leave benefit, which would come out to some six weeks. That is totally illogical. How can we say that it is fair for a woman who has to go through the same process, the prenatal stage right through to delivery and aftercare? Can she reasonably be expected to survive under such conditions? In this example, she would have come to this job three

months pregnant, work six months and only qualify for the six weeks maternity leave. That is illogical.

What would she do afterwards? There are numerous instances where mothers go back to work early, even though they qualify for the 12 weeks. Be that as it may, how is it logical to expect that in these situations, where a person gets pregnant within the probationary period of employment, that we would expect that they can reasonably care for their infant and be able to go through that bonding stage in such a short time? The alternative would be to take unpaid leave. How many families can realistically afford that? Persons in this situation are caught in a catch-22.

I am a new father of only six weeks. I have witnessed the miracle of birth. I have also witnessed all the complications that can come about after the baby has arrived. Over the last six weeks I have seen where my wife could not have physically returned to work.

For a long time, even today I still hear it, people saying it is a man's world. When one looks at the Laws of most countries, one sees that that is precisely the case. No one gender, sexually speaking, is worth any more than the other in my view. We are all created the way we are for specific purposes.

I would like to believe that if an employer dismissed a woman simply because she got pregnant and they found it to be an inconvenience that she would have to take leave. Where that occurs, it would be much fairer to say that that woman would be entitled to two weeks basic wage compensation for each year of service, putting in some form of maximum. I think most would agree that we normally cap somewhere in the order of 24 to 30 weeks. I would like to believe that when we review this Labour Law that it would state categorically that dismissal due to pregnancy is unfair. I would also like to believe that we have matured enough from a basic moral and human rights standpoint. We would no longer say that a woman should be working continuously for 12 months to accrue the standard maternity benefits. We would say something in the order of working 24 weeks before the due date of the baby, to qualify for full maternity benefits.

When we look at this situation and see that by Law, the minimum standard does not offer more to mothers, I would think that most of us wholeheartedly agree that this area needs serious modernisation. I would like to believe that most of us would agree that the mothers and future mothers in this country deserve the very best. Of course, the Law states that an employer can provide more favourable benefits. At the end of the day, it is the Law by which the great majority of employers will abide. Since this is going to be the minimum requirement, the minimum standard by which we will treat each other in the employer/employee relationship, I would think that this is an area that will be addressed.

It is my understanding that many say that the concept of paternity leave should not even be dis-

cussed in Cayman because culturally that is not the way we are. Well, I am going to talk about it. If the men of the Cayman Islands do not see the need to take it, if available, then that is their business. They are not the ones having the baby and no one is telling them that they have to take paternity leave.

However, for too long we have operated on the notion that nurturing, sharing and caring is a woman's job. Men usually leave the nurturing and disciplining to the mother because the father works a really hard job and has to concentrate on working at his hard job. Well, first of all, most of our women work at hard jobs. They too have to not only work but have the baby, do a great majority of the caring and nurturing of the baby and do most of the disciplining of the child.

I think that once a child is born, the men in this country should have the opportunity to stay at home and assist in those early nurturing days of their child's life. Not only is it physically exhausting for the woman, but it is a matter of attachment. It might just be me, but in my view, whizzing off to work early in the morning, coming home tired, smiling and tickling the baby a little bit, watching some TV and going to sleep, does not qualify as bonding with one's child. I think that it is high time that men in our society were afforded the opportunity via statutory provision to take a portion of paid paternity leave.

Of course, when it comes to men, the issue of the child can become a very controversial one. It is my humble submission that it is the assumption of most societies which live the way we do in Cayman, that, if a man is married, it naturally follows that his wife's child is his. There is no issue there. However, we know the world we live in and there is a great increase in children being born out of wedlock. That raises a very interesting matter. Whereas the woman's body needs time to recuperate and heal, and the woman normally carries the child for a period of time in which she cannot become impregnated again, that is not so with the man.

I have heard it argued that when it comes to paternity leave we have quite a few men in our community who are rather unreasonable and irresponsible in my view, who could practically qualify for a whole year off if allowed paternity leave for every child they fathered. Well, I think it is fair to say that no one would be disadvantaged or feel jilted in any way if we were to say that within a certain period, let us say 12 or 15 months that a male can only qualify for paternity leave once. That argument would then die.

There is also the issue of what period we would allow. That would obviously be a contentious one. I would say that, on average, given the nature of the post-partum experience of most women, that somewhere in the three to six week period would not be unreasonable and it should be fully paid. We should not say to the fathers in this community that they can take paternity leave, but they will not get paid for it, because we are then saying that paternity leave is not

important. We know it is tough to make ends meet and in my view, it has to be paid paternity leave.

There are those who say we know who the mother is for children born outside wedlock. She is the one who goes to the labour room and has the baby. There is no doubt there. We could have a requirement that the father would potentially have to provide proof that the child is his. That would be after the fact, but I have heard some incredible arguments against paternity leave over the last several weeks. If need be, we have to satisfy those who would not want this.

Staying on the pregnancy topic, taking a step back, what about antenatal care? Our Labour Law says nothing about that. Just about every other country that I covered in my research provided for antenatal care. Most bear an onus on the woman. After all, if she goes to the doctor and finds out she is pregnant, it will not show for a while and no employer can guess she is pregnant and needs time off to go to her antenatal appointment. The request would have to be made.

Also, it would only be fair if the employee provided the employer with a certificate from her doctor stating she is pregnant. An appointment attendance card from her doctor would show when her appointment is, and would be signed off by her doctor showing she kept her appointment.

I also believe that, in regard to continuous employment, the same should hold here as it does in the area of unfair dismissal in regard to maternity. That is the requirement of having to work some 24 weeks as at the date of expected delivery. This would be provided to the employer by the doctor so as to qualify for these benefits.

I have also had much representation in regard to severance pay. Currently, our Law provides for one week's pay for each year of service to a maximum of 12. I find it difficult to rationalise this area of the Law. In fact, it is section 41 that provides for the computation of severance pay. Are we saying that it is expected that the maximum amount of time that any employee will stay with one particular employer will be 12 years? That is certainly the way I read it.

We see here in Cayman that there are many people who become very loyal and dedicated employees. They work at one place for many years. Just last weekend, on speaking with a former member of my graduating class of 1988 from the Cayman Islands High School, I was told that she has only had one job since leaving high school. I know that many people change jobs, but significant numbers stay with one job for long periods of time. She is entering her 13<sup>th</sup> year on that job. As far as the Labour Law is concerned, in regard to severance pay from this period on is of no relevance.

It would seem to me that we would be encouraging her to leave that particular employer and start over. I think a much fairer system would be one where we staggered the reward based on longevity.

For instance, if an employee stayed with an employer eight years, for those first eight they would be given a week's severance pay; for the next four two weeks and from then on, three weeks. That encourages longevity. That can only serve to help the labour market remain stable. I say that because in doing social research, one of the top five most traumatic experiences for a human being is changing a job; this is tied to the fact that we want stable families.

When people have to continuously change jobs and go through that anxiety, it is felt throughout the entire family. I think that when we make Laws, we must always remember there is going to be some social impact. Therefore, we must ensure that the desired outcome can be achieved by the way in which the Law is written. In fact, we only have to look at the larger industrialised countries, like the United States. They use their tax law to dictate social policy.

For example, they give a benefit to married couples filing jointly on their tax returns. Why? They want to encourage marriage. They will give certain benefits to home ownership and tax deductions in regard to interest accruing on mortgages. Why? They want to encourage home ownership.

When we seek to pass Laws, most of our Laws relating to individuals will have some impact on day-to-day life and we must think through and know our ultimate objective before we seek to make changes. That is one of the things which the Fourth Elected Member for West Bay and I looked at when we thought about changes to the Labour Law.

On the matter of compassionate leave, if memory serves me correctly, it took quite some time before we even had such a section in our Labour Law. Thank God that we do because there is nothing more traumatic than losing a loved one. However, I find that the scope of the current Law is a tad too restrictive. It does not cover close family like aunts, uncles and grandparents. I think it is very important that we ensure, when close family members die, that persons are able to obtain paid leave and not have to put the family unit under more financial strain, especially during such traumatic periods. There are many people in our community who help financially in burying their grandparents, their aunts and uncles. I think those relatives are close enough family who should be named in the Law. In fact, brothers and sisters should also be provided for. The Law speaks to "spouse, parents, and children" of the employee. It is my view that the Labour Law needs to broaden its coverage and protection of our citizens.

On the matter of paid leave for vacation, this is an area, too, under which I have made numerous representations regarding just how long you have to work before you can get enough time for a decent vacation. Vacation is very important. The body naturally gets tired and obviously needs a break. We all need time to catch up on things around the house, travel, spending more quality time with our spouses and family members. As the Law currently stands, an employee

accrues two weeks for the first four weeks of work, for the next four to ten, three weeks; and after ten plus years one gets four weeks. It is my humble view that when an employee has given ten years and when we think of the average life span of a human being, more importantly the average working life of a human being, ten years is a significant portion of time for an employee to devote to an employer. In fact, the average person only works some 40 to 45 years. If we talk about ten, we are talking about 25 percent, a quarter of one's work life.

I believe that to only accrue four short weeks vacation after ten years is inadequate. I believe we should have a further categorisation in this area. I believe that for your first four years, as it currently stands, you would accrue two weeks vacation; for the next four years, you accrue three weeks; for the next four years you would accrue four weeks; for the next four, five weeks, which brings you up to 16 years working with one employer. I believe there has to obviously be a plateau and I think 16 years certainly shows commitment and dedication to one's employer. I would think after that, employees should have the right to have some six weeks of annual leave. That is not a lot of time as you are still giving 46 weeks.

In fact, I believe that employers in Cayman need to become more creative in regard to fostering loyalty and harmony between themselves and their workers. I know there are some who say we also have to give some statutory leave time in regard to sickness. That is true. Cayman is a relatively healthy society. We have a lot to be thankful for and our health is one of those things. It is my humble view that even though some ten days are provided for sick leave, the average Caymanian is not sick for two weeks out of one year.

Getting back to the point of creativity, one thing employers could do is provide incentives for persons who have significantly few sick days. I am not saying we should encourage people to go to work sick, but I am a realist. When people have to work ten years and still only have three weeks off; we all know that a person may not feel too sick, but they may feel sick enough to stay home one day or two. I think this matter is going to pose a problem for employers; they could give awards, monetary awards to employees who only miss two or three or four days of sick leave time. After all, I think a lot of us would feel sick too if we had to work with an employer ten years before we could even get up to four weeks of vacation time.

Another matter on this same topic, which is of concern to me, is that the Labour Law encourages employers to pay vacation time in advance. I have had personal representation of a particularly large employer in the hospitality industry, the Westin Hotel, which practices paying for vacation after the fact. Well, that is not in breach of the Labour Law. The Law only encourages employers to pay in advance, the logic being that if the employee were working he would have to wait to get paid.

The reality is that most of our hardworking people usually will be trying to take a break to get off the Island. How difficult it is to get away, period, let alone waiting until your vacation is up before you can collect your money. I believe that in this day and age, as a gesture of good will, employers should have no problem in paying for vacation in advance. It is my understanding that is the practice of most employers. This is an area that may need to be mandated rather than recommended.

The Law clearly states that these are minimum standards. However, standards that would be more advantageous to the employee can be offered. I think experience tells us that in most instances in life, when talking about true labour (non-supervisory employees) we find that most employers seem to stick to the letter of the Labour Law.

Mr. Speaker, some of my colleagues on the backbench are requesting that we take the afternoon break.

**The Speaker:** I would suggest that we not take the afternoon break. We only have about thirty-four minutes, unless you need a break.

**Mr. Rolston M. Anglin:** Mr. Speaker, I have no problem continuing.

**The Speaker:** What is the wish of the House? That we continue until 4.30?

Please continue.

**Mr. Rolston M. Anglin:** Thank you.

When a person goes into a new job there is often a fair amount of anxiety. Truth be told, most of us would not come by the Legislative Assembly and grab a copy of the Labour Law and read it. Most of us would not look at the Labour Law until we run into some problem and there would be a need.

I believe that, when speaking of working conditions, employers should clearly define these conditions when delivering them to the employee. I have had numerous constituents in the construction, hospitality, and ancillary services such as maintenance and gardening; tell me that they got hired for a job and were not told exactly what their duties were. They were not presented with a clear-cut statement as to what their working conditions would be. There was then, a misunderstanding and their view of what was fair and right was very different from their employer's. I think within one week of starting a new job an employee should receive his statement of working conditions.

A lady who worked in the hospitality industry told me she wanted to discuss the matter of her rest periods during her workday. She showed me her employment documentation. She showed me her job description and statement of working conditions. She then told me that she was only entitled to a half-hour paid lunch. She worked about five-minute's drive from

the place where her two young children were being cared for. She expressed her desire to go and get a quick bite to eat and check on her children, but that that desire was thwarted because she was told that if she wanted to take an hour she would have to take one half hour unpaid.

She also was entitled to two 15-minute breaks, one in the morning and one in the afternoon. Be that as it may, working in an industry where she cleans room after room, working at a property where the room ladies also do the laundry, I believe it is fair to say that most of us would not see any issue with a proposal to have employers provide an hour paid lunch to all employees.

Regarding the health, safety and welfare of employees, is another area where I have received representation about conditions which are surprising to say the least; for example cashiers and sales clerks. First of all, if one is healthy and working in a smaller boutique or grocery store, I think it is only fair that one be given some tools, such as a stool to sit on, in carrying out one's duties.

Where this situation often gets aggravated is when the employee is female and pregnant. I think it is gross that in the year 2001 we hear of a person six months pregnant who has to stand on her feet for the duration of her workday instead of sitting on a stool until a customer requires her, or until she is needed to check out a customer. This is, I think, an extremely reasonable proposition. These small things happen, which most of us in our day-to-day lives would not necessarily think about twice. When seeking to legislate, we often have to be extremely careful about the goodness of persons and corporate persons too. When it comes to money, people will often have fallings out and significant misunderstandings.

I think it is fair to say that in our hotels, when persons work in the laundry (and they can be hot rooms), simple things can be done by employers to build up good will such as providing basic comforts for employees. That is not done.

The longer I live the more I realise that inherent goodness goes by the wayside when it comes up against dollars and cents. I have heard of ladies working in laundry rooms where managers have point blank refused to give them stools to sit on. What do they expect of a lady or a man who works in a laundry room? We know how laundry works. You do not have to be on your feet all the time. You put a load in the washer and to get off your feet would be extremely comfortable.

I have also had numerous complaints on the condition of laundry rooms in regard to ventilation and heat. Dryers are extremely hot devices that give off dust. Chemicals used for washing are ever present in the laundry room, so ventilation is important to the safety of workers in the hospitality industry.

Every employee should be provided with a detailed breakdown of their week, their hours worked, with their pay. There are many people who work part

time in our community. They too would require certain benefits. In this area, the first thing that catches my eye is the definition of part time—“**Part time employee is an employee whose contract of employment requires him to work less than the standard work week.**” What is the standard workweek? It is 45 hours.

We are saying that a person could work 8 hours per day or 40 hours per week and if I interpret this correctly, he would then be considered a part time employee. I think most of us are reasonable enough to see the great deficiency here. How can a person work 40 hours per week and be considered part time and have certain benefits accrued to them on a part time basis? Maybe our standard workweek is too long.

I dare say that, before reading the Labour Law, I was under the impression that a standard workweek was 40 hours. I think even if we changed the standard workweek to a lower amount, we need to specify an amount of time that is considered as part time, for instance, 20 hours per week. To simply say that anything less constitutes part time, I think could be seen as unfair and be easily manipulated.

I also ran into another problem in regard to definitions. That is employers who seek to define their employees as “casual employees.” I beg your indulgence as I read the definition—“**A casual employee means a person who is employed upon an irregular or intermittent basis.**” That implies to me that there could be easy manipulation because “intermittent” could go on for 20 years; “irregular” could go on for the same period of time. Is that the spirit of the Law?

I have had constituents who are tour bus operators inform me that they were told they were casual employees and, therefore, had no vacation benefits. There is no guarantee that they would be able to get work because (a) tourists may not come to Cayman; and (b) even if they come there is no guarantee that the particular tour operator will book tours. I can see how the owner of such a business could get away with such an argument. I am not implying that they all do it, but I know of the one represented to me. I understand this also happens in the construction industry.

When we speak of common decency and goodness, and look at money being in the equation, that is, money which is paid to people, then common decency takes on a very different definition from what it should be.

I have had constituents who have worked 20 plus years with an employer tell me they got injured and got nothing. They were told they would not get anything other than their ordinary severance, and that is only 12 weeks maximum. What happened to the notion of workmen’s compensation? This seems to have conveniently skirted the borders of the Cayman Islands.

I understand that certain employers have told their employees they cannot afford workmen’s compensation insurance and therefore, cannot provide it. When a person is permanently disabled and has given a significant portion of their productive years to an employer, I think it is only fair that the employer provide some financial assistance—particularly in the case where the worker is injured on the job. The employer should provide some long-term assistance. When we think of common goodness and when it comes to the crossroads with money, we quickly find it is a one-way street because money talks—and talks loudly, screams loudly to most people.

There is a particular area of the Labour Law where when a company is sold or protection, it is provided to workers who were employees of the previous company so that the same benefits can accrue with the successor company. It is important that we continue to ensure that things like accumulated vacation benefits, severance pay and seniority to a lesser degree, are maintained and strengthened by the Labour Law. I have had representation made by three gentlemen in the construction field where the business they worked for seemed to have been sold every eight or nine years. People were expected to start over in regard to accrual of vacation and long term severance benefits.

Before going on, the one thing I will call on the Legal Department to do, not only with the Labour Law, is that our Laws need to be more reader-friendly. When you pick up some of the more recent Laws in other territories, you can understand them. Laws as drafted in Cayman, in that old style, it is an art to even be able to read them, much less understand all the implications. As a colleague just reminded me, it seems the Laws are written just for lawyers!

Those of us who have seen the push for plain English legislation in places like the US, have seen from what I understand no reduction in lawyer’s fees or lawyer’s income, because people still need lawyers to interpret Laws and represent them. All I am calling for is plain English legislation so that people can actually make head or tail of a sentence.

#### **MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** We have reached the hour of interruption, will you be finishing shortly?

I will entertain a Motion for the adjournment.

#### **ADJOURNMENT**

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** Before putting the question, I have given permission to the Third Elected Member for West Bay under Standing Order 11(6) and under



Standing Order, Sub Order 7 I have waived the two days' Notice to a matter of urgent importance to the country.

## **RAISING OF PUBLIC MATTER FOR WHICH GOVERNMENT HAS RESPONSIBILITY**

*Standing Order 11(6)*

### **DISAPPEARANCE OF ILLICIT DRUGS FROM THE POLICE VAULT**

**Capt. A Eugene Ebanks:** Thank you.

I wish to raise the following matter regarding the recent disappearance of illicit drugs from police safe-keeping. It is my belief that the public should be informed as to the circumstances surrounding the recent disappearance of drugs. It is also distressing that this has occurred on more than one occasion.

The public also needs to be informed as to what, if any, investigations are ongoing and if any persons have been charged with the disappearance of such illicit drugs on any prior occasion; and also to know the amount of illicit drugs that have disappeared in all cases.

The public also needs to know when was the last time drugs, being held by the police as evidence, have been disposed of publicly?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Thank you.

Sometime during the night of 9 July, a storeroom adjacent to Central Police Station was broken into and approximately 42 kg of cocaine was taken. The Commissioner of Police did a press release initially on that and has today followed up with a further press release.

Chief Superintendent, David Gooding, is head of the uniformed branch, but with extensive investigative experience has been appointed to lead an investigation into the matter. His terms of reference include the internal police process which led up to decisions taken and events surrounding the breach of security and to make recommendations for security enhancements. He is also tasked with investigating the crime and the current whereabouts of the cocaine.

This is the first occasion that security of this particular storeroom has been breached, or drugs lost therefrom. The exhibits' store (another building) was the subject of a burglary on 1 June, 1999. On that occasion, packaged exhibits in the case of Gary William Hurlstone were stolen. Drug exhibits amounted to 4.1 kg of cocaine, and 1.6 grams of ganja. The drugs were not recovered.

Gary William Hurlstone, against whom the drugs were to be exhibited, appeared before the court and

was convicted of the burglary of the exhibits' store. He was sentenced to serve five years' imprisonment.

Drug exhibits are able to be destroyed either ahead of the case where samples are retained or following the timeframe for appeal. They are destroyed in the presence of a justice of the peace at the government's landfill site. Drugs are stored until there is a viable amount to burn. The incinerator requires approximately 5,000 pounds of items to work efficiently. Past practice shows that this amount is collected annually, or when greater amounts are stored. Dates of past drugs destruction are: 15 July 1994; 30 June 1995; 10 January 1997; 23 June 1998; 7 August 1998; 17 June 1999; and 6 March 2000. The last destruction was on 6 March 2000. This practice will be reviewed.

The missing 42 kg of cocaine was not an exhibit in a case and came into police custody as found property on 24 and 25 June 2001. The destruction was planned and the presence of the particular store it was in was the initial step to destruction. Unfortunately, we did not make it to destruction.

Thank you.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 12 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**12 JULY 2001**  
**10.27 AM**  
*Thirteenth Sitting*

*[Prayers read by the Second Elected Member for George Town].*

**The Speaker:** Please be seated. Proceedings are resumed. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Third Official Member who will be absent.

Moving on to Item Number 3 on today's Order Paper—Questions to Honourable Ministers and Members. Question 83 is standing in the name of the Elected Member for East End.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 83**

**No. 83: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works to explain why some Public Works Department's employees' wages have been reduced, in some instances by up to \$200 per pay period.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The Public Works Department is currently undertaking an exercise to correct an anomaly that exists whereby group employees within the Department have been working 44 hours per week, in contravention of General Orders which states "The normal working week shall be one of forty hours".

In carrying out the exercise, the management of the Department recognised that the shift from 44 hours to 40 hours per week may cause hardship to the employees and, after consideration of several options, two were presented to the group employees as follows:

1. Work the forty-hour week (Monday to Friday) and half day every other Saturday at overtime rate (1.5 times the normal rate). If this option was

chosen there would be no reduction in the weekly wages of the employee.

2. With the 44-42-40 option, the workweek will be gradually reduced during 2001. From 1 January 2001 to 30 June, the workweek would have remained at 44 hours. Effective from 1 July 2001 group employees received a special increment and working hours were reduced to 42 hours per week. Effective 1 January 2002, working hours will be reduced to 40 hours per week.

Discussions were held in May between the Chief Secretary, the Deputy Chief Secretary, the Permanent Secretary for the Ministry of Planning, Communications and Works and the Chief Engineer and this option was revised to include a further special increment that will be awarded on 1 January 2002. His Excellency the Governor has subsequently approved, on 5 July, the 44-42-40 option with the two special increments. The special increments will partially offset the reduction in take-home pay that will result from the reduced working hours.

Public Works Department (PWD) employees were given a choice between the two options before the 44-42-40 option had been revised to include the additional special increment. The deadline to select an option was 31 March 2001. For those employees who did not select an option by that date, on 1 April the workweek was reduced to 40 hours per week and employees subsequently saw a reduction in their wages. The maximum reduction in wages experienced by PWD employees as a result of the reduction in working hours per week is for those on the highest hourly rate and amounts to approximately \$120 per pay period.

Following revision of the 44-42-40 option and approval by His Excellency the Governor, on 5 July, of the extra increment, approximately 50 PWD group employees who previously did not select any option will now be offered the opportunity to select the revised 44-42-40 option with the additional special increment.

**SUPPLEMENTARIES**

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The substantive answer stated that for the employees who did not select the options on 1 April, their workweek was reduced to 40 hours per employee. Can the Honourable Minister say whether or not there was a petition sent to the Government from those employees asking for a re-

view of the two options prior to their deciding one of those two options?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** So, that it is clear before I answer the Member's supplementary, where it says in the substantive answer that on 1 April the workweek was reduced to 40 hours per week and employees subsequently saw reduction in their wages, it is those employees who did not choose either of the options given at that time.

Those employees still had the option to work the half day every other Saturday at time-and-a-half to make up for the wages. I think there was a difficulty with some of them about working on a Saturday. That is where the problem was. It was not that they were limited to the 40-hour week total; it was just that Monday to Friday was 40 hours. I just want to make that clear. It was not that they did not have the option to make up the time to be able to get the same salary they were receiving before.

There was a petition. I personally have not seen it. I think it went to the Governor. It was when other people began to speak to me about it that I began to speak to the head of the department and others when they started to look into the matter again. I am not so sure whether that petition asked for a revision of it before this was done or not. If the Member saw it, and that was the case, I would not try to say that it was not the case. What the substantive answer gives is the sequence of events that actually happened.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if that petition has been replied to?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do not know that. As I said, that was addressed to His Excellency the Governor. I have not seen it. I do not know the manner in which he has dealt with the petition itself. His other involvement is explained in the answer.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say, on that half day he alluded to, if the first option was not for the employees to come in and work 2.6 hours as opposed to a half day on Saturday?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Just so that part of it can be very clear, where the Member refers to 2.6, I think it is something like 2.67, that would be every Saturday, or twice that amount, which is 5.5 approximately and one third every other Saturday, which equates to the same thing for every two-week pay period. It would equal the same number of hours and the same pay whether they worked half the number of hours every Saturday or twice that number every other Saturday so they would have two Saturdays off and two on.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say if the employees at PWD have been informed that, under sections 3 and 4 of the Labour Law, it is possible that the Government would be subject to the Labour Law? It is in changing the conditions of the employees in such a way that it is no longer consistent with what would be considered the standards accepted by the law. This means that, since there is a change in the provisions of working conditions, the employees have a right to agree or not to agree to the change in those conditions.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I hope I got it clear as to what the Member is seeking. If I understand what he is saying correctly and if you look at the options afforded the employees, then the conditions he refers to is that the only change would be is how the number of hours is achieved. There were no other conditions that would change.

Prior to the proposed change, the 44-hour working week was achieved between Monday and Friday. The options gave employees an opportunity to still work those 44 hours, but not the same number of hours per day. It was fewer hours per day between Monday and Friday so it meant they would have to make up for it either every Saturday or every other Saturday and it afforded them an overtime rate on a Saturday which would allow them to achieve the same salary.

Now, the important issue is, that besides going back to wrangle with the original situation that obtained, I think, we need to concentrate on what obtains now, which is the latest agreement. Regardless of what arguments we speak to as to what was done prior to this, after the various talks between the Chief Secretary and His Excellency and others, this is the situation which obtains now. Perhaps we need to look at what the situation is now, because anything we spoke to before, was before. That is not the case now.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** It appears that the hours for the workweek have not changed. It is just how these hours are achieved. Considering the words "normal working week," referred to in General Orders, that limits it to 40 hours. Can the Minister provide the House with the reason why efforts were not made to amend the General Orders rather than amending how these 44 hours were achieved by the workers?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** First of all let me make it very clear that this domain is not something over which I have authority. Nevertheless, being the Minister responsible for public Works, naturally there will be some involvement at some point in time.

In answer to the Member's question, he will need to appreciate that there are other departments in Government. For instance, there is the Department of Environmental Health, DVES (The Department of Vehicle and Equipment Services), and perhaps a few others that have group employees that faced the same situation and which, prior to this had already normalised their group employees to a 40-hour week. This left only Public Works (PWD) with the 44-hour week.

To change General Orders to satisfy the situation which obtained at PWD would mean having to go back and change all of those to a 44-hour workweek again.

There is a question about the contracts, Mr. Speaker. It is not something which obtains across the board because the contracts over the last few years that have been issued and renewed are 40-hour week contracts. Most of the people this would normally have affected are the longer serving employees. This is the reason to go the extra mile to try to work the situation out so there is no change in their take home pay. I think this will have basically been achieved by the latest move.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** The Minister explained in his original answer that there were two options for all employees in how they could obtain the 44 hours. Can the Honourable Minister provide the House with the following information? Once the 44-42-40 option was amended to include two special increments, were the employees who previously selected one of the other two options given an opportunity to revisit the situation with the new amended option?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Yes, that is certainly the case. Every employee had the opportunity to move into the situation as per the very latest development. Nobody is disenfranchised.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thanks for that assurance.

In mentioning the figure of \$120 per pay period, the maximum that any employee would have experienced in reduction, can the Honourable Minister say what that pay period is?

**The Speaker:** Please repeat that question.

**Mr. Lyndon L. Martin:** For the pay period that was represented by the maximum reduction of \$120 per employee, what is that pay period? Is it one week or two weeks?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** That is a two week pay period, the standard pay period for PWD. I need to clarify something so that it is crystal clear. I said that every employee had the option. Those employees who were hired on a 40-hour week contract, and subsequently had that contract renewed are already on the 40-hour per week contract. There is no need to revisit their contracts to be going from 44-42-40 because they are already at 40. The other option, 44-42-40 and the very last paragraph in the substantive answer, speaks to the 50-odd PWD employees; those are the employees who were originally under the 44 hour week contract.

And let it be clearly understood also that when there was this original 44 hour per week contract, the General Orders have been revised since then to comply with the developments in the Labour Law. This is what caused the 44-hour week obtaining prior to that to be ultra vires the General Orders. There was a time when the 44-hour workweek was the standard procedure, but General Orders were revised since then to comply with the Labour Law.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if it was agreed between employer and employees that they would breach that contract already in place, or was there an addendum saying that the employee and employer agreed to reduce the work week from 44 to 40, which was part of the contract in place at that time?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** My understanding from the Department is that it was done in the form of a memo. I do not have the memo here, but the gist of it, from my understanding, is that when the employee who did not choose a specific option, the normal working week was reduced to 40 hours for the employee, although the penultimate paragraph in the answer does not state it. Every one of them was given the option of making up the other four hours by the two methods on the weekend. In other words, employees still had the option to work 44 hours to receive the same pay. The only basic difference was that between Monday and Friday, because of the change in the working hours, they could not capture 44 hours. So, they would have received a memorandum stating that if they did not choose an option, their normal working week would be reduced to 40 hours. However, they could make up the other 40 hours in the way explained.

As I understand it, the difficulty arose as a matter of principle to the PWD employees who still wanted to work their 44-hour week, but not work on Saturday. They wanted their 44-hour week between Monday and Friday. I think that is basically where the whole difference came in. That is my understanding of what transpired.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Did that contract speak of 44 hours being the normal workweek? If that is the case, then we are in breach of contract. We cannot change that by virtue of a memo because the Cayman Islands Government did that with Caribbean Home Insurance. They were trying to change it by memo and now they are in breach of their contract.

I would like to ask the Minister if this has now been resolved and if the employees have been informed of the current situation? When was that done?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do not have a contract, and do not believe I have ever seen one to be honest. However, it is my understanding where the Member refers to breach of contract, I believe, is a contract which was done in compliance with General Orders when General Orders stated that the normal working week was 44 hours. The contract would have remained in force and no one addressed it. General Orders changed to 40 hours and nobody said anything about it.

I accept what the Member is saying about the employee's situation. The original contract would have stated 44 hours. I am not arguing that point. I

have never seen it, and have never been directly involved with the whole affair. There would probably have been in that contract reference to the 44 hours as per clause so and so in the General Orders, which, from a legal standpoint, would stand to reason that if that section of the General Orders is revised to say 40 hours, it would have to reflect on the contract also. It may have been a situation that no one addressed.

Meetings are being scheduled now, rather than doing it in a dry fashion, because I think it is important that all employees understand the possible way forward, from next week onwards.

I will say one last thing which may fix the situation; I did not plan to address it, but I think this will fix the situation. The new option depends on exactly what the hourly rate of the individual is. The new option almost, if not exactly, puts the situation back to level. Once they get to that point the difficulty that has arisen between March and the present day, regarding the salary, once there is agreement and the workers take on the new contract, they will be reimbursed for what they lost.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I am happy to hear that this labour dispute has been resolved in this manner, which I believe is beneficial to both parties involved. To say that the normal working hours of General Orders is 40 hours per week, meaning anything beyond 40 hours is overtime, which is how you were doing it. People who were working 44 hours per week before were being paid straight time; they were not being paid for the four hours overtime. It was recognised that they could have claimed overtime. I am asking whether or not, Government did not have the option to pay those persons for those four hours overtime rather than saying to them that General Orders specify they could only work 40 hours. If these persons were already working 44 hours, what should have been fair at that time is that they would have been paid for overtime for the extra four hours.

**The Speaker:** You will bring this to a question please?

**Dr. Frank McField:** Yes, Mr. Speaker. Is what I just said truthful?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do not even want to proffer an opinion about the veracity of the statement the Member just made. I am not suggesting that what he said is not the truth, but I would have to look very carefully at how the statement was made as to

whether or not its application to the truth would obtain in the manner in which he was trying to express it.

I think the real situation is such that the 44 hours that PWD employees worked over an extended period of time was considered the normal working week. When the General Orders changed to 40 hours being the normal working week the fact that the PWD employees were working 44 hours did not necessarily, by way of compliance with the Labour Law, demand overtime for the extra four hours. That was not what the employees were seeking either. What everybody wished to achieve, which was satisfaction on both sides, was that work could go on. I think we have arrived at that point. It is a matter of implementation now.

From next week on, there will be meetings set up with the various sections of those employees to walk them through to make sure they understand there is no more confusion again. I believe the situation will be resolved.

I will seek a legal opinion and promise the Third Elected Member for George Town an answer, whether or not it was truth or an opinion, based on his interpretation. I am truthfully not in a position to do that at this time.

**The Speaker:** Two additional supplementaries.  
The Elected Member for East End.

**Mr. V. Arden McLean:** I believe we are getting someplace with PWD employees to get this resolved to the satisfaction of both employee and employer. I believe that if it had not been carried out in such a dogmatic manner it would have been resolved a long time—

*[inaudible interjection]*

**Mr. V. Arden McLean:** However that goes, it matters not to me. I would like to ask when the General Orders were changed. Is it not so that it is Government that wants to change it to 40 hours and not the employees? In so doing should there not be an agreement between both? When was it changed to say 40 hours per week normal workweek?

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

*[Moved by the Honourable Minister for Planning, Communications and Works]*

**QUESTION PUT. AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I truly believe that what the Member for East End is asking goes way before my time. I am not quite sure of the year. As I mentioned, other departments have gone through the same process. I think it is a simple matter that PWD was left for last because people might have seen some problems and everybody tried to avoid dealing with the problems. I am not 100 percent sure because I really do not know.

The decision was not of Government to say get it done, it has been an ongoing process throughout the departments to have the 40 hour workweek complied to. It is not an isolated situation, it just so happens that this is when it was done.

As the Member will appreciate, I found myself in a position not knowing much more than he did because it was done internally. Perhaps what he refers to will have to be labelled an internal situation. That is not to exonerate myself, but it is simply a fact. It was done internally and only after some dissatisfaction was aired, was when everybody else started to get into the process.

Suffice it to say that while all the questions asked may not have been answered in the manner that the Members may have wished, it is to be appreciated that at least we have gotten to the point where the situation will be resolved. We can put it to bed, people can get back to work without having to speak about this thing half the day, and we can get on with our lives.

I thank you, Mr. Speaker, knowing they will not ask any more supplementary questions.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It looks like the Minister is trying to get out of something here.

**Hon. D. Kurt Tibbetts:** No I am not!

**Mr. V. Arden McLean:** I know he is not, believe me.

It is my understanding that the loss to the employees was somewhere around 10 percent on the regular workweek. Now, if 15 can get people going on the TV, I do not know why 10 cannot.

*[Interjection]*

**Mr. V. Arden McLean:** That is COS (Contracted Officers' Supplement). The whole airwaves were plugged up, but for the little Caymanian men it was not thought of.

Anyway, after the end of the 44-42-40 option, which I understand the employees are prepared to take, what will be the net loss after the special increments and regular increments, which I suspect would be three?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Unfortunately, in the Member's attempt to make sure his points are well made, inadvertently some of his points may come as if I had something to do with the dissatisfaction. I wish to make it very clear to him that I am not even the messenger in this situation. I am absolutely totally not responsible, neither do I have anything to do with the decisions we have just spoken about. In any case, the fact of the matter is that when we look at the three increments that will occur between the 44 hour week and its final reduction to a 40 hour week, what that would then relate to is 7.5 percent increase on what the base wage would have been. If we look at the 44 going to 40 there would have been a loss of 10 per cent. So, I think the maximum net loss will be 2.5 per cent at the end of the day.

**The Speaker:** That concludes Question Time for this morning. Item number 4 on today's Order Paper.

Moving on to other business—Private Member's Motion No. 3/01, Review of the Labour Law.

*[Addressing the Second Elected Member for George Town]*—have you completed?

I would like to say to Honourable Members that the deliberation by the Second Elected Member for West Bay was in extreme detail. We are attempting to review the Labour Law. I appreciate that it is very important legislation, but I do not believe that this is a fitting place to air all of our suggestions. I would ask Members to try to make your debate as relevant to the review of the Labour Law as possible.

The Second Elected Member for West Bay.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 3/01

##### REVIEW OF THE LABOUR LAW

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

I accept and acknowledge your position on this matter. Of course, we have to be as efficient as we can in our contribution, but, as you acknowledged, this is an extremely important piece of legislation.

In regard to the Labour Law and the way in which we would seek to have the Rehabilitation of Offenders Law work in tandem to make sure that persons who have served sentences at Northward Prison, or who have other convictions, not have this unfairly prejudice against their ability to earn a decent living. It was encouraging to hear the Honourable First Official Member give an undertaking some days ago to review the Rehabilitation of Offenders Law to

ensure that it adequately addresses the spirit of the law.

This Motion has historically conjured up a lot of controversy in this community. Merchant associations have come down on Government with sledgehammers over this issue because everybody wants to run a profitable business. There is often a lack of commitment to ensure that labour conditions and relations are kept at a fair level.

In regard to the matter of gratuities in the hospitality industry, motions have been brought to this House, and this has always been deemed a real bone of contention, resentment and discontent among the employees in this profession. I am pleased to stand here today, some eight months since being elected, to tell the public that we have not only embarked upon reviewing important legislation like the Labour Law, but we have also embarked on matters such as instituting a minimum wage. This is seeking to address a lot of the inadequacies in the hospitality industry, in particular, in compensation, with a base pay and gratuities being something more discretionary, that is, from the guests.

It is with that area in mind that I have called for everyone in the labour market to be given a detailed breakdown of their week's work, their hourly wage and earnings. Currently, numerous hotel and condominium properties provide the statement of gratuities as called for in the regulations. However, I still hear some complaints in regard to the ease in which employees can understand what they are presented with. This is a matter that is extremely important because a lot of our people work in that industry. It would be incumbent to seek some form of standardisation in that regard. I know the labour department has tried this as well.

In regard to the matter of deductions from one's pay, I think it is fair to say that it is incumbent on employers to ensure that from the outset of employment that people clearly understand what is being taken out of their salary. This has caused discontent. In most instances, it was simply a misunderstanding, mainly of pension deductions.

I think that I have presented the areas which I would like to see tightened up in the Labour Law. The Minister responsible has spoken at length on his vision for labour, human resources, and relations. I do not feel that I need to go back over that territory. I now look forward to hearing my colleagues' contributions. I thank you, Mr. Speaker, for bearing with my sometimes detailed contribution.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I shall count my words as I proceed.

**The Speaker:** I thank you too!

[Laughter]

**Dr. Frank S. McField:** Mr. Speaker, I think the Motion brought by the Second Elected Member for West Bay is a timely motion. Although I am not to speak for the Government, I am quite sure that the Minister responsible for labour will agree that this review is timely.

I have to begin my contribution by referring back to the case of the *Hyatt vs. Labour Department* where it was decided in the case that a large amount of gratuities were paid to managers in contravention of the Labour Law. Although the Hyatt had been notifying the Labour Department of the gratuity scheme they had been using, nothing was done to bring them to court to make sure that the workers got the benefits required by statutory instruments.

Section 70 of the Labour Law says: "Whether or not a complaint has been filed, the Director shall be charged with securing the proper observance of this Law." This is a very powerful section of the law. It gives the Director the power to make sure that the law is observed.

In this particular case, and in looking at the 14 February 2000 ruling made by the Court with regard to the Hyatt Britannia Corporation, Ltd., and the dispute over the gratuities, we see that although there is a statutory instrument to guarantee certain conditions for workers, at the end of the day those conditions may not exist. We cannot just depend upon statutory instruments, but we must also depend upon vigilance. That vigilance to see that certain of the statutory instruments are enforced cannot just be the domain of the Government by virtue of its labour Ministry or Department of labour. In this case, workers were deprived of millions of dollars as a result of the fact that Government was not vigilant enough, not interested enough, or not sufficiently qualified to act on behalf of the workers.

Why is it that the Labour Law, created around 1988, did not take into account its companion legislation, the Trade Union Law? The mere fact that the Labour Law does not say anything about its companion legislation, legislation made before the Labour Law, is one of the main problems I have with the present Labour Law.

Apparently, what was happening from the very beginning was that Government was of the opinion that you could have statutory instruments that defined minimum conditions for workers, but you could ignore the whole concept of collective bargaining.

That is a great lack in the Labour Law. There is no mention of the recognition of this very important right. Collective bargaining is the collective right by which workers, through their trade unions, try to reach an agreement with their employers on wages payable and other benefits they will enjoy in exchange for their labour. In this sense it is Government recognising that the labour of employees is as much a commodity as the products or services they produce.

The Hyatt, for instance, will sell the services of its employees to whoever is in the market for buying these services, and they will decide what to sell that at. Workers also have the right to sell their labour or skills according to what they consider to be reasonable and beneficial to them.

Although the Labour Law will set minimum standards, it by no means should be there to address the situation to the point where there is no flexibility in the labour market, where negotiation cannot be carried on as it does with any other commodity.

I understand that when the Second Elected Member for West Bay is talking about maternity leave, and I do not necessarily want to get into the details, my concept of what a labour law should be is a law that sets minimum standards that does not try to achieve maximum benefits for any of the parties involved, be they employer or employee.

[Interjection]: Hear, hear!

**Dr. Frank S. McField:** Mr. Speaker, it might appear to a lot of people that when we say trade union legislation is the companion legislation of a labour law or employment act, we see this because we realise that the Government cannot and should not set legislation that will not provide for flexibility and negotiation in the workplace. Because flexibility and negotiation in the workplace is recognised by the Government as natural and beneficial to the general good of society, it is also recognised that in many instances negotiation will be best done collectively when employees present themselves as a united front to their employers. They will be able to achieve in negotiation, with their employers, things they could not achieve as individuals.

Although we might have maternity leave in our Labour Law that is not regarded by everyone as sufficient for the general good of society, we also have to look at the general good and the cost to the individual employer. This is in order to establish or maintain the general good by pursuing a policy for pre- and post-natal situations

Not every employer might be able to afford more than the 12 weeks of vacation for maternity leave. Some jobs might definitely require that people are not that long away from their jobs especially when they have to be replaced by someone. You might have a situation where you have a deficit in labour and may have to bring in somebody on a work permit to cover for that time.

This is not to say that I would not recognise the importance of mothers having time off, but the kind of financial burden that would be placed on employers should be negotiated between the employer and employee rather than mandated by Government as part of its protective legislation.

There is one detail I think that is worth mentioning, because we might not get a chance to deal with



the details as there is no recommendation for this to be put into select committee, so, Parliament may only see a review of the Labour Law as a result.

The right of workers to employment is a very important concept. A lot of times, because of dispute, an employee may be summarily dismissed. The dispute could be the employee talking back to the employer who is acting almost like he or she is the master. As a result, the person loses his job and has to go to the Labour Department to make a complaint. The Labour Department has a system embodied in the Labour Law to go before a tribunal who would make a finding as to whether or not the dismissal was fair or unfair.

If it were an unfair dismissal, the employee would have been compensated. That person would have to be satisfied with that because the employer runs what he considers to be an open door policy—if you do not like it, you go; and if he does not like you, you go.

Employees should have the right to be placed back in the position by a tribunal making a finding that the dismissal was unfair if that is what the employee wants. If the worker does not want that, then they should be awarded compensation by the tribunal according to their findings.

That is a very important point that I thought would be interesting to bring up. I understand that part of the reason for going through a review of the Labour Law is because it has not necessarily been able to accomplish what workers, who depend upon the Labour Department as being their advocate, believe it should. Workers should never believe that Government should take their side only. Government should be the arbitrator and create the framework for the dialogue between the partners, the workers and employers. Government cannot take sides.

There have been many cases where the Chamber of Commerce and members (employers) have seen the Labour Department as being pro-labour to the point where they did not believe the department was being fair to employers. A lot of them are advocating dismantling the department because they see the department as having a kind of trade union function. So, workers would have less of a possibility to have any kind of reasonable way of settling disputes, and not becoming victims of the dictatorial policies sometimes employed by managers and owners.

I believe that the Government has to continue to pursue the reforms in industrial relations so that the Labour Law is reviewed, as the Trade Union Law is being reviewed to encompass concepts such as collective bargaining, the strikes, and terminology involved in dialogue. The recognition and certification of unions and how the process should work must all be part and parcel of an industrial relationship act which will embody these two pieces of legislation. Government must review these two laws together. I believe that was the intention of the Minister for labour.

There are some important points I need to make in regard to my position. I believe in fair play. I believe that the people who labour are entitled to a share of the national wealth by virtue of the fact that they are participants and they labour, and profits are partly the result of their investment.

How does that come about, where we find in society the distribution of economic benefits? Do we always have to get Government involved in the distribution of economic benefits? Will it just happen without any kind of involvement by any institution of any magnitude or power? No! Should government be that institution with that power? No!

Should the people who have an interest in selling their labour and reaping the maximum benefits for that be involved? Yes! How can they be involved? By organising them and allowing them to be organised in free trade unions.

This whole concept in regard to the International Labour Organisation (ILO), the fact that the Cayman Islands is a party to the International Labour Organisation ILO convention, especially those conventions governing freedom of association and collective bargaining, means that the Government of the Cayman Islands must actively pursue the concept of collective bargaining—not sit there and say '*Boy, we do not really matter one way or the other.*' According to those conventions they have to actively pursue and encourage the concept of collective bargaining in this country. That is part of the ILO regulations. That is also why when the Minister responsible for public Works was answering those questions this morning it was surprising to me that we can have a labour legislation in this country which is considered to be serious without the Government itself, as one of the major employers in this country, not being subjected to the same laws that every other private citizen is subjected to.

That is the kind of arrangement that the ILO conventions are against at this particular time. Therefore, the whole attempt to review the Labour Law must take into account those international obligations at this point because they have become much more relevant to us today than they were to us yesterday.

There were a lot of people who would criticise us in the past for being philosophical. As I said to that previous government, philosophy is important. Knowing that you are is important—I think I am. It is important to recognise who we are, what we are, and what obligations we have, as a result of what and who we are.

We are human beings living in a human society that is a good society which we want to preserve. We have come to find that we can only preserve the goodness of society by preserving the fairness of society. We cannot just preserve the fairness of society by making laws that are oppressive; we must also make laws that create the framework and structure for people to bargain together as equal entities and not

one side being intimidated simply because that person seems to be dependant upon the other one.

The idea that those persons who own capital, who are interested in profit relationships, rather than social relationships, see it as more important to be interested in the profits rather than the social outcomes. We find that labour legislation, and the whole concept of industrial relationships and how it is conducted worldwide, is important. This is in terms of emphasising, in all democratic and humanistic countries, the value of human relationships to the point where we do not eliminate profits that actually create the material condition for the improvement of those social relationships. At least the creation of profit is not pursued to the extent where we forget about the importance of maintaining productive social relationships.

If the State is to totally legislate that today, it lacks the possibility in the future for people to be flexible and to participate in defining what is important to them socially with regard to benefits in the workplace. There is a reason why workers become involved in the Hyatt, the Radisson, the Westin, at Barclays, at Royal Bank, at the Glass House and other areas. People will learn what participatory democracy really means because people start at the basic level of feeding, clothing and housing themselves—the basics—and then they go on to the more political level.

We are expecting people to be involved in politics in this country by first being involved in politics rather than being involved in the economics and then becoming involved in politics. This is what we can help people understand by having the types of conventions that are being advocated by the ILO, which, at this particular point, is playing a more important role by the fact that we have more of a need to review this legislation than some would think. I know for certain that this is very much the case.

Now, there are things going on in the Civil Service that we are not supposed to be as Members of the Legislative Assembly concerned about, like the contracted officers' supplement which—

**The Speaker:** I would ask you to please stick to the review of the Labour Law. That is outside of the Labour Law. Please continue.

**Dr. Frank S. McField:** Mr. Speaker, I would say that it is a question of labour and the Labour Law is supposed to regulate labour. If we are going to have a new Labour Law that is not going to take all labour into account; all employers, then it will not be worthwhile reviewing. I am saying the reason why we need to review the law is because the law is ineffective in providing that maximum blanket protection for all persons in our society. One of the things that Labour Laws must do is mandate equal pay for equal work.

The interesting point is that there is not going to be any way the Minister can come back to this Legislative Assembly with a Labour Law that does not support the principle of collective bargaining and equal pay for equal work for all persons, regardless of where they come from or how long they have been here, as long as they are legally within our jurisdiction and working.

I am not going to bother you much more, Mr. Speaker, since I understand you are trying to assist us in getting through in a democratic manner, the work we have proposed to do. I think I can finish up by saying that the employee and management relations which now should develop in this country must develop along the spirit of cooperation and fairness. Workers and employers must be given an institutional framework that will allow them to engage in a dialogue and arrive at new kinds of alliances.

I believe that we should have open minds in reviewing this Law. I believe we should try not to limit the rights of any of the social partners covered by this legislation. I think, rather than the legislation speaking specifically to what this one should have or that one should have, that the legislation should provide the framework for humanistic and beneficial dialogue between those persons involved in labour relationships.

**The Speaker:** We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.47 AM

#### PROCEEDINGS RESUMED AT 12.06 PM

**The Speaker:** Please be seated. Debate continues on Private Member's Motion No. 3/01, Review of the Labour Law. Does any other Member wish to speak? Does any other Member wish to speak?

Does any other Member wish to speak? We can only pause for five minutes. Does any other Member wish to speak?

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Thank you, Mr. Speaker.

I take great honour in seconding this very important Motion requesting a review of the Labour Law. As the Third Elected Member for George Town said about the Hyatt case, that incident alone would be sufficient reason to review the law.

The Mover of the Motion went into quite a bit of detail, so I will do my best not to go into that detail as well. I hope that during the review Members of the House will have a chance to make a contribution to that as well. I will make a few suggestions to those who will be involved in the review.

An issue that has come to our attention often concerns the cutting down of the hours for people working in the hospitality industry. The slowdown has caused the local labour force to be penalised by a

restriction on hours. I assume these representations have been made to the Minister of Labour as well. I am sure he will address those in his upcoming review.

The issue clearly defines that wages has been an issue for quite a while, and there have been calls for a minimum wage law. There is a provision in our existing law for a minimum wage review committee to be appointed by the Governor-in-Council.

My first motion to this House concerned the establishment of a minimum wage advisory committee, or a select committee to establish minimum wage. That motion was passed and I would hope that in this review of the Labour Law the minimum wage motion would also be introduced. With all the motions that have been approved and passed, we have not been able to get along with any of that work. Since we have identified the need for these various committees, I am a bit anxious to get going with the work of those select committees so the motions can be brought for those bills. We can then incorporate the motions we agreed were so important.

The Second Elected Member for West Bay mentioned the vacation pay and the need to support longevity in the workplace. The issue of only being entitled to four weeks vacation after having worked ten years seems to indicate a lack of incentive for people to stay employed for long periods of time. I happen to know that some of the bigger private employers have made their own arrangements. I guess that gives credit to the suggestion made by the Third Elected Member for George Town concerning the requirements of this law being the minimum requirements.

With companies that have established agreements with their employees, evidence shows that they have a higher rate of long-term employees. I would suggest that some consideration be given to, if not mandating, perhaps advising, that after certain periods of employment, vacation and severance pay would be changed.

One other issue that comes to mind is the standard workday being defined at nine hours. I am aware that in other parts of the world, in light of all the concerns for family and family management, that parents are encouraged to extend work hours in a particular day to accommodate the required hours for the week. Instead of working five, eight-hour days, individuals may choose to work four ten-hour days and get an additional day to spend with their families. Our current law discourages that.

I think we have many indications as to where the deficiencies are in the law, that being a decent relationship between employer and employee. We do have issues of compassionate leave qualifications; we have issues on workmen's compensation. Since this law is under review, and it seems that the general agreement is that it will be reviewed, I will close by saying that I look forward to this review and being able to provide whatever assistance I may be asked to.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I rise to offer my brief contribution to this Motion seeking a review of the current Labour Law.

The current Labour Law came into effect in 1987—some 14 years ago. It has been amended a number of times since then. In my experience, the Law still needs some work.

I come to this debate with experience as an employee and employer; as one who has been an advocate for the employee, and an advocate for the employer before labour tribunals; and as one who has sat as chairman of a labour tribunal. Those experiences have given me insight into this legislation and what parts of it work well, and what parts do not.

I am going to limit my contribution by not venturing into too much detail, but will seek to highlight a number of areas where the Law can be improved. I preface what I say in that regard by saying that, while I support the idea of a review, I believe we must be careful that we do not seek to craft labour legislation which gives to employees all of the benefits that we believe would be desirable as employees ourselves. The labour legislation ought to have, as its objective, the creation of the legislative framework to establish minimum standards of employment, minimum conditions of employment under which those who work in Cayman can expect to be employed.

Those conditions can be improved upon by negotiation, by the demand within the workplace for the quality of employees, and those matters should be left to that kind of bargaining. It is well and good to ask that the legislation provide for 24 weeks of maternity leave, and to ask for paternity leave, and if one can negotiate those arrangements within the context of one's employment contract, that is well and good. As responsible legislators, we must be concerned not with ideal conditions, but with minimum standards and conditions which govern the employment situation in these Islands.

When discussing the Labour Law we must bear in mind that there is both an employer and an employee in this relationship. We must also bear in mind that this is one of the most expensive jurisdictions in the world in which to conduct business, and that labour costs in this jurisdiction are significantly higher than in most other places.

There have been a number of additional expenses that employers in this jurisdiction have had to bear over the course of the last decade or so. Those in most respects I believe, were very necessary additions—the creation of a National Pensions Law, which requires an employer to pay a contribution to his employees' pension, and the Health Insurance Law, which does likewise. All very necessary parts of em-

ployers' social contracts. These have increased the cost of doing business in this jurisdiction. Whenever we come to pass or amend legislation which imposes additional burdens and expenses on the employer, we need to bear that in mind.

When we increase from 12 weeks to 24, for example, maternity leave, we must understand that that is increasing the potential cost of running an employer's business. Time spent away from work by employees, whether it is sick leave, annual vacation leave, or maternity leave, is unproductive time from an employer's standpoint. That is time and opportunity when that employee is not producing for his or her employer.

I am not suggesting that there should not be adequate maternity leave, or that the 12 weeks as it currently stands where only 20 days of it is on full pay should not be looked at. I am simply saying that we should not attempt in our role as legislators to go about this exercise as though we were driving a hard bargain to achieve for ourselves as employees the best possible arrangement with an employer. What we should be trying to do is establish the basic standards for employment within this jurisdiction, not some ideal employment contract arrangement.

Much has been said about gratuities and the inadequacies of the law to deal with situations that have arisen and will continue to arise. That is an area of the Law in which, I believe, we need to review again. I endorse what has been said in that regard by those who have spoken before me.

The other area that needs some review is the issue dealing with the resolution of complaints. As the Law is currently structured, there is provision for labour tribunals to determine complaints for unfair dismissal. That really is the extent to which the labour tribunal's function can be exercised under the Law. A labour tribunal is limited to making orders for compensation for unfair dismissal and for severance pay. In my experience, most complaints tend to involve other matters which are outside the labour tribunal's remit, including failure by the employer to pay wages during the period leading up to the employee's termination, failure to pay overtime, and failure to pay vacation leave. I recall that during my time as chairman of a labour tribunal, it was expected both by the employer and the employee that the labour tribunal was capable of resolving and ruling on all of these issues. The practice developed over time that the labour tribunals would make findings about whether or not wages were due, or if overtime had been paid, and whether there was entitlement to vacation leave that had not been honoured, therefore we would record our findings in the written rulings. They had no real effect other than sort of a declaration which the department would take into consideration when it came to dealing with these issues because these other issues fell to them to be determined.

When we are looking at this whole question of resolution of complaints, we need to decide if a tribunal is going to be vested with the authority to hear complaints and that the authority needs to be in broad enough terms to enable them to deal completely with the complaint of the employee before them, rather than leaving off certain issues which have to be resolved by the department.

Those are some of the examples of areas of the law which I think needs to be reviewed. I think consideration also needs to be given to the provision in the Law which deals with employees working overtime at standard rates. As the Law currently stands, an employee, other than one at managerial level, cannot work hours in addition to those prescribed as the standard workweek, i.e., 45 hours, even if he wished to do so, unless a labour tribunal has determined that they are entering into those arrangements of their own free will and not as a result of any pressure from the employer.

In my experience, there are a large number of employees in the various industries in Cayman who do work significantly more than 45 hours per week, and who do those extra hours at standard rate. While I understand the intent of the Law, and that the labour tribunal must consider each and every one of these requests and determine whether or not the employee working those additional hours is doing so of his own free will, in my experience it simply does not work, the way the Law is currently structured.

It is nigh on impossible for the labour tribunals to be able to review each of these arrangements, speak to each employee, and determine whether he or she is doing this because they want to or because they are required to do so by the employer who will say *'if you do not want to work the extra hours at standard work rates, I will find somebody else who will.'*

Further, we would require significantly more labour inspectors than we currently have if this section were to have any chance of being enforced. That is but another example of an area of the Law which warrants review.

So, I offer my support to the Motion seeking a review of this Law. I urge my cautions and reservations about what the review should entail and what we should seek to have the Law do. With those few words, I thank you.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** Thank you.

Mr. Speaker, the private Member's Motion asking for a review of the Labour Law is indeed a timely one. I recognise and respect the rights of the Mover and Seconder to bring this Motion even though it was publicly stated many times that it is the commitment of the Government to review the Labour Law. Indeed, as the Minister who holds constitutional responsibility

for labour matters, I have been proactive and am already on the way to having the current Labour Law re-examined and making some proposals—not exactly proposals at this time because they have reached the stage of drafting instructions for a new law.

I am happy that the Motion is not asking for a select committee because that is not the way I would propose to go. I will elaborate on the reasons why later. I want to say that, in fairness, the current Labour Law which we have begun to realise as inadequate, in many respects, is a good beginning. However, I think we all realise that we need a broader, more accurately defined instrument because as the sophistication of the market grows, so do the problems and challenges we encounter. So, while the current Labour Law was a good first step, we realise now that it has been overtaken by events.

It is of critical importance that we establish from the beginning the tripartite nature of the law, the regulations, and any surrounding occurrences. It has to be a tripartite system of employer and employee and government. If we take the current criticism of what exists now, some people believe (depending on whom you speak with) that the law is skewed in favour of the employee or the employer. Well, with all due respect, we may never be able to craft a law which is accepted by all parties. It is the nature of the beast.

However, it is true to say that we can craft a law which is more acceptable and more accurate in some of the definitions and positions outlined than the current one. There are some major problematic areas in the current law that need to be ironed out. These problems do not so much as to emanate from the law in the way it was drafted as from the attitudes of persons affected by them. Often, it is a matter of conscience.

As someone who has studied history and sociology, and who understands a little about human behaviour, first we have to tell ourselves that we are coming to the table with a fairly open mind. It is a matter of conscience, and I do not know for the life of me how some people expect to get away with this. You cannot have people working beyond the normal workweek at straight wages. It goes against the grain of human expectation and understanding.

The first thing you hear is that it is going to be bad for business. What about bad for the social conscience? These are the challenges I would hope to have dealt with by the new Law that this Government and this Minister is proposing.

This leads me conveniently to say how I expect to deal with the instrument. I am aiming for major public consultation. We are getting the drafting instructions together and I prefer that we put together a new law from scratch. I do not like to revamp the old; I do not want to build a quilt; I want to start with a new spread. When that is done we have to take into con-

sideration several things that no Member speaking has mentioned. I listened to the debate from the Mover right through, and I have to commend the Honourable Members who spoke because they all covered important areas that need to be covered.

No Honourable Member mentioned that the very face of work is changing because of a knowledge-based economy, because of e-business, because of information and communication technology (ICT). One of the things the new Law has to bear in mind and that is: we are entering into a situation where it will not be uncommon to have persons working from home. That is what ICT allows people to do. The tools and skills of the workplace are also going to change. So people are going to do a lot of work, contracted or otherwise, from home.

The new Law has to take these kinds of situations into consideration. What would be their privileges? What would be their entitlement? What would be their rights? We cannot get away from the fact that we are going to have to tailor into our law consideration of obligations and commitments emanating out of the European Union. These are freedom of movement, freedom of association principles—equal entitlement, equal privileges, maternity leave, paternity leave. It is not just going to be an exercise where we can just scrap one instrument and write another one. However, I am confident that we are on the right track.

Members will recall the announcement we made some time ago that we had a consultant down, Mr. Peter Syson whom the Ministry contracted to do some research in the Cayman Islands on directions we might take in making this whole move to an employment services centre, and a comprehensive look at human resources. I am happy to report that Peter Syson has finished his work, compiled his report, and it is at the London Office just waiting to be sent to the Ministry for consideration.

Importantly too, any new law we craft has to be tied in to the aspirations and findings of Vision 2008. We have undertaken to do a modern and comprehensive instrument which we hope that, after the public consultation period and it is passed in this Honourable House, it can serve us well without any major restructuring at least for the next decade. It will not be so perfect that it will not need amendments from time to time.

In this consideration, we recognise that there also has to be companion legislation. The Labour Law, in and of itself, will not cover everything in terms of labour and employment relations; employer and employee. It is at this point that I find it important to say that as Minister I have spoken to my Permanent Secretary and we have agreed that legislation, as it exists now, is lacking because I am of the opinion that we need to craft (and Government has undertaken to do that) a modern Trade Union Law. However, more

importantly, we also need to address workmen's compensation and safety in the workplace.

I see these three areas as important corollaries to any modern legislation. We must have them if, for no other reason than the workplace is changing and people are more knowledgeable of their rights and privileges and will challenge. So we have to have these instruments in place as a guide. Not only that, when it comes to things like safety in the workplace, it is only commonsensical. As I move around on construction sites, I am alarmed to see people on high buildings, walking under scaffoldings, under buildings being erected with no protective head gear and walking about on compounds with no steel-soled and steel-tipped shoes, and around steel benders with no protective eye gear or gloves. Only in the Cayman Islands!

More alarming than that, I have had people come to me who were injured on the job. What happens to them? In many cases, the employers grudgingly agree to pay the medical expenses. In some cases, they do not and the people are laid off, fired. I see it every day and I am alarmed at how employers can get away. It is only through God's mercy that we do not have more people injured.

The whole area of small businesses and self-employed people, are some of the areas which have to be addressed to ensure they are adequately protected and taken care of. This also includes the small construction firms.

Discrimination is top of the list in the workplace, in all its myriad of forms. Work permit holder, versus Caymanian; discrimination on the basis of gender, physical ability, age or religious belief. This all has to be covered in the Law. Perhaps at the heart of this Law is the change of a system for dealing with complaints. It is here that I would like to spend some time and place the greatest emphasis. This may be the single-most problematic issue with the Labour Law now.

First of all, I want to say that it is crucial we eliminate, as far as possible, the adversarial relationship between employer and employee—therein the challenge of the Ministry lies. We want, with the new Employment Services Centre, to create the reputation that the Labour Board as it will exist is a neutral, non-partisan board.

Right now many employers think the Labour Board is in favour of the employees. We wish to get the reputation carefully cultivated that we are neutral. We also wish to have, as an ideal, that the differences and problems are settled in the workplace; that there are attempts to settle them on the shop floor, in the office as a first resort. To that extent, it is proposed to do away with the tribunal system. It may have been a good intention, but it really has not served us as well as it could. I do not wish to cultivate the number of adversarial complaints and attitudes that I have wit-

nessed, even in my brief time in office, as a result of the kind of system we have.

Let me say this clearly: I have the greatest appreciation for those persons who volunteered to serve on tribunals. It is a difficult, if not impossible task. It may have been well meaning to the people who proposed it in the first place, but in hindsight, it really is not working. We must craft a better system. So, we want to set up a system where we emphasise arbitration, mediation, and conciliation. We want dialogue. The best system is one where the parties get together themselves and make the agreement. In those cases where an agreement needs to be ratified or formalised, then we can make arrangements to do that, but the Government, in the tripartite system, sees itself as a facilitator, mediator, conciliator, arbitrator and an educator. That is why we want to have the kind of centre where all and sundry can feel free to just drop in and make use of the facilities.

We will have a boardroom; we will have arbitration facilities and we will have people who can mediate if called upon, even on short notice. However, the Government must build and maintain the reputation of a neutral party and not only a neutral party, but a respected neutral party in a tripartite system.

Mr. Speaker, it is a good time to take the luncheon suspension.

**The Speaker:** We shall suspend until 2.15 pm.

#### **PROCEEDINGS SUSPENDED AT 12.55 PM**

#### **PROCEEDINGS RESUMED AT 2.49 PM**

**The Speaker:** Please be seated. Debate continues on Private Member's Motion No. 3/01, Review of the Labour Law.

The Honourable Minister responsible for Education, Human Resources and Culture, continuing.

**Hon. Roy Boddan:** Mr. Speaker, when we broke for lunch I was articulating some of the items which I think we need to include in a new and comprehensive Labour Law. I was going down a list of subjects which fell under the rubric of what I term discrimination.

Third on the list is this whole business of moving away from tribunals in settling disputes to arbitration, mediation and conciliation of disputes, similar to the Advisory, Conciliation and Arbitration Service (ACAS) system practised in the UK.

Fourth is the whole business of human rights and issues surrounding human rights, beginning with the most fundamental concerning freedom of association, which means that workers must be guaranteed freedom of association if they want to form themselves into a union or whatever kind of collective bargaining entity. The Labour Law must be crafted in such a way so as to give them this ability.

Then, under that rubric also, comes the whole business of equal pay, minimum wage, which we are going to be addressing in a new minimum wage law. We have talked about the necessity for flexible working hours which has been brought about by the changes from the traditional based economy to a knowledge based economy where people may want to work from their homes. In particular homemakers and housewives may want to take on contracts doing information based work for firms and companies.

Maternity and paternity leave, health and safety in the workplace—this whole business of redundancy would have to be addressed without any form of discrimination.

One important thing we have to bear in mind in crafting this Law is that we can no longer craft laws peculiar to Caymanian society and circumstances. I have a copy of pending European Union legislation. All of the legislation in this compendium makes reference to the European Union relations with what it calls O C Ts, overseas countries and territories. Every bit of legislation in that compendium makes reference to that. It is under various subjects from the environment right down to trade labour. We in the Cayman Islands, when drafting our labour law have to take into consideration the rights of these people, freedom of movement, freedom of association, because we are going to have people coming from those jurisdictions to work in Cayman and they are going to want to have the same or similar rights and privileges. We have to be sure that our laws are drafted in such a way that we can accommodate these people without encountering any legal challenge from them because if the laws are inflexible and rigid as to exclude them, we are going to have legal challenges.

We had better remind ourselves when drafting this Law that we can no longer use the old parameters. We have to take into consideration all of these kinds of occurrences.

The new Law will introduce the requirement for minimum standard contracts and complete pay statements showing appropriate deductions. It is going to contain a significant requirement for the maintenance of accurate and up-to-date records. It is proposed to extend the statute of limitations for prosecution of violations of the Labour Law. Of course, we are going to address this whole business of opting out of overtime pay, unless it is at the employee's discretion.

Health insurance, disability insurance options and this whole business of pensions is going to dovetail with the Pensions Law. We believe there is going to be a greater move towards small businesses where the Law will make provision for their peculiar problems.

We are going to attempt to address the issue of whether the civil service should be included under the Labour Law, since the civil service is the largest employer. I must admit that we have some difficulties

now, because right now, civil servants are not affected by the Labour Law, yet we get complaints from civil servants of the same challenges people in the private sector experience. I believe, as the Minister, it is time for us to consider the one country, two systems. People are saying we have an anomaly because we have a law that does not apply to one sector of the population.

Of course, we are going to place greater emphasis on safety in the workplace and on workmen's compensation. That is what we plan to include.

Now, in speaking a little about the methodology, I believe, that it makes for good practice and, in the interest of time, I am happy that the Motion did not call for any select committee. The Government has stated that it was minded to review the Labour Law anyway. The drafting instructions are already well advanced. I would like to circulate a draft Labour Law between now and the end of the year with a period of six months for consultation with the public.

When we get the feedback, we will then review it. It could be brought with the amendments as a bill to the Legislative Assembly. We will debate that, and the Honourable Members will decide what they want incorporated. At that time we would be ready for a final drafting of the Law. I think that would be the most appropriate and perhaps the most comprehensive way of dealing with the matter. There is no necessity for us to reinvent the wheel. We already know from what has been said here and what the feedback is from the public about the areas we need to work on. It is of paramount importance—and expediency is of the essence—that we get this Law in place, which will be acceptable and understood by all. We will also have to spend time on the accompanying legislation; the Trade Union Law, Workmen's Compensation Law, and the Safety in the Workplace Law. All of these form a compendium. I think that is the best route to take.

I am going to end with this kind of codicil. It is my ambition when we get this Labour Law and its accompanying legislation accepted, I want to work on a Construction Lien Law. As I move around more and more, I get bombarded by small and medium sized entities where they have done the work, committed their time and funds, many times on the basis of informal contracts, but many times on formal contracts. Work was completed, there were no objections, but they cannot get their money and in a civilised society, that is a no-no. We do not have any legal mechanism for placing liens in those instances. Many Caymanians, small Caymanians, are being hard-pressed and off-put by people whose motives are less than honest. There is need for a legal foothold for these people to stand on. When I finish this spate of legislation, I am going to be working on a Construction Lien Law that will eliminate the kinds of odious practices where people are taken advantage of by people whose motives are less than honest.

I have left, for the last, the most sensitive matter. This is sensitive in the sense that it is politically sensitive, but also socially sensitive. I am aware that with the changing economic circumstances in our society there is great pressure and Caymanians in many instances are being dealt short-shrift. We have aggressive persons coming in taking advantage and Caymanians in many instances are being put off, put out and put under.

I frequently hear of instances of whole firms being taken over and Caymanians are shoved out the door. It happens in construction and in the professional and white-collar fields. I have not spoken publicly about it because it is a delicate matter and I do not want to sound the wrong signals. I am saying that even from personal experience I am aware of this, and I am going to relate an incident. I have had over the last several months many complaints of Caymanians being displaced. I have a theory about the disposition and the psyche of Caymanians from the days of slavery right on down why we are so docile and trusting.

The best cargoes came to this side. However, I will tell you this; we can no longer afford in a world of tight competition to allow this to happen to us. I am not a great believer in legislating protection. I believe in educating, training, and informing. That is why when people ask me if I support a union I have to give them what I consider an intelligent answer. What is wrong with that? A union is an entity which protects the rights of workers. I am not supporting any union, but I am supporting the workers' right of protecting themselves, ensuring that they have fair, amicable and reasonable working conditions. That means that they should be free from aggressive persons displacing them.

I want to send a message—I know it goes on; I know some of the characters who practise it. I am going to deal with it through the crafting of a Labour Law that will take care of those kinds of practices. In the interim, I have other means at my disposal to deal with that. It will not be tolerated. I have lived in another jurisdiction where some of those people come from and I know they could not carry on that kind of nasty behaviour where they came from, therefore they should not be allowed to carry it on here either.

These people hold us with such low regard that even when I, as Minister, try to speak with them, they treat me with contempt. It is like what Rodney Dangerfield says, "I get no respect!" They speak to me as if I was a lapdog. I can imagine how they speak to the people who work with them. Often they make decisions based on their prejudice. They have to understand it is a two-way street—respect begets respect. I hope that this message reaches them. While I am dealing now with a velvet glove, I have the mail fist in reserve. I believe that this society is a society where we can all coexist. I hope that no one takes the po-

liteness, docility, and civility of the Caymanian employee for granted. Thank you.

**The Speaker:** The Motion is open for debate, does any Member wish to speak? The Motion is open for debate, does any Member wish to speak? The Motion is open for debate, does any other Member wish to speak?

The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, I have been here a long time and never failed to express myself on any discussion relating to the working person in this country. I have listened with keenness to this debate calling for a review of the Labour Law.

Perhaps it is good, after all that has been said and insinuated over the years that a review should take place about the present law. We can then see whether we will have killed the devil and born his papa. I do not think there has been anyone in this House who has worked harder in these Islands and taken the brunt of criticism and accusation to get benefits and set standards for employee and employer than this Member.

When I entered this Assembly in November 1984 the only thing guiding employment practices and remuneration at that time was the 1842 Master's and Servant's Law. That Law contained provisions where penalties for illegal dismissal of servants or workers were set at a sum not exceeding £5. Penalty on the master for ill-treatment of the servant was a sum not exceeding £20 and on it went.

One of my first motions in March 1985 asked that these inequities be addressed. A committee was formed and it took some two years under the guidance of Mr. Norman Bodden, then Minister of Tourism responsible for labour matters. In this House at the time we had Mr. Benson Ebanks, Capt. Charles Kirkconnell, Sir Vassel Johnson, as members of Executive Council. You yourself, Mr. Speaker, sat on the bench for Cayman Brac and Little Cayman. We have come a long way since then and provided many benefits. I did not make that Law. I asked for a law when I sat on the committee and when I had an opportunity in 1993 to 1997, I tried my best to make changes that would be for the betterment of both the employer and the employee.

There has been talk as to the good of the Law, and whether or not it is respectable. This Law bridged a great divide and had it not been as encompassing as it is, we would have been in greater trouble today because back then in those days employees barely had rights. In those days, up until 1984, one of the laws that were repealed on the introduction of this Labour Code was a law entitled the Truck Law. This Truck Law was passed to prevent employers, especially merchants in those days, from paying workmen a weekly salary or a day's pay with goods from their



business or forcing the workman to purchase goods from their business. However, it existed as it was made in 1944. This Law in existence today strengthened and wiped out completely those inequities. It strengthened the working man in this country. We have come a long way.

I represented the Cayman Islands at CARICOM, (Caribbean Community and Common Market), in Nassau last week, where the Cayman Islands have applied for an associate membership. At that heads of government meeting, some prime ministers were bemoaning how labour unions arbitrate on industrial disputes. Those prime ministers are in parties made from the labour union movement. They admitted it!

Mr. Speaker, one of the greatest needs today in the workplace, especially the casual labour marketplace, is to educate employers and employees on relationships. I set out when I had responsibility to do something about it. I am hoping that the review to take place now will address that because this would address much of the problems we face today. It is true that our people are given, in far too many instances, the dirty end of the stick which has caused far too many problems. This must be dealt with.

All industrial disputes need arbitration. How we go about that arbitration will decide whether the working man will be better or worse off than he is today, and whether the working marketplace will also be better or worse. History will teach us. Time, as the old people say, will tell.

I believe that all persons who held responsibility for labour in these Islands since 1984 have done well to get benefits. They have changed the way gratuities have been collected, from the type of vacation and how vacation is given. When I took office, the pregnant woman did not know what would happen to her. Today, in her confinement she is much better off. The sooner this House and this Government recognises the benefits that exist and say so meaningfully, the better off we are.

Anybody can talk about how bad something is but when it has done some good, we must also say how good it is. The truth is that many of the social inequities that existed when I came into this House as a young person, do not now exist because I could stand up and say that it needed to be done and I when I had the opportunity I took the chance to do something and others that came behind me did the same thing.

I am not going to be party to anything that is going to create more trouble than we have. I am not going to be beset with machinery that will come and beat each Member over the head, including the Government that attempts to bring it in. I am not going to create machinery for people who have nothing better to do than want political power when they believe they can manipulate workers in the country and get on television and beat McKeeva over the head.

I have fought for workers' rights in this country. I am big and ugly as the next man in this House and will stand by the worker. I am not going to be pushed into anything that will be worse for the working man in this country.

You know, nice sounding phrases, big beautiful boxes of words can help. When we set up machinery where the masters in that machinery drive the Mercedes Benz and the worker stands on a picket line and damages the tourism industry and the business that has to carry on the economy. I will not be party to that! Thank you.

I support a review and will do my part, giving advice where I can. The Minister brought someone down here recently and I spoke with that man. I think he has good ideas and is getting the feel of the relationships that exist between employer and employee, especially the Caymanian outside worker, which is where a lot of the problems exist. I think the Minister himself aired some of it a while ago.

I am not going to be pushed, cajoled, threatened or otherwise into dismantling the Labour Code that we have to say that I can bring better industrial relations by a union. I am not convinced this road is the one which this country should take. I will stand by the working man, as I have always done, or fall—and I have fallen many times, hard too. Thank you.

**The Speaker:** The Motion is open to debate, does any other Member wish to speak? The Motion is open to debate, does any Member wish to speak? The Motion is open to debate, does any other Member wish to speak?

Final call, does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

I have not heard anyone say they are not going to support the Motion, and I take the silence of Members to mean they will support the Motion. I thank everyone who has spoken, and those who have not.

There have been a few points raised which I think need some addressing. First, I would like to say that when I made a proposal for extending maternity leave, I did not say up to six months. I said we could consider 16 weeks. Be that as it may, I want to remind us all, especially employers in this country, that when we talk about minimum standards in this Labour Law we better make sure that those minimum standards are adequate. If they are not adequate, you had better accept what the alternative will be and we have seen what the alternative is. The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport spoke directly to what the alternative is.

So, those of us who want to talk about the cost of doing business in Cayman, if we see inadequacies

that we can redress by way of the Labour Law, at the end of the day, it is my view that is the preferred route than to have—the proliferation of labour unions in this country. Sometimes, when you do not want to give an inch, you wind up losing a mile.

I am an employee and I have only been an employee in my life. The Seconder of this Motion has been an employee and an employer. I was not an ordinary employee. I have been privy to more financial information than most Members of this House will ever see in their lives. I audited CIBC, Butterfield Bank, the Turtle Farm. I have done mutual funds auditing. I have audited Bank of America. I have audited Cayman Airways. I have audited non-profit organisations. Let us stick to business. I have audited a lot of businesses therefore, I have seen expenses.

I know that human resources issues are a key component of labour expenses in this country. I also know that the return on capital is second to none. These companies can claim what they want to claim, but you make a lot of money in these Islands. I do not think you would not be making a lot of money without seeing some of the multimillion-dollar homes. I do not think business people are that dumb to foolishly spend their money. I have seen the returns in black and white.

When we talk about laws, let us always remember what it is that we want to achieve socially. We can talk about all this stuff, but as long as we have the moral and social decay, with crime increasing and young people continuing to kill young people, we better recognise that everything has the potential to contribute to it.

I stand firm with my view, and that is, in the early days of life those are the years where it is crucial for both parents to bond with their child. It is necessary to know why there are so many deadbeat dads in Cayman. The woman goes through all the trials for the nine months; all the pain in the delivery and she winds up staying home with it. You get up, go to work in the day and at night, go to sleep on the sofa because you do not want the baby to wake you up since you have to get up early.

We, in this country, need to continuously assess our social consciousness. If drugs and crime continue to increase the way they are, this is going to negatively impact the productivity. In that case it would mean more work permits; more jails built and more tax money thrown at it, which can negatively impact tourism to the point where we have a contraction in that sector and that would be bad news for all of us.

I would like to acknowledge the tremendous amount of work done over the years in regard to getting the Labour Law to where it is. After all, this Motion calls for a review. I think we have a good Labour Law, but with everything, as time changes, it has to be modernised and it is continued to be reassessed to ensure that it still meets the needs of the people as

we progress. After all, as people change, so do their needs.

Gone are the days when grandmothers went from children to children helping to care for babies. In are the days when we bring strangers into our homes to rear our children, and yet, we are surprised when we have social breakdown.

I consider myself a responsible legislator. I feel that I have seen enough in this life so far that I can get up and talk about labour. No, I may not be an employer,, however, I feel that I have seen enough and have enough common sense to recognise certain things in this Labour Law that can be improved without necessarily harming businesses to the point where they have to close down.

We have to recognise that businesses create jobs. It is demand for goods and services that make people take capital and risk it on a business venture. However, I am not going to stand here and pretend that more cannot be done in certain areas. If I did not feel that way, I would not have brought this Motion in the first place.

In the United Kingdom, a person can actually take up to 28 weeks off for maternity leave. Of course, there is a decline in the amount of money they get. I bring that up to make a point.

*[inaudible interjections]*

**Mr. Rolston Anglin:** Mr. Speaker, I made the point to show that there is a big gap between what we currently have in this country and what is available elsewhere.

I agree that we should have a labour law that sets out what we expect as a base level in regard to relationships between employee and employer. We must bear in mind two facts: 1) uneducated or low educated persons who carry out rather mundane junior level tasks within businesses in this country are significantly less able to negotiate more favourable conditions than a person who is educated and a professional. We better make sure that the minimum standards are adequate. If they are not, we are going to continue to see persons utilise the union movement to ensure that the persons who feel they do not have any power as individuals get the benefits they feel they deserve. It is one or the other.

At the end of the day every employer has to make a profit, otherwise why would they stay in business? At the same time, my personal conviction is that we should seek to have the Labour Law crafted in such a way that people can have a reasonable level of minimum standard, and that we do not have a continued proliferation in the union movement in this country. That is my personal view.

Let us say this Motion never came before this House. Let us say that the motions creating this Labour Law in 1987 never happened. Where do we think we would be today? People would not have idly

sat by. Yes, Caymanians are docile, but they would not have idly sat by and worked under the conditions that prevailed. Something would have happened.

The Minister responsible said that he is going to have wide consultation in his review. I take that to mean that at the end of the day what is going to come back to this House will be something that employers also endorse. The Minister also said that when you speak with employers they say the Labour Law favours employees too much. Employees say the law favours employers too much. I think we all have enough common sense to know that the truth lies somewhere in between.

I caution all Members that if we do not ensure that the minimum standards are reasonable, the alternative will not be what we want for our economy and for our labour market.

Let us say that areas of this law which need amending are not addressed; then, we can be rest assured that more and more people will be attracted to the labour union movement and at the end of the day they are going to beat the employers over the head anyway. They will wind up getting the benefits they wanted to begin with, so employers will still incur those costs. The only difference I see is that the workers will be paying labour dues and attending labour meetings. In other words, they will be spending money that they could be spending on their families and attending meetings when they could be home with their children spending meaningful time with them. I want the parents of this country to be able to spend as much quality time with their children as possible and not be caught up in industrial action.

If we are responsible legislators, it naturally follows that the tool we provide in our tripartite system must have reasonably minimum standards. I would also like to add that we should seek in all of this to ensure that the public service is not significantly different in regard to the General Orders governing it. At the end of the day I do not feel we should have double standards.

I thank Honourable Members who spoke and said they support the Motion. I wish the Minister responsible the best of luck in his review process. One truthful thing he said was, that whatever we come back with we will get complaints. I have confidence that he is a strong leader and will do what is right.

I also thank my colleague from West Bay, the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport, for his contribution. He has taken many a political beating, having to bulldoze the labour law and matters pertaining to workers, such as pensions, and a lot of times he is left on an Island. So, we are where we are, and I look forward to this matter coming back when the draft bill has been adequately circulated and the Minister feels it is time for us to review it. Thank you.

**The Speaker:** I shall now put the question on Private Member's Motion No. 3/01, Review of the Labour Law. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 3/01 PASSED.**

**The Speaker:** Is it the wish of the House to take the break or continue on to 4.30? We shall suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 3.46 PM**

**PROCEEDINGS RESUMED AT 4.05 PM**

**The Speaker:** Please be seated.

Private Member's Motion No. 14/ 01, Fair Competition Act, to be moved by the Third Elected Member for West Bay.

### **PRIVATE MEMBER'S MOTION NO. 14/01**

#### **FAIR COMPETITION ACT**

**Capt. A. Eugene Ebanks:** Thank you. I beg to move Private Member's Motion No. 14/ 01, standing in my name and entitled Fair Competition Act, which reads as follows:

**"WHEREAS small business persons are experiencing many hardships because of major companies monopolising certain industries;**

**"BE IT RESOLVED THAT Government consider legislation to create a fair competition act.**

**"AND BE IT FURTHER RESOLVED that the matter be referred to the select committee to review Private Member's Motion No. 2/01, entitled, Establishment of a Select Committee to Review Caymanian Owned Businesses, for joint consideration."**

**The Speaker:** Do you have a seconder?

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 14/01 has been duly moved and seconded. Does the Mover wish to speak to it?

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

I feel that this Motion is timely in view of the fact that many of our small business people have been

asking the Government for legislation, more so in recent months.

It is a recognised fact in most developed countries, and certainly in developing countries that instruments such as a fair competition act serve to not only regulate fair and ethical practices but to also encourage, and protect persons on both sides of the fence—that is the provider and receiver of goods. Here in Cayman, we have been brought face to face with the reality of the need to have such legislation in order to deal more sensibly and be more organised in providing goods and services, especially in the hospitality industry.

In doing my research, according to the Free Trade Area of the Americas (FTAA), a working group on competition policy, there are 12 countries in the hemisphere that have had legislation on free competition. With your indulgence, I would like to read this.

**The Speaker:** Go ahead.

**Capt. A. Eugene Ebanks:** Mr. Speaker, the following is a list of countries that have put legislation in place to protect all business, big and small: Argentina has had laws since 1919; Brazil, since 1962; Canada, since 1889.

Mr. Speaker, 112 years ago Canada recognised the need for such legislation. Colombia, since 1959; Costa Rica, since 1994; Chile, since 1959; Jamaica since 1993; Mexico, since 1934; Panama, since 1996; Peru, since 1991; Venezuela, since 1991; United States, since 1890—111 years.

While some of these instruments may be more elaborate than we in Cayman need at this time, we still need some kind of legislation in place. I feel that these laws would certainly be a good source of guidance in Cayman if we are serious about developing such an act.

The objective of the law is the promotion and defence of competition; the promotion of economic efficiency and consumer welfare; freedom of initiative and opening up of markets, fair and equal; participation for small and medium enterprise; de-concentration of economic power and prevention of monopolies and abuse of a dominant position.

The laws of the hemisphere, in general, prohibit all commercial conduct that limits, restricts, or distorts competition. These laws prohibit conduct which includes: price fixing, collusive tenders, concerted refusal to provide services or admit new participants to the market, discriminatory and predatory agreements, exclusive agreements and abuse of dominant position, monopolising or boycotting.

Without a fair competition act we will have abuse of dominant position and monopolising. These are the two biggest problems in the Caymanian society today. These are the problems that the small Caymanian enterprising businessman faces.

Even though I did not find fair competition laws for The Bahamas, its government recognised the need to protect the small Bahamian businessman from outside investors with unlimited resources. In order to do that, the government reserved certain sectors, such as public transportation, beauty salons, watersports, construction companies, scale fishing, auto and appliance services, and other sectors where native Bahamians could make a decent living without being pushed out of business by outside investors.

I believe Honourable Members of this House will realise that the 12 countries I referred to earlier, put legislation in place because they realised the need for it. I hope that Members will agree that the Cayman Islands, as a developing country is in desperate need of such legislation. I hope Honourable Members will support this Motion. Thank you.

**The Speaker:** The Motion is open for debate, does any Member wish to speak? The Motion is open for debate, does any Member wish to speak? The Floor is open for debate does any Member wish to speak? The Floor is open for debate, does any Member wish to speak? The Honourable Minister responsible for Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** Mr. Speaker, I want to congratulate the Mover on his presentation and for the thought processes of both he and the Second Elected Member for West Bay, the Seconder.

Having been appraised of their intention, on behalf of the Government, and, as the person in charge of commerce, I accept the Motion and will have it referred to a select committee of this Honourable House. This will be about the fourth time that this matter has gone to a select committee. I can give this House the undertaking that we will complete its business.

**The Speaker:** The Motion is open for debate, does any other Member wish to speak? The Motion is open for debate, does any other Member wish to speak? The Motion is open for debate, does any other Member wish to speak? The Floor is open for debate, does any other Member wish to speak? This is my final call. Does any other Member wish to speak? If not, would the Mover care to exercise his right of reply?

**Capt. A. Eugene Ebanks:** Thank you. I wish all the motions were as short as this one!

I cannot over-emphasise the importance of enacting this legislation in these Islands. Right now, more than ever before, small Caymanian businesses are being trampled on, pushed out, and being dealt with unfairly because of monopolies and dominant positions. Right now it is a matter of survival for the little Caymanian businessman.

I am asking Honourable Members of this House to support this Motion and give the little man a chance to survive. I thank you.

**The Speaker:** I shall now put the question on Private Member's Motion 14/01. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 14/01 PASSED.**

**The Speaker:** This Motion has been referred to a select committee. I will not appoint a chairman, but allow the committee to choose their own chairman unless there is a recommendation from the Floor.

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Mr. Speaker, being the Secunder of that Motion, I feel it is my responsibility to bring to your attention that one of the resolutions for that Motion was that it be referred to the select committee to review PMM 2/01, entitled Establishment of a Select Committee to Review Caymanian-owned Businesses, for joint consideration.

A committee has already been established. This Motion was resolved to be considered by that same select committee.

**The Speaker:** That is the reason why I left the chairmanship to the committee. You may deliberate on that how you like.

**Hon. W. McKeeva Bush:** Yes.

**The Speaker:** As we have about nine minutes to the hour of interruption, we can adjourn at this time, rather than trying to start another private member's motion.

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

## ADJOURNMENT

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow. Friday, 13 July.

**The Speaker:** The question is that this Honourable House do now adjourn until Friday 13 July at 10 am. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.22 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 13 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**13 JULY 2001**  
**10.25 AM**  
*Fourteenth Sitting*

*[Prayers read by the Second Elected Member for Cayman Brac and Little Cayman]*

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item number 2 on today's Order Paper, Reading by the Honourable Speaker of messages and announcements. I have received no apologies.

Moving on to Item number 3 on today's Order Paper—Questions to Honourable Ministers and Members. Question 84 is standing in the name of the Third Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 84**

*Deferred*

**Capt. A. Eugene Ebanks:** I request to withdraw question 84 and bring it back at a later sitting.

No. 84: What is the total number of the private sector work force in Grand Cayman, broken down by category and nationality?

**The Speaker:** I shall put the question that question 84 be deferred and returned at a later date. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question 84 has been deferred to a later sitting.

**AGREED: QUESTION NO. 84 DEFERRED.**

**The Speaker:** Question 85, standing in the name of the Second Elected Member for West Bay.

*[Hon. First Official Member rose]*

**Mr. Rolston M. Anglin:** Mr. Speaker, I will give way to the Honourable First Official Member.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Thank you.

If I recall correctly, the Third Elected Member for West Bay asked that question number 84 be "withdrawn," not "deferred." I believe the House voted on a

deferral, but he asked that it be withdrawn. Perhaps, you could deal with that accordingly.

**The Speaker:** The Third Elected Member for West Bay, would you please clarify which you prefer?

**Capt. A. Eugene Ebanks:** Thank you. I would like to defer it until another sitting.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Rolston M. Anglin:** I believe that Motion needs a seconder because it was moved by a Member of the Backbench.

**The Speaker:** Absolutely.

**Dr. Frank S. McField:** Mr. Speaker, I second that Motion.

**The Speaker:** I shall put the question again, that question 84 be deferred.

*[Hon. First Official Member rose]*

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Mr. Speaker, the question was discussed with the Third Elected Member for West Bay, and he had indicated to me that he wished to have it withdrawn. I have brought the answer, and if he is only deferring it, I am prepared to move ahead with it this morning. Regarding the question, as asked, there is some information that is not available, and not a part of my responsibility. If he is only deferring the question, then I am prepared to move ahead with a partial answer this morning.

**The Speaker:** I am in the hands of the House.

Third Elected Member for West Bay, do you wish to proceed or do you wish to withdraw?

**Capt. A. Eugene Ebanks:** Mr. Speaker, I would like to withdraw it in view of the fact that I need to re-word it. That is what I want to do.

**The Speaker:** Okay. We shall go back again. Do I have a seconder?

**Dr. Frank S. McField:** Mr. Speaker, I second that.

**The Speaker:** The Third Elected Member for George Town has seconded the Motion.

The Motion has been made and seconded that question 84 be withdrawn. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question 84 has been withdrawn.

**AGREED: QUESTION NO. 84 WITHDRAWN.**

**The Speaker:** Moving on to Question 85 standing in the name of The Second Elected Member for West Bay.

### QUESTION NO. 85

**No. 85: Mr. Rolston M. Anglin** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs What is the complement of foreign nationals currently employed at the Public Works Department giving details of position held, qualifications, tenure, Caymanian connection, if any; and whether a Caymanian is understudying them and, if so, the projected time line when the Caymanian will be ready to assume the post.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The complement of foreign nationals employed in the Public Works Department (PWD) is 10 persons. Two persons have close Caymanian connections.

Positions held include Deputy Chief Engineer, Senior Superintendent, Engineer, Assistant Field Supervisor, two Executive Officers, Senior Project Manager, Senior Draftsman, for the Education Building Programme, Project Manager and Architect. Those persons with overseas contracts have professional qualifications from internationally recognised institutions within the construction industry. Tenure within PWD ranges from 23 years down to 2 years.

PWD is proud of its achievements with its human resource development programme. Although no Caymanians are understudying the foreign nationals, Caymanian staff members are promoted to replace expatriate staff as soon as they have gained the requisite qualifications and experience.

Six Caymanians are currently pursuing studies in architecture, quantity surveying, or engineering. Later this year, one will fill the post of Executive Architect, recently vacated by a foreign national. In 2002, a graduate engineer is expected to commence on-the-job training to fill the post of Engineer. Likewise, in 2003, one is expected to commence job-based training to occupy his designated post of Quantity Surveyor and eventually fill the post of Executive Quan-

tity Surveyor. Another Officer is expected to fill the post of Senior Superintendent. Job-based training takes three to five years depending upon prior post-qualification office experience.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Member say what position the staff member who currently has 23 years of service holds?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The post that the individual had held for 23 years is Executive Quantity Surveyor.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say when was the last time a Caymanian replaced a foreigner using that criteria?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am afraid that I do not have that answer. I requested that a representative from the department be here who would have those details, but I will undertake to get that in writing if that is of assistance to the Member.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Member indicate if the figures provided cover all categories of employees at PWD?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I wonder if the Member would elaborate on just what details he would like.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** The question asked for the complement of foreign nationals currently employed at PWD. I was just pleasantly surprised by the low number provided and wanted to ensure that this was covering not only the professional staff, but the entire department, including group employees.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The word “complement” speaks to established posts and would only be referring to the established . . . well, putting it another way, it would not cover group employees. The group employee figures would be answered by the Minister responsible for the department because I have no access, unless I get that information from the Minister. Non-established posts’ records are not kept in Personnel.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Would the First Official Member give an undertaking to get the information related to group employees, or temporary employees, since PWD is a huge employer, and supply that in writing to Members at a later date?

**The Speaker:** I think he stated that he did not have responsibility for the non-established posts.

**Hon. James M. Ryan:** I only have the total number with no details on it, but I am prepared to give what I have. There are currently 36 foreign nationals employed in the group employee category. They come from seven countries in the Caribbean region. This number has been reduced from 51 at the end of 2000. The current ratio for foreign nationals employed is in the words of the Head of Department “a low 19 percent” but that is the only detail I have on it.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I like that phrase “a low 19 percent” when Caymanians are looking jobs. That does not sound too good, regardless of how low it is.

Can the Honourable Member tell us the total complement of the PPE (permanent and pensionable employees) in PWD?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I think the question asked for the total number of staff complement at PWD. That total number is 58. Of course, that includes the ten foreign nationals.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Can the Honourable Member say why there are no Caymanians understudying the foreign nationals?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe I explained in the substantive answer the system used at PWD and it just happens that there are no Caymanians at the moment understudying. I mentioned those who would be returning soon. They are given, as it were, on-the-job training for a period of time and then they take over. So, I guess you could consider that understudying, but right at the moment, there are none in the understudy programme. This will change as soon as we have graduates returning who are now overseas.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Honourable Member say, in light of the new business plans being introduced by the Immigration Department for the private sector, whether there are any plans to introduce throughout government, but specifically in the area we are discussing, something along those guidelines where a business plan with succession planning is submitted for the replacement of the expatriate workforce, including training for that replacement?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** There are currently no plans to introduce business plans for departments in the public service, but there is a succession plan in place. It works better in some departments than others, but I think the succession plan in the public service, if operated properly, is the counterpart of the business plan in the private sector. There is no reason why a succession plan should not work in the public service.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I cannot judge the accuracy of the opinion just given by the Honourable First Official Member. However, in light of that opinion, can he say why it is we have an executive quantity surveyor at PWD for 23 years?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Yes, simply because he has Caymanian status.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In the substantive answer the Member said that PWD was proud of its achievements in its human resource development programme. I suspect that would be the Caymanians who have been promoted. Can he elaborate a bit, since one quantity surveyor has been there for 23 years, and give us a breakdown on how many Cay-



manians have been promoted for PWD to be able to say they are proud of their achievements in their human resource development programme?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Notable persons who participated in this exceptional programme are the current Deputy Chief Secretary who became Chief Engineer and was then promoted to Deputy Chief Secretary. Other persons included are, the present Chief Engineer; the present Deputy Chief Engineer for roads; the present Works Manager, PWD. Also included are the present chief building control officer; the present chief electrical inspector; a current building inspector (these are in the Planning Department). Others who went through this programme who are now in the private sector and those include Mr. Danny Owens, Architect; Mr. Omar McLean, Architect; Mr. Michael Meghoo, Architect; Mr. George Manderson, Jr, Contractor; Mr. Darryl Ebanks, Student Architect; Mr. Gerald Smith, Student Architect; Mr. Lloyd Campbell, Draftsman.

The architectural section alone has in recent years been responsible for providing work experience programmes and career identification and personal development programmes for at least 20 persons, seven of whom are mentioned above, and are successful persons in the business community.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you.

With all due respect to the First Official Member, my question was not directed to those people who got experience in PWD and then went on. My question was geared more towards those who held executive positions in PWD through that programme. I appreciate the Deputy Chief Secretary and current Chief Engineer, and the current Assistant Chief Engineer. Were those persons who got the experience positioned in executive positions in PWD, before they left?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I think there are three persons on that list at the top who reached executive positions. The point I wish to make is: below that level there were a number of people at the same level and there are a limited number of executive positions. Some chose to leave government and go into the private sector, others stayed on. I think the point is that the programme PWD is using, and I believe it may be unique to that department, is a programme a little different from most other departments. It is working. The only thing we need to see is other young persons getting qualified and moving into the posts now held by foreign nationals. We are working toward that goal.

As soon as we can get Caymanians trained and with the requisite experience, I will certainly be happy to see them into those posts. I know the Chief Engineer will as well.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Honourable Member say how long the position of Deputy Chief Engineer has been held by the current individual?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The Deputy Chief Engineer has been in that position . . . well, has been employed by PWD for the last 19 years.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Member provide this House with information of foreign nationals filling established positions at PWD in Cayman Brac?

**The Speaker:** I think that is a bit outside, but . . .

The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I do not have that information.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning.

Moving on to Item 4 on today's Order Paper, Other Business. Before so doing, according to Standing Order 86, I will ask for a motion to suspend Standing Order 14(2) in order for Private Members' Business to be taken on a day other than Thursday.

The Honourable Minister for Planning, Communications and Works.

#### **SUSPENSION OF STANDING ORDER 14(2)**

*[Moved by the Honourable Minister for Planning, Communications and Works]*

**QUESTION PUT. AGREED: STANDING ORDER 14 (2) SUSPENDED TO ENABLE OTHER BUSINESS TO TAKE PRECEDENCE OVER GOVERNMENT BUSINESS ON A DAY OTHER THAN A THURSDAY.**

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 4/01

##### SPECIAL RELATIONSHIP PRIVILEGE

**The Speaker:** I note that the Mover of Private Member's Motion 4/01 is not in the Chamber. Does the House wish to move on to the next motion?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I am the Secunder of the Motion. I would beg that this Motion be deferred until later on in the meeting. I am prepared to move on to the Motion standing in my name.

I understand the First Elected Member for Cayman Brac and Little Cayman is back in Grand Cayman. After the break she may be here to do the Motion, otherwise, I would suggest it be deferred, and we move on to Motion 19.

**The Speaker:** I am in the hands of the House. I am perfectly prepared to move on, or take a brief suspension, if that is the wish of the House.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** In all fairness, I think we should move on to the next motion. I do not believe it would be too much of an inconvenience to the Member to pick it up after this debate.

**The Speaker:** I shall put the question—

**Mr. Lyndon L. Martin:** I would like to second the Motion, Mr. Speaker.

**The Speaker:** Thank you.

I shall put the Motion, as moved and seconded, that Private Member's Motion No. 4/01 be deferred until later in this sitting or another sitting, and move on to Private Member's Motion No. 19/01 to be moved by the Second Elected Member for Bodden Town.

#### PRIVATE MEMBER'S MOTION NO. 19/01

##### PUBLIC ACCESS TO THE DELIBERATIONS OF STATUTORY BOARDS

**Mr. Gilbert A. McLean:** I beg to move Private Member's Motion No. 19/01, standing in my name, entitled Public Access to the Deliberations of Statutory Boards, which reads:

**"BE IT RESOLVED, in the interest of openness and transparency, that this Honourable**

**House approves that the deliberations of all Statutory Boards, with the exception of the Adoption Board, be open to the public, excluding instances where matters affect national security or matters of similar importance to good governance.**

**"AND BE IT FURTHER RESOLVED THAT such laws as relevant be amended to facilitate the above provision."**

**The Speaker:** Do you have a seconder?

**Mr. Lyndon L. Martin:** Mr. Speaker, just on a point of procedure, on the request for the deferral of the previous Motion, it was not put to the vote.

**The Speaker:** I would have to read the Hansard. I felt confident that I said—

**Mr. Lyndon L. Martin:** The Motion was moved and seconded, but the question was not put.

**The Speaker:** Out of an abundance of caution then, we will go back.

In view of the fact that the Mover of Private Member's Motion No. 4/01 is not present in the Chamber, we are deferring that Motion and moving on with Private Member's Motion No. 19/01. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 4/01 DEFERRED.**

**The Speaker:** moving on to Private Member's Motion No. 19/01, and I apologise to you, Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I have moved the Motion, Mr. Speaker. I would ask that it be seconded.

**The Speaker:** Do we have a seconder?

**Mr. Lyndon L. Martin:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 19/01 has been duly moved and seconded. Does the Mover wish to speak to it?

**Mr. Gilbert A. McLean:** I believe that the Motion before the House accords in all ways with the stated position of the Government of the day in regard to openness and transparency in government. Past governments spoke of transparency and openness when, in my opinion, it has not happened as has been stated by the governments. The Government of the day, in particular, has made it a major part of its ongoing position.

When we talk about openness and transparency, it is something the whole world is talking about, and something I totally subscribe to because I believe it is better for the social character of the country and also out of it comes more truth, and better decision making. Based on the two factors that the Government of the day has stated time and again that it stands for this, and the fact that I do subscribe to it, is why I have moved this Motion.

We can think of transparency and openness on the part of Executive Council and on the part of anyone in the executive branch of Government. We can think of openness and transparency with the Members of this Legislative Assembly being open to our constituents and keeping them up to date on things happening in this House by way of debate; and also by way of informal discussion on matters we have to deal with.

The place where I believe there is immense need for transparency is in the dealings of the various Statutory Boards. Statutory Boards are, in effect, an extension of the Government and these Boards, in any given administration, will normally be comprised of persons who subscribe to and are supportive of the Government's policies. That, in my opinion, makes absolute common sense. A government would not want to appoint boards that acted contrary to the national policies of the day. I simply make that clear. If I were a part of a government executive, I would want to know that the people who are carrying on operations as an extension of the central Government were keeping with government policies. I have no problem with that.

One thing I am sure we have all heard, whether it is real or imagined, is that there is unfairness in decisions by Statutory Boards in regard to some persons. We hear statements about the Board sending back applications; not dealing with applications; that it has dealt with others giving favourable consideration, but the next person gets an unfavourable one. There is always the chance of such opinions or feelings existing where boards meet in private. It is one of the things that can be levelled at the Government Executive. For example, I have heard a particular statement scores of times throughout my political career: *'Well, Executive Council meets behind closed doors, and no one knows what they are doing there but when it is time for the people who are on it to be elected, they are out in the public asking for our vote!'* Technically, it is a fact!

I would not subscribe to the executive of a government meeting in public. Perhaps I am a bit ancient in that view, but I will stay that way until I can see the logic of such a thing happening. Because of the sensitivity of all matters it deals with, generally, I believe it is right in being a closed meeting.

The Boards have a different character. If I were to take an example, which I think we all know about because it brought about a major national reaction at the time it occurred. It is that of the Finance Commit-

tee, and the infamous government Motion 3/90 which changed the composition of the Finance Committee to include Official Members of the House with the Governor presiding.

Using that example, if there was one good thing that came out of that change, it was the fact that the Finance Committee of the Cayman Islands changed from something which was extremely closed and guarded, to an entity where it was open to the public. There is not the slightest shadow of doubt in my mind that the Cayman Islands and its people, its residents, are better informed by the Finance Committee becoming open as it is now. The public now has the opportunity of hearing each item for which government money is being used, debated, deliberated and voted upon. Information that the Finance Committee gets informs us, the Members, and the public at large, much better than it was before.

This Motion requests that the deliberations of all Statutory Boards be made accessible to members of the public who would wish to hear the deliberations of the Board. I excluded the Adoption Board because that Board deals with the adoption of children, matters that are so very sensitive. My opinion is that it is the business of the person proposed to be adopted, the parents, and the ones adopting the child. To the best of my knowledge it is done under the sharp eyes of the judges of the Grand Court. It was at one time the Chief Justice. I understand the judges are very careful about each and every requirement before they give approval for adoption in this country. I am pleased to know that exists in this country. So, the Motion excludes the Adoption Board.

However, there is no good reason why Boards such as the Water Authority Board, the Port Authority, the Immigration Board, the Civil Aviation Board and any other board could not be open to the public. We should take the example of what happens in Florida, USA where they have something called the Sunshine Laws.

I remember back in 1981 never being more shocked in my life when I went with the late Garth Davis to a place where, as we passed a room, we paused briefly. I realised it was a government board from the issues being discussed. It was a large board, three times the number of people obviously listening. They were discussing certain things, and being a civil servant at that time, I was amazed to hear these issues being discussed while the door was opened.

We stood there a few minutes and then walked away. I said: *"This is incredible. How can this be?"* I recall him saying: *"Lad, I suppose you have never heard of the Sunshine Laws."* Well, I had not heard of these Laws before; this was my first time hearing of such Laws. I think that is an example for many States in the United States and more and more countries of the world are looking in that direction. It is not that they are without precedence. In our Parliament, there is no good reason, except it is not the will of the Government, to allow this to happen.

The Motion also states that there should be exclusions when the Boards would not be open to the public. I can think of two instances. Perhaps they are not the very best, but they are not inconceivable. I would like to tag them to the Immigration Board, our most talked about Board.

For example, suppose there was an application from someone who the Board had received information via the police Interpol or whatever, that this individual may have criminal or terrorist connections. When deliberating that particular application you would not necessarily want members of the public there, in that the information needed to remain confidential so that the police could assist other jurisdictions or to check for connections within our own country. That would be an instance of national security.

We could also take the instance on a more personal basis. Suppose someone applied and it was discovered, and I understand this has been the case, where persons had a clean bill of health, but when they had tests done here, were found to have diseases which exclude people from being allowed to be here in the Cayman Islands. I understand there was such a case, therefore, in such a case it would not be right for good governance to allow the person to be subjected to public consumption of their personal records. It would be a matter that needs to be kept confidential in a closed session. I offer those two examples, but I am sure there are scores of others.

If this Motion is accepted, it would be necessary to amend the various laws affected so that such could be done. I suspect this Motion is not going to be accepted by the Government, but I will wait to see the reasons they give. I will look with interest to see the editorial in the newspaper on this one.

I hope that space and so on is not used because I would not be conceiving the building of a special town hall for these Boards to meet in. Simply, a chair or two could be provided, where at least the press would be allowed some presence. However, the Motion before the House is one which I suppose all Members of this House should rush to accept. I will await the results. Thank you.

**The Speaker:** At this time we shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.18AM

#### PROCEEDINGS RESUMED AT 12.03 PM

**The Speaker:** Please be seated.

Private Member's Motion 19/01 is open for debate. Does any other Member wish to speak?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I am not really going to give a speech, I mean the Government does not seem to be here, there seems to be a total eclipse

where the moon of transparency should have been . . . oh, okay.

**The Speaker:** The Floor is open for Debate. Does the Third Elected Member for George Town wish to speak? The Motion is open for debate. Does any Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** I rise to speak to Private Member's Motion No. 19/01, Public Access to the Deliberations of Statutory Boards.

I subscribe to transparency. I believe that it is needed and in the interest of the general public it is a must. Many years ago when I sat on the Planning Authority, I considered then that it would be in the best interest of the public to be able to have access to Statutory Boards such as the Planning Authority. I do not subscribe to all Statutory Boards being open to the public. There are issues, internal securities that would prevent that.

One of the problems I have with this Motion is that it says: "excluding instances where matters affect national security or matters of similar importance to good governance." I would like to think, while I do not fully understand what that means, that it refers to areas such as Executive Council and other sensitive Statutory Boards.

There are Statutory Boards in this country that require some degree of autonomy and secrecy in the interest of the public. There are certain things, certain deliberations that should not be made public. However, certainly, there are a number of those that do need to be made public. While I cannot give support for all Statutory Boards, I agree that there are some that can be made public. For instance, I think it would be in the best interest of the general public to hear the deliberations on the infamous development of Ritz Carlton. I think that should have been held in public.

The public interest must be respected in the same way that it is respected in this Honourable House when the deliberations are made public. While I respect that the Public Accounts Committee is not a Statutory Board, it is given the responsibility to report on the accounts of the Government which involves the people of this country and their business. Therefore, they must be given the opportunity to hear about their business, and how their business is conducted.

We all watch other countries make much of the business public. I think the Mover alluded to America, where much of the public business is conducted in public. Provisions must always be left in place that meetings can be held in camera. When there are issues that do not erode the internal security of this country, I see no reason why the public cannot be a part of that and hear it first hand. It will ensure that members of those Boards are kept to account, and would certainly bring more efficiency to any Statutory Board open to the public. I am not saying they are not

efficient. I am saying it would bring more efficiency and effectiveness to those Boards.

If we have nothing to be afraid of, we should have nothing to hide. We all came here with one mandate—to do the business of the people. Certainly, the people do not expect, or I do not believe, the people expect us to deliberate on sensitive matters concerning their safety and let the public know about it. I do not support that either. I do not want to see Executive Council deliberate in the Town Hall, or on the streets. I trust, hope and believe that successive governments have kept those deliberations extremely close to their chests. They are under obligation to maintain that as long as they live. Sometimes we wonder whether or not that is good. I believe it is.

For instance, areas like the Water Authority and the Education Council. These are areas where I see no reason to not make the deliberations public. As the Mover said, there will be instances where the information being deliberated on is so sensitive that it needs to be held in camera. Such is the case here in this House; when information is of such sensitive nature it is held in camera.

Nevertheless, 99.9 percent of the deliberations of this Honourable House are held in public. The provision is available to have it in camera. I do not believe any member of the public would disagree with leaving provisions in place to have any deliberation in camera when it is so required. I think that should be the case with many Statutory Boards also. As you well know, we have many of those.

In the interest of transparency and educating the general public, I think it is a very honourable thing to do. We continue to complain about the lack of participation by the general public. A lot of that comes from the lack of knowledge of what is going on in this country. I think it is incumbent on legislators to educate the country on its workings. The workings of this country were not put in place just for a select few, such as the 15 elected Members of this Honourable House. It is there to protect, certainly, but also to assist this country. I do not support the general public participating in the deliberations, certainly not. Their only participation would be with their ears and eyes.

We appoint Statutory Boards and the only time the country knows the persons who are on those Boards is when they read it in the papers. The majority of Caymanians know each other, but there are many instances where they do not. When we appoint the Statutory Boards, those members are residents in this country. We can no longer say they are born Caymanians in the sense of that phrase, but they are residents, considered upstanding citizens in this community. Therefore, I see no reason why some of those Boards, if we consider those members so upstanding, cannot deliberate in public.

We trust them to make the right decisions. That is why we appointed them to these Boards. In so doing, there is no reason why we cannot see and hear those Boards deliberate. If we trust them in private

behind closed doors to do what is right for the future development of this country and carry out those responsibilities in the best interests of the majority of people in this country, then why is it that we cannot sit down and listen to them talk about how they reach their decisions? I see no reason why not. There is no reason I can think of, but other speakers may have reasons why this should not be done. The same way I expect Honourable Members to respect my position, I will respect that position also.

I have to be responsible to the general public. I guess this is the only office in the land that is totally exposed to the general public. This is rightly so. This office certainly is more sensitive than many, many Statutory Boards in this country. In these hallowed Chambers this is where the rubber meets the road, and Statutory Boards operate based on the laws that are legislated here in Parliament and the directives sent from Executive Council.

If we legislate laws to control this country and control the Statutory Boards appointed by this body, whether it is all inclusive decisions or only Executive Council, it all falls into place. The Legislative Assembly does legislate the laws, and sundry know the laws. In the execution of those laws and directives there should be some provision for the public to see how the legal process is arrived at and how it is executed. That is my argument and it sounds logical to me.

Every law in this country is available to the general public. They need only come right here and purchase them. No statutory body in this country is without supporting legislation and, or policies, that the people have entrusted the Members to legislate in this Honourable House. Once our job is completed and the people approve of it subjecting themselves to be governed, I see no reason why the execution of those laws cannot be heard by the people who just approved them.

Woe betide the State that will legislate to the detriment of its people. By that, I mean it is a foregone conclusion that legislators are going to legislate what is in the best interest of the majority of the people of that State.

**The Speaker:** If I may interrupt you for a moment. We are discussing public access to the deliberation of Statutory Boards, not the Legislative Assembly. Let us please address the issue.

**Mr. V. Arden McLean:** Thank you.

What I was trying to illustrate is, for instance, the Development Plan in this country that was legislated here, under which the Statutory Board of the Central Planning Authority operates. The people of this country accepted it, and I was trying to show that it was not legislated to the detriment of the people of this country. They should, therefore, have access to the deliberations on how it is executed. Nevertheless, I shall bow to your ruling.

I do not support any Statutory Board of a sensitive nature being made public. I know the Motion speaks to one exception, such as the Adoption Board. I understand the sensitivities in that. That is exactly what I am talking about. I believe there are other Statutory Boards that need not be made public, but certainly, there are many.

We, as a people, must not be afraid if that is the way it has been done, of change. Change is the only thing that is constant. If we are not willing to change, we have lost a central piece of the jigsaw puzzle. We are certainly going to be left behind.

I believe there are Statutory Boards that can be made public and I would like to see them made public. Maybe it is necessary to re-word the Motion, and bring an amendment listing the Statutory Boards that can be made public. That may be a solution the Mover would consider. In so saying, I support the Motion before us. While I do not support it in its entirety, at least it will start something. The spirit of the Motion is fine whereby Statutory Boards should be made public.

I cannot support all of them being made public. In so saying, I trust that an amendment will be forthcoming.

**The Speaker:** I think this would be a convenient time to take the luncheon break. We shall suspend until 2 pm.

#### PROCEEDINGS SUSPENDED AT 12.30PM

#### PROCEEDINGS RESUMED AT 2.40 PM

**The Speaker:** Please be seated. Proceedings are resumed. Debate continuing on Private Member's Motion No. 19/01. The Motion is open for debate. Does any Member wish to speak?

The Honourable Acting Second Official Member, do you wish to speak?

#### AMENDMENT TO PRIVATE MEMBER'S MOTION NO. 19/01

**Hon. Samuel Bulgin:** Mr. Speaker, on behalf of the Government I rise to propose an amendment to Private Member's Motion No. 19/01 moved by the Second Elected Member for Bodden Town.

The proposal is in accordance with provisions of Standing Order 24(10).

**The Speaker:** You may read the amendment, please.

**Hon. Samuel Bulgin:** Mr. Speaker, I am grateful, Sir.

Mr. Speaker, in accordance with the provisions of Standing Order 25(1) and (2), I, the Honourable Temporary Second Official Member seek to move the following amendment to Private Member's Motion No. 19/01 as follows:

(1) By deleting the word "approves" as it appears in the second line of the first resolve.

(2) By inserting the words "give consideration to allowing" after the word "House" as it appears in the second line of the first resolve.

(3) By deleting the words "with the exception of the Adoption Board" as they appear in the third line of the first resolve.

(4) By inserting after the word "governance" at the end of the first resolve, the words "and that Government having given consideration to the implications of doing so, report back to this Honourable House within six months of the acceptance of this Motion."

(5) By deleting the second resolve in its entirety and substituting therefore the following resolve: "AND BE IT FURTHER RESOLVED THAT during this period, the Portfolio of Legal Affairs be tasked with undertaking a review of the relevant legislation with a view to determining what amendments would be required to give effect to the above provisions."

**The Speaker:** The Motion has been duly moved. The question is that Private Member's Motion No. 19/01 be amended as in the notice provided to Members.

The Honourable Second Official Member do you wish to speak to the amendment?

**Hon. Samuel Bulgin:** Just briefly, Mr. Speaker.

The position of the Government is that it is fully committed to the principles of transparency and openness. However, the Motion in its present form needs to be approached very responsibly. Let me be quite clear, I am not in anyway suggesting that, as currently framed, it is not responsible, or that the Mover and the Seconder are in anyway irresponsible. I am just saying that caution has to be exercised in the way the intention of the Motion is dealt with and how it resonates generally, impacting on the way business is presently conducted and effected if the Motion is approved and eventually acted upon.

**The Speaker:** If I may suggest, maybe it would be helpful to Honourable Members if you would read in its entirety how the Motion as amended would read, so we will know exactly what you are talking about.

**Hon. Samuel Bulgin:** Mr. Speaker, I would be grateful to do that, Sir. Thank you.

Mr. Speaker, the Motion, as amended, would read as follows:

**"BE IT RESOLVED, in the interest of openness and transparency, that this Honourable House give consideration to allowing that the deliberations of all Statutory Boards be open to the public, excluding instances where matters affect**

**national security or matters of similar importance to good governance and that Government having given consideration to the implications of doing so, report back to this Honourable House within six months of the acceptance of this Motion;**

**“AND BE IT FURTHER RESOLVED THAT during this period, the Portfolio of Legal Affairs be tasked with undertaking a review of the relevant legislation with a view to determining what amendments would be required to give effect to the above provision.”**

**The Speaker:** Thank you.

**Hon. Samuel Bulgin:** Mr. Speaker, the objective of the Motion is quite understood. The problem is how do we get there. In striving to give effect to what the Motion is asking certain considerations have to be borne in mind. Not least of which, is the fact that we are now in the era of human rights. We are just about on the threshold of having certain obligations and the conventions, and probably legislation. . . I am not certain; I will not go that far. However, there are certainly obligations that might be imposed upon the State if the provisions to the Human Rights Conventions are in fact given effect to in this jurisdiction.

What that means, Mr. Speaker, is that, in considering how to give effect to the freedom of information, for example, there is a balancing exercise that will have to be carried out. Any such freedom of information and, by extension, expression, will have to be balanced against, for example, the right to privacy. There are a number of persons and agencies that transact business before these Boards and Authorities. It is no secret that a lot of persons would prefer for their businesses to be conducted with a certain degree of confidentiality and secrecy. So, any attempt to open up these Boards and Committees to public scrutiny; to the public's eye, will have to be balanced against any such considerations for the right to privacy.

Mr. Speaker, there is also in the pipeline a Freedom of Information Act, as I understand it. The intent of this Motion will have to be also set against what it is intended to achieve by the spirit of that piece of legislation.

The point I am making is that there are a number of considerations that will have to be taken on board in determining how best to give effect to Government's unconditional commitment to transparency and openness. It is for those reasons, among others, why we suggest that these amendments be put forward so that we can have an informed process in order to give effect to the proposals in this Motion, should the Motion be accepted.

**The Speaker:** The amendment to Private Member's Motion No. 19/01 is open to debate. Does any Member wish to speak?

The Second Elected Member for Bodden Town.

## MATTER OF PROCEDURE

**Mr. Gilbert A. McLean:** Mr. Speaker, on a matter of procedure, I suggest that this Motion is effective and what is being asked for cannot be done. I would like to direct your attention and that of the House to the Motion as it would stand, according to what I have here.

It says, **“BE IT RESOLVED, in the interest of openness and transparency, that this Honourable House gives consideration to allowing that the deliberations of all Statutory Boards be open to the public, excluding instances where matters affect national security or matters of similar importance to good governance and that Government having given consideration to the implications of doing so, report back to this Honourable House within six months of the acceptance of this Motion.”**

Mr. Speaker, I suggest that the House would have to give its approval to the Motion to allow this to happen or not. It cannot give a consideration where the Government goes and considers, and then reports back to the House within six months.

**The Speaker:** It is my understanding that all motions technically ask that the executive branch of Government consider. That is the purpose of a Private Member's Motion, the acceptance. In so doing, they would have to consider all the legal ramifications and all that so concerns it. So, I do not agree that the—

**Dr. Frank S. McField:** Mr. Speaker.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank McField:** Mr. Speaker, just to assist.

The wording is that in the interest of openness and transparency that this Honourable House gives consideration.

**Mr. Gilbert A. McLean:** Mr. Speaker, I think we asked the House to give consideration. It would have to be the Government to give this consideration. If the House considered, the House would have to say Aye or Nay.

**The Speaker:** I think it is six of one or half a dozen of the other because in the final part of the first paragraph, it says, “. . . that Government having given consideration to the implications of doing so, report back to this Honourable House within six months of the acceptance of this Motion.”

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, if I considered, does it mean that I have to vote on this Motion? What do I do if I consider? What is the end result of my consideration?

I know what the end result of the Government's consideration would be. They would then decide to bring back a report and lay it on the Table. What would the end result of my consideration be?

**The Speaker:** The consideration is what you are giving here today in approving this amendment or not approving.

The Honourable Second Official Member, please continue.

**Hon. Samuel Bulgin:** Thank you, Mr. Speaker.

The original motion, Private Member's Motion No. 19/01 reads, "**BE IT RESOLVED, in the interest of openness and transparency, that this Honourable House approves that the deliberations of all Statutory Boards . . .**"

What we sought to do is not to do any violence to what the Mover had intended in the first place, but, if it is the Mover's intention that the word "House" be changed to "Government," then I would be happy to move the amendment, if the Speaker would so allow.

I just think that, as was rightly pointed out, the result is most likely to be the same at the end of the day..

**The Speaker:** I have no problem with understanding the intent, but if it is the desire of Honourable Members that "House" be replaced by the "Executive Branch of Government" or "the Government," I have no objection.

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Just a brief comment on this. I think, as Speaker of the House, if you are quite clear as to the meaning and intent of this Motion, then the Honourable House has to abide by your ruling.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I am quite clear as to your position. All we are trying to do is to assist at this point in saying that although you might be quite clear and we might be quite clear, there may be other people who will have to interpret this written information and that is where the problem could start. Therefore, there is no reason why we could not make it as specific as the English Language will allow us to make it.

**The Speaker:** I fully understand what you are saying and, like I said before, I have no objection. The procedure is that this is an amendment to Private Member's Motion No. 19/01. This is not the substantive Motion. If it is the wish of the House, let us amend to say "Government." As the Speaker, I am quite satisfied that this is clear enough.

Honourable Second Official Member, give us a legal opinion.

*[Laughter]*

**Hon. Samuel Bulgin:** Mr. Speaker, in my opinion it is really not necessary to amend the Motion again. If the House looks at the fourth line of the Motion, it clearly conveys exactly what is intended. It says: ". . . **and that Government having given consideration to the implications of doing so, report back to this Honourable House . . .**" It is clear exactly where the obligation lies, and I think that the word "Government" in that line qualifies the entire Motion.

**The Speaker:** I accept that that is my ruling. Have you completed your debate?

**Hon. Samuel Bulgin:** I have, Sir. Thank you.

**The Speaker:** The amendment to Private Member's Motion No. 19/01 is open to debate. Does any Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, I could not miss this opportunity.

First of all, I was right when I said that I felt sure the Government would not do what it has been preaching in accepting the Motion brought before this Honourable House. I think one might say it is truth time Cayman. I remember hearing that somewhere not too long ago.

Mr. Speaker, the situation is that on the news up until yesterday there were reports that in the interest of openness and transparency, the Government would hold monthly meetings and so on to keep the people of this country informed. Now, there is a Motion where there is an opportunity to put into action what is being said. However, it finds itself being done violence and being changed from the way it was originally, where, it was simply asking the House to approve it.

I am not surprised that it has come to this. In fact, I was sure it was going to come to this. If the Government has intentions towards openness and transparency when the opportunity comes for it to be open and transparent, then the least one would expect is for it to be done. Mr. Speaker, for the Government to go away and take six months to decide whether it wants to be transparent and open, I just cannot figure that out.

This Motion came and it was given thought by me, as the Mover, and by the Seconder, that there would be certain instances where it would not be right or necessary to have a meeting of the Statutory Boards open to the public. I drew a reference to the situation of our Finance Committee, which in Standing Order 75(3) says: "**Subject to Standing Orders 84 and 85, the deliberations of the Finance Commit-**



**tee shall be public.”** If we look at Standing Order 85(2), it states: **“If, at any sitting of the House, any Member moves that strangers withdraw, the Presiding officer shall forthwith put the question ‘That strangers do withdraw’ without permitting any debate or amendment.”**

So, if it were the case that a Member should give a reason as to why there should be a closed meeting, the House has in its authority to remove persons from the House other than the Legislative Assembly Members. In the same way, the Statutory Authorities, I think, would have their authority to remove anyone or to conclude that a particular meeting or part thereof should be closed to the public.

Mr. Speaker, I sighted the situation of the Adoption Board, but may I also say that there are other Boards listed. If we excluded about 4 or 5 of them there are still about 70 Boards listed in the assignment to Members and Ministers of Executive Council that would be able to have members of the public attend. It would never be conceived logically that the House would want to allow members of the public to go and sit on the Board of Cayman Airways because it is a Board which deals with matters sensitive to the airline, and there are about six other airlines operating out of here. That would open things in that regard.

There is also the Monetary Authority. When they make decisions and deliberate on matters which are pertinent to finances in the country, again, we did not think that would be the case, to allow the general public to attend its deliberations. Now, if we were to look at those and exclude 3 or 4, as the case may be, there are still several other boards, which would be accessible to the public.

Mr. Speaker, largely my thoughts and what I have heard people say so many times centred around the Immigration Board, the Planning Board and the Business Licences' Board—that would be pretty much where the public would have some major interest. There may be others but these are the ones that impact daily on the lives of the people in this country and I have heard numerous times that people would like to be there to hear their fate being decided. No one, of course, would have the right to say a word, or to add or subtract anything from the deliberations of that Board but they would have the right to attend. That is what this Motion is all about—no more and no less.

If the Government has to take six months to find out whether it wants to be open and transparent I can say right now, that since it is recommended the Motion be so altered, it certainly does not have my support and I leave it then to the Government to prove what its intention is.

**The Speaker:** The amendment to Private Member's Motion No. 19/01 is open to debate. Does any other Member wish to speak? Does any other Member wish to speak to the amendment to the Motion?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, as the Secunder of the original Motion I feel compelled to address the amendment to what I thought to be a very simple and straightforward Motion. In fact, I termed it this morning as probably the only Motion that will come from the Second Elected Member from Bodden Town and the Second Elected Member from Cayman Brac that would meet unanimous approval in this House because I thought it was simple and straightforward.

I was elected to this House to be a part of the decision process, not as a suggestion box for what I think the Government should do. The Motion in its original form calls for a decision to be made. A decision, which has a clear political mandate as the majority of the Members of this House were elected, on a mandate of transparency and openness. We have provided an opportunity here today to show that politics is not all about just talking of what is good but putting some of the good in place. The Motion in its original form called for an approval to be given to the House, where the amended form asked for consideration to be reported back to this House in six months.

Mr. Speaker, in instances such as this, the Motion brings a concept to the House but the necessary legislation is framed by the debate that is inspired and put forward by individuals such as the Mover and the Secunder of the Motion, and other contributors. As the Mover of this Motion stated and I can confirm, it was never an intention to incorporate statutory corporations into this Motion. For those who would be here representing the legal part of Government, who would be responsible for drafting any necessary legislation, should understand that the corporations of Government were not included. It was simply central Government and the list of the bodies that are stated in here which the Second Elected Member from Bodden Town totalled to be some 71 Boards other than those considered as Boards relating to the Statutory Corporations such as the Board of Cayman Airways Board and the Turtle Farm Board.

The list we are reading from was published in the Gazette, Public Notice, “Assignments to Members and Ministers of Executive Council of the Responsibilities for Certain Business and Certain Departments of Government” broken down into the Ministries they fall under.

I make that point in relation to the argument ably put forward by The Elected Member for East End who provided commitment to support this Motion once we could list the various Boards being affected. I provide him with the assurance that the intention of this Motion is to capture all Statutory Boards with the exception of those considered Statutory Corporations and the one specified in the Motion, the Adoption Board.

I support the original Motion. I cannot find myself diluting that Motion to go to what I consider a tactic of delaying the implementation of what is a simple

straightforward Motion, by delaying it six months where we are eight months into our period of being the legislators of this country elected on a clear mandate. I think it is time we put transparency and openness into effect. I want to be a part of that process, not just here to suggest to the Government that they consider it.

I want to be part of the decision and I will be supporting the original Motion and cannot support the amendment. Thank you.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, I rise to indicate my support for the amendment moved by the Honourable Second Official Member to this very valuable Motion which seeks public access to the deliberations of Statutory Boards. Like other Members of this House, I have championed the cause of openness and transparency. I embrace what I believe to be the spirit of the Motion brought by the Second Elected Member for Bodden Town and his Seconder, the Second Elected Member for Cayman Brac and Little Cayman.

The difficulty I had with that Motion was the imprecision of the language with which it was drafted and the possible ramifications to the operations of government, its Statutory Boards and the privacy of individuals if that Motion was accepted in the form drafted. In its original form, that Motion would require that the business of all Statutory Boards in this country, with the exception of the Adoption Board, be open to the public, excluding instances where matters affect national security or matters of similar importance to good governance.

I am not sure what the matters of similar importance are to good governance. The language is vague, imprecise and open to subjective judgment. I am not sure who would make the determination as to whether or not a matter was of similar importance to good governance. Would it be those who sought access to the Boards' deliberations, the Board itself, or Government?

To submit a few examples of how impossible it would be for Government to operate within the parameters set out in the Motion in its original form, I only need draw the attention of the House to a matter such as the Parole Board, a Board established under legislation. Would we really, however strongly we feel about the public's right to access information, believe that the deliberations of a parole board determining whether or not a prisoner should be granted parole should be open to public access?

Let us look at those Boards established under other legislation; Cayman Airways for instance. Even the Mover of the Motion had to admit that it would be unviable for the deliberations of the Board of Directors of Cayman Airways to be open to the public. Every

other airline flying in here would know in advance what business decision Cayman Airways was going to make about any particular matter.

Drafting is an art. You need to say what you mean. Unless sensible amendments are made to the Motion in its current form, it would create a situation where no business decisions could be made by operations such as Cayman Airways, established under legislation, the Turtle Farm, the Water Authority. These are all Statutory Boards. One needs to think through clearly the implications of a Motion before one brings such a Motion to this Honourable House and expects Government to accept it.

However strongly we feel about certain matters, Government has a responsibility to think through the implications, to take time to consider matters carefully before it accepts motions and gives effect to them by amending legislation. I know the motives of the Second Elected Member for Bodden Town and the Second Elected Member for Cayman Brac and Little Cayman are honourable. I believe we all embrace the concept of freedom of information and public access to public information. I believe that the Motion in its amended form achieves that result. It will just take a little longer.

We have a responsibility to make sure that we get it right before we make amendments, and accept motions which can have far-reaching ramifications to the way Government and its Statutory Boards and Authorities conduct business within this jurisdiction. For all those reasons, I commend the amendment to this House and give it my wholehearted support.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Perhaps I should start by saying that there appears to be an eclipse where the moon of openness and transparency should have been. On June 26, 1998, Private Member's Motion 12/98 was amended by inserting the words: 'and such matters relating to Statutory Boards' after the word 'legislation' as it appears in the last line of the last resolve.

That Motion was brought by the present Minister of Education, who was then the Third Elected Member for Bodden Town, and by the then First Elected Member for George Town who is now the Leader of Government Business. It is interesting to note that the Motion read, when amended: "**BE IT RESOLVED that the Cayman Islands' Legislative Assembly enact a Freedom of Information Law similar to that proposed in the United Kingdom's Freedom of Information White Paper.**

**"AND BE IT FURTHER RESOLVED that a Select Committee of the whole House be convened to determine the parameters of such legislation and such matters relating to Statutory Boards, after public input."** That was in regard to the whole

concept we had been debating in regard to freedom of information.

In the debate at that time, the Mover of the Motion, the present Minister of Education, stated that the Motion would have been moved earlier, had it not been for the fact that the Seconder of the Motion (now the Leader of Government Business) was away in New Zealand, and it was so important for him to wait until he came back to participate in moving that Motion.

We also know that the present Leader of Government Business and the Second Elected Member for George Town ran as a team in the last election. They talked about the openness and transparency concept and have on all occasions indicated that they have an interest in allowing people to have access to information.

If the Second Elected Member for George Town will talk about the Motion, he needs to remember that the Second Elected Member for Bodden Town and the present Minister of Education will be celebrating tonight in Bodden Town in regard to their victory at the polls. They did share the common campaign objectives. The Second Elected Member for Bodden Town could be misled as he might have been suffering from some form of amnesia when putting this Motion together. Perhaps that indicates why the Motion did not accomplish what the Second Elected Member for George Town thought it should, which was to explain specifically what statutory organisations should be excluded and what should be included in regard to this.

I am not going to say that this is an easy decision for me to make. I will say that it is not the first time I have considered the whole concept of people's access to information, and people's rights to have access to the decision-making process as the decisions are being made. We see that happening in Finance Committee, when people are allowed to listen on the radio to our debates. We also see that happening when you and I have to list all of our interests on a Register of Interests. We have to reveal to the public aspects of our finances and our relationships with business people, friends and other things in order for the public to have the opportunity to see that we are being impartial when making decisions.

The concept of allowing the public access to information in order that the public can be guaranteed the decision-making process is unbiased and democratic; is a principle I believe we all believe in. So, when it is stated that transparency and accountability are the best defences against abuses, (which is one of the quotes made by the current Minister of Education during the debate in 1998) one of the reasons we want people to have access is because people have an interest. The Boards are the result of the Government and the Government is the people. The people vote for a government and the Government creates Statutory Boards; the Government then appoints people to the Boards.

We have the feeling that the process of appointing members to the Statutory Boards is not a totally objective one. We believe that a lot of the appointments are political appointments. We can go back and see the number of persons on some Statutory Boards, and say, he or she was related to this one political campaign, and go on, and on, and on.

So, if there is apprehension in the minds of the public in regard to the objectivity of Statutory Boards when making decisions, we can see that. We can therefore work with the assumption that we are furthering democracy and people's trust of the decision-making process by allowing them to have greater access, not just to information after the decisions have been made, but to have access to the way in which the decisions are being made, or the halls where the decisions are being made.

Specifically in regard to the amendment, it seems as though we are already arguing on the Government side that somehow there is a failure on the part of the Mover in the wording and presentation of the Motion. A case could be made by the Second Elected Member for George Town for that to be the case. Nevertheless, there was a sufficient body of information in the Motion for the Government to take it and devise something out of it that would still make sense. There could not have been much confusion in the drafting of the original Motion, although I must admit that the person who drafted the motion is not a legal draftsman. We are not accepted in the Legislative Assembly as legal draftsmen. We are accepted as people who know the interest of the people and want to create institutions that can preserve and further the interests of the people.

The way in which the Motion is now being reworded by the Government in order to give them the amount of time, the six months, to consider this matter raises the question: Are we not considering it in this process of deliberation already? What would be the advantage of having it deliberated or considered outside these Chambers for a further six months? When returning with the Motion, what would the Government be returning to say? Would it be returning to say 'yes or no'? I believe it is possible to already decide that and if they are not going to say 'no', they are going to say that it is a very complicated issue.

The Acting Second Official Member stands up and says that with the introduction of Human Rights, it becomes a juggling act to balance the need for privacy and right for privacy with openness and transparency. The fact that there are always dual principles in whatever we do is no surprise to those who know Ying and Yang. Humanity is a balancing act regardless of what level we meet it on. That is the reason why it would be interesting to find out how it was envisioned in Private Member's Motion 12/98 to incorporate Statutory Boards in this particular Freedom of Information Act. Were they talking about persons also having access to deliberations?

As it was mentioned by the Second Elected Member for Bodden Town, the particular principles that apply to this House in Finance Committee gives the Chairman the possibility to exclude persons when they are deliberating important issues.

The Second Elected Member for George Town gave the example of the Parole Board. This is where I believe he is correct in saying that what we exclude and what we include would be a subjective exercise. I believe the deliberations should take place here rather than at the Glass House, because I would like to participate to a certain extent in the decision as to what Statutory Board to include or exclude in regard to the peoples' right to access.

I see the point made by the Second Elected Member for Cayman Brac and Little Cayman when he said he is not a suggestion box. In fact, he is part of the decision-making process. That is exactly what we would be if we allow the Government to take this back and make the decisions for us. They need to be more specific in terms of making the decision with regards to the original Motion. This is where the real weakness is in terms of their amendment. Their amendment is taking the process out and extracting the decision-making possibilities we should have, taking them away from us and carrying them someplace else until a later date.

A concrete example in regard to the Parole Board is, if we are talking about the whole concept of restorative justice we would no longer want to treat judicial and penal issues, and the issues of restoration as basic private matters, but more as community affairs. The United Nations has already introduced this concept and a lot of us are also beginning to think the same in this country. Of course, the individual would have a choice in deciding how some of these matters are handled. There should not be a situation where people are going to say that you have no right to make decisions about how your private business should be conducted in these institutions.

What we are moving away from is this whole idea that society benefits from being secretive about making decisions which affect all members of society. We are moving more to accept that whatever decision is made which will affect the Acting Second Official Member, it will somehow impact me as a member of this society. The collective concept of society is becoming more and more apparent to us.

The point that was also made in this particular Motion brought in 1998, was that the *Caymanian Compass* had been quoted as saying, "**When Opposition MLAs will bring a motion for the introduction of a Freedom of Information Law in the next Legislative Assembly meeting, the Government Members of the House should resist the temptation to automatically reject it just because it comes from the Opposition.**" It went on to say that the Editorial had made reference to the British White Paper.

I think we have on our hands an issue that might be considered a technical issue. The Government has

already decided, from its previous stand as opposition, that it supports the concept of openness and transparency, and that the public should have a right to have access to information regarding these Statutory Boards. We know there will be some requirements as to how people achieve that access, but the fact is, in principle, they have previously agreed to this.

I do not think it is asking too much at this time to have them see the Motion, and to have made amendments in the original Motion which were different from this amendment. Changes which would have been more specific in terms of what their possible reaction or actions would be in answering this Motion.

I find this amendment too vague to give us an indication as to exactly what the Government's decision is on this debate. This being a very specific debate because it calls to allow people to have access to public bodies, or authorities that are supposed to be representing the public interest, not private interest. These are Boards which the public own as stakeholders. The question is, will their access to these Boards during the process of decision-making help improve democracy? Or will it help to erode the concept of confidentiality and privacy as a right that we also need to protect.

My point is that it does not have to take Government six months to bring a conclusion to this particular argument. Excluding people from having access to the decision-making process might end up in the long run being even more harmful than taking the risk of having information which might be very private revealed. The Chairman, President or Controllers of those Statutory Boards will always have the possibility of making decisions that would prevent any harm coming to the public.

If there is an interest of the Government in this Motion as it was originally brought to this House, I think they would withdraw this amendment. If they have an additional amendment to make, I would welcome it at this time. This particular amendment is too vague. It does not give any kind of commitment from the Government, which I think the Mover of the Motion and Members of the Legislative Assembly have a right to expect especially from a Government that campaigned on the principle of openness and transparency.

**The Speaker:** The amendment is open to debate.

The Elected Member for East End.

**Mr. V. Arden McLean:** I must report to you that my political status in this country remains that of a rookie. I hasten to add the words of Benjamin Franklin, when he said "I am hard to learn, but long to forget that which I have learned." I will add another saying by one of the people who the Minister of Education so often talks about and that is the Sicilians, who said: "Many men have lived a lifetime of being honourable,

just to commit one dishonourable act." I say no more on that.

I see the amendment that the Government has brought, and I, first of all, called for some type of amendment to this Motion so that we could list, if possible, the Boards that we considered not suitable, or those that were suitable to be made public. I think we all agree that all Statutory Boards should not be made public. When I heard the Second Elected Member for Cayman Brac and Little Cayman debating this amendment, saying that the intent was not that of all Statutory Boards, I wondered. As I said, I understand the principle of this original Motion, which I support.

Like the Third Elected Member for George Town, I wondered why six months. I am sure the Second Official Member would say "within" could mean within one month, or by the next meeting of this House. There is always some catch in the draftsman's and the lawyer's interpretations, as we well know.

I believe that the Government bringing this amendment may have good intentions. I also believe that six months is a little long. I understand the need to consult with the Statutory Bodies in the country to determine the sensitivities of their deliberations before they can make a decision on which ones should be and should not be.

If I may, like the Mover of the substantive Motion, draw the attention of this House to the assignment of responsibility of Ministers and Members of Executive Council to certain business and departments of the Government. For instance, under the Third Official Member of Executive Council, we have listed under Statutory Boards, Authorities and Committees, Cayman Islands Monetary Authority, Stock Exchange Authority, which I believe even the Second Elected Member for Bodden Town recognises are authorities. It would erode the confidence of those two authorities to make them public. It would seriously erode the confidence the investor has in placing his business on the Stock Exchange. This is something we are trying to develop in our country.

So, when we say we want these things to go public, I support that, but I support it with a degree of responsibility, and I am not saying the Mover of the Motion was not responsible, nor am I saying the Government is not responsible. Serious consideration must be given about which of these Boards can go public.

If Government is mindful they will come back to this House giving specific boards that can go public. I am sure the Government understands transparency. They were the same ones who went out during the campaign as individuals and preached transparency. They cannot say no in its entirety; they cannot! On this side of the House we are not saying 'no'. I am not saying 'no' to transparency. God forbid! I am saying that there must be a degree of responsibility attached to it.

So many times we hear people say one thing, then turn around and say another. I believe those who are making such remarks better examine how they run their lives. When they start talking about integrity and man's word, they better seriously consider what the phrase "a man's word is his bond" means. The biggest problem in this Honourable House is that once the microphone is on, people change. When the microphone is not on, it is a different story. People have to stand up for what they believe in. They must have some convictions. It is time somebody told those who have none that they need some.

I want to hear the Government say that they will be back within six months, meaning by November 2001, with a proposed list of the types of Statutory Boards that will be allowed to hold deliberations in public. I also thought the amendment should have read: "BE IT RESOLVED that in the interest of openness and transparency the Government gives consideration to allowing the deliberation of all Statutory Boards to be open to the public . . . et cetera."

While the amendment is not what I asked for, which was to list those Statutory Boards, I understand it takes a little time to decide on that. I hasten to remind the Government again that if no one else remembers, my memory is like an elephant's. If the Government has been given due consideration and it has not been brought back after six months, I will remind them that the six months has expired. Thank you.

**The Speaker:** Do you wish to take a break, or continue?

We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.54 PM

#### PROCEEDINGS RESUMED AT 4.19 PM

**The Speaker:** Please be seated.

Debate continues on the amendment to Private Member's Motion 19/01. The Motion is open to debate, does any Member wish to speak? The Motion is open to debate, does any Member wish to speak?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you.

The amended Motion. . .

**The Speaker:** We are still speaking to the amendment.

**Mr. Rolston M. Anglin:** The amendment to the Motion, Mr. Speaker, calls for what I can see is to get some clarity to the original Motion. When I read the original Motion (19/01) the fourth line, where it speaks of excluding instances where matters affect national security or matters of similar importance to good governance, I think it is fair to say that even accepting this Motion in its original form the Government would,

by default, have to have spent a reasonable amount of time and care to ensure that any openness they sought to achieve would meet the spirit of the Motion. After all, if we are talking about matters of similar importance to good governance, and it is similar to national security, then I would humbly submit that the Government would naturally have to go through every Statutory Board and make a decision as to whether or not it would be open, and then try to formulate in what context the Board should be open.

An example is the Central Planning Authority. Certainly, if I am going to make a significant investment, and I had to submit my plans, there would be some expectation to ensure what it is we were seeking to do, which at that time is analogous to intellectual property, an idea for economic gain. To say it could be open to the public would have to be thought about by Government. In what instances could they do meetings in camera so as not to have us come back here in September after having rushed this process, and then get complaints that even though we promised transparency and accepted the original motion we would then be arguing that the matter may not have been of similar importance to that of national security.

I would certainly say that the Motion was not clear. In fact, I would humbly submit the view that the amendment is now a ray of light in many ways to openness and transparency because the amendment seeks to give Government the opportunity to ensure that they think this thing through properly. Therefore, at the end of the day all of us as legislators can feel that we have achieved something of substance and quality for the community without harming all of us if it is thought through properly by the Government.

In the fourth part of the amendment, I read "and that Government, having given consideration to the implications of doing so, that is, opening up Statutory Boards to the public, report back to the House within six months of acceptance of this Motion." Today is 13 July and we are going to be back here not too long from now, in September, and very shortly after that we will be back here for the budget session. The country's business has to go on. The Ministries are large and involve a lot of work. I think it is only fair that we give the Government the opportunity to ensure that they do this exercise properly. Even after that, we are going to find need for change as time goes on. It is almost impossible to get something like this right the first time and please everybody.

These Boards have been closed up until now. I think it is fair to say that, if at all possible, we can achieve the spirit of this Motion within six months, which will be 14 months into our term. I would think we would have achieved something significant in a reasonable amount of time. Prior to this, these deliberations, for the most part, were not open.

I concur with the Second Elected Member for George Town when he made the point that there was

a need for clarity in the original Motion. I see this as nothing more than clarifying the original.

I would have to say that this Motion is a very delicate, important and complex one. When we are talking about opening up much more than the dealings of Government, we are opening up the dealings of private citizens, potentially every one of us. We cannot say that is not an extremely sensitive Motion. That balancing act coming between right of access to information and the right of privacy is one that cannot be carried out willy-nilly. We must ensure that the first attempt at this is complete and the Government has gone through the thought processes. It has had the legal department do all the necessary homework. Speak to individuals, if necessary, because we cannot just expect that the Government is going to make these decisions in a vacuum.

After all, what good is it if the Government were to look at any particular Board and say that one is right for opening, and then the persons whose business is being conducted within that Board feel that their right to privacy is being impinged upon? I see this process having to naturally take a reasonable amount of time so that the Government can make sure what it comes back with is something that all of us can feel as if something positive has happened.

#### MOMENT OF INTERRUPTION—4.30 PM

**The Speaker:** We have reached the hour of interruption. Will you be finished within a short period of time? Or shall we adjourn?

**Mr. Rolston M Anglin:** Mr. Speaker, Continuing on with the trend I have set for myself, I will be finished in a short period of time.

**The Speaker:** Would you define "short" for me?

*[laughter]*

**Mr. Rolston M. Anglin:** Mr. Speaker, today is Friday.

**The Speaker:** I get the message. I will entertain a Motion for the adjournment of this Honourable House.

The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

#### ADJOURNMENT

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Monday.

**The Speaker:** The question is that this Honourable House does now adjourn until 10 am Monday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM MONDAY, 16 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**16 JULY 2001**  
**10.32 AM**  
*Fifteenth Sitting*

*[Prayers read by the Elected Member for East End in the absence of the Second Elected Member for West Bay.]*

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies for late attendance from the Honourable Minister for Health and Information Technology, and apologies for absence from the Fourth Elected Member for West Bay.

Item 3 on today's Order Paper, Questions to Honourable Ministers and Members. Question 86 is standing in the name of the Third Elected Member for George Town.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 86**

**No. 86: Dr. Frank S. McField** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs, a) Has any inmate serving life at Her Majesty's Northward Prison been evaluated to see if their being let loose would jeopardise public safety; b) If so, what are the findings; and c) Has any inmate been allowed to work in society and what are some of the ways in which they have done so.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The answer to part a) of the question is, 'no'.

Part c): Lifers formerly assisted with work at the Agricultural Show and have also worked at the Governor's residence. They have not worked on projects in the community for the last two years.

**The Speaker:** The Third Elected Member for George Town.

**SUPPLEMENTARIES**

**Dr. Frank S. McField:** Can the Honourable Member say if their not working in the community for the last two years is as a result of a change in policy in regard to allocating lifers' tasks to be performed in the community?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I did have comments made by certain Elected Representatives approximately two years ago, particularly about lifers working on the day of the Agricultural Show. The practice, therefore, of allowing them to work in the community, including that particular function, was discontinued.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I would like to know if the First Official Member feels that the policy in regard to the allocation of work to inmates inside and outside Northward Prison should be subject to the feelings of Elected Members.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Mr. Speaker, I believe the Standing Orders of the House make specific reference to answers that require an opinion, but despite that I will certainly try to answer.

If Elected Representatives make representation to me on a matter that I feel they have had representation themselves from their electorate, and if those representations are felt to be genuine, then I certainly will try to take into consideration the views of those Elected Representatives and ultimately the views of the community at large.

I personally did not have a problem with lifers working at the Agricultural Show. However, I was prepared, and still am prepared, whenever there are genuine representations made, to try to ensure that the wishes of the community at large are taken into consideration. So, that practice was stopped.

This does not mean that lifers are not allowed to work outside of the prison; it is just that they do not work in the community. There are duties. There is work on the outside of the prison compound that lifers are still able to do. They are able to carry out those



duties on the outside of the fence, but not working in the community.

**The Speaker:** Are there any further supplementaries? The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say why no lifers have been evaluated to see if their being let loose would jeopardise public safety?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The reason why this evaluation has not been done is because the evaluation will heighten expectations of those individuals, the lifers, if it is carried out. Until a decision is actually taken by His Excellency the Governor in regard to parole for lifers, it was felt that it was better not to carry out this type of evaluation.

I should say that we are prepared and ready to have this done and there are normal evaluations, but an evaluation of this nature is not being done for the reasons stated.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I understand more and more how this issue is a public policy issue. I would just like to make it clear to the First Official Member that I by no means believe he should be held responsible for the developments made in this area.

I will just conclude by asking if the work at the Governor's residence has been discontinued, which was being done by the lifers.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Yes, that was done. It was simply a matter of objections, and indeed there were objections and comments coming from elected representatives in regard to lifers working in the community. We simply have not allowed them to work there since the decision was taken not to allow them to work in the community.

**The Speaker:** Are there any further supplementaries? The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Would the Honourable Member tell the House if there are any restrictions at all on lifers working outside the prison or, is there any requirement that they do their work within the prison while other prisoners may work elsewhere?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Those lifers that have been what the director calls "risk assessed," which is a question as to whether they can be allowed on the outside of the prison or not, as distinct from the question asked initially. Those persons are in what is called "category D;" I think there are four of those. They are allowed to work on the outside of the prison and they are accompanied by a prison officer. I hope that answers the question.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Is there anything in the Prison Law which prescribes the way lifers should be treated? Or is it something that is done by administrative decision in the prison?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is done by administrative decision.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Referring to my question, a) Has any inmate serving life at Her Majesty's Northward Prison been evaluated to see if their being let loose would jeopardise public safety? The answer was "no." Is the Member saying that prisoners are assessed to determine the degree of risk they would pose to the community they are working in?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am not sure I understand the question. Would the Member repeat that please?

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** For example, we had lifers working at the Governor's residence. Were these persons assessed to see what type of risk they would pose to the Governor's security, or the security of persons working at the Governor's residence?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Those working in the community were assessed to determine whether they would try to escape, for instance. It was not an assessment as to whether they would be a risk to members of the community. In all instances when work was done at the Governor's residence, it was work done on the grounds outside, supervised by at least a prison offi-

cer. As the Member knows, there are security officers there, as well.

Generally, the work was done was on occasions when the Governor was on either annual leave or in between Governors; or on occasions when he was not at Government House. An actual assessment as to whether they are a risk to the community has not been done.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** The Member may realise by now the case I am attempting to make is, if lifers can be trusted to work around or in the vicinity of the Governor, it means there is an amount of trust the prison authorities would have placed in the lifers.

Would the First Official Member say if working at the Governor's residence would indicate the degree of trust which the prison authorities had or would have had in the inmates allowed such a privilege?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I think the answer to the Member's question is, 'yes'. The prison authorities had a degree of trust in those lifers who were given the privilege of working outside, in particular, at the Governor's residence. What I want to point out is that there is a definite difference between having trust in those inmates while escorted by a prison officer, as opposed to their being released back into the community without that escort. I think that is what the root question speaks to. The ultimate release of those people and whether there is inherent risk to the community at large has to be assessed when the time is right.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** On a point of clarification, I think the First Official Member may have misunderstood. What I am asking, in fact, what I am implying is, that the whole process of risk assessment is being carried on and extended by virtue of the fact that the prisoners were allowed to work in these situations. This gives an indication of the degree of risk they would be posing to the general public if, at any time, they were released.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I totally agree with the Member. I agree that is a start of a risk assessment. The point is that, if and when the time comes, they are released into the community without having prison officers escorting them, there has to be a much more

detailed assessment done to determine that the community at large will be safe when the lifers are not supervised.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** We are talking about persons serving life sentences. If I am not mistaken a fairly recent report on the prison made certain recommendations in regard to life sentences where I think it was recommended that it be brought in line with the practice in the UK, which works out to be approximately 12 years.

Has there been any move by Government to bring this to the forefront for public consideration, reaction or to Legislators, regarding this particular recommendation?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe that Member may have been out of the Chamber the day I answered an earlier question. The recommendation made by Sir Stephen Tumin was given consideration, and guidelines were drafted also for consideration by His Excellency the Governor. It is his responsibility to make a decision on the introduction of those guidelines. After he considered the matter and he took advice on it, he decided the time was not right at that point in time to introduce it.

Since that time, in fact just recently, the matter came up. It is likely that Legislators will be given an opportunity in the very near future to give their views. Hopefully, those views will represent the views of the electorate of the country as a whole, or a majority of people, on parole for lifers.

I would say the matter is very active at the moment and I hope that Legislators will be hearing something about the matter in the very near future.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I remember in a previous question time in this Honourable House where the First Official Member said that the prisoners would be allowed on special occasions to go home and spend the weekend or the day with their families. I wonder, without an evaluation, how that decision was taken?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** That answer I gave referred to other inmates at Northward. It did not refer to lifers. If a lifer is allowed out on what would have to be extraordinary circumstances, escorted by a prison officer, the whole security aspect has to be put into ef-

fect. That answer referred to other inmates and we do have a programme where, in special circumstances, they are allowed a short home visit.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Could the Honourable First Official Member say whether or not a lifer did have a Christmas visit in the district of West Bay?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my understanding that no lifer was allowed out in West Bay or any other district on Christmas day.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Let us, then, stop splitting hairs. Has any lifer been allowed visits in the district of West Bay?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** If there is a category D lifer from the West Bay district, it is likely that he would have had a visit escorted by a prison officer.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Earlier the Member said that visits by lifers into the community would incur extraordinary security. Can he describe what security is provided to regular prisoners when they have visits in the community, and what would happen when a lifer has a visit into the community?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** For a non-lifer, if the person is category D; is on the enhanced Wing; is drug free, et cetera, he may be allowed a visit out and this will be without a prison officer. His family will normally take responsibility for him.

**Mr. Rolston M. Anglin:** If any category D lifer can ever have a visit would that include a night? In other words he would be gone from one day to the other.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** It is my understanding, from the Director, that no inmate has been allowed out of

the prison on an overnight visit since he has taken over.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Would the Honourable First Official Member say whether or not these family visits have to involve some form of blood relative and, or spouse? In other words, can a category D lifer visit someone who is purported to be a girlfriend? In particular, can the Member say if, over the previous Christmas holiday, Owen Barrington Bruce spent time in the district of West Bay?

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

*[Moved by the Hon. First Official Member]*

### QUESTION PUT. AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The Director of the Prison will have to check the documentation on that, and I can provide that in writing. The Director does not have those details with him.

**The Speaker:** Are there any further supplementaries?  
The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** The Honourable First Official Member said that there were no evaluations done on lifers before releasing them into the community. That only happens if the Governor pardons them. Can he say if there is an evaluation after they are pardoned by the Governor, or are they released because the Governor has pardoned them?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I would just like to clarify one little point. The issue would be parole and not pardon. They are two different things entirely. If a person gets a pardon they are freed straight thereafter.

What is proposed, if indeed parole for lifers is introduced, is a pre-parole programme; the details of which would all have to be worked out. Until a policy decision or a decision by His Excellency has been taken on it, the details would not be worked out. What I visualise happening is, there will be a period, probably 12 to 18 months, maybe longer, at which there will be a pre-release programme to ensure gradually that a lifer can be re-introduced into the community. At first it would start off with a short visit with an escort,

and as time goes on, the details would be worked out where the lifer would be allowed to be re-integrated into the community.

As the Member asking will appreciate, someone who has been incarcerated for a very long time is almost like a stranger to the country and would have to be reintegrated slowly into the community. Those details would be worked out, once a decision is taken on it.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, in a previous supplementary answer, the Member said that the Director did not have the information available as to whether or not a lifer spent time in West Bay, and that he would provide it in writing. My understanding was that this was sometime in December, some seven months ago. I wonder if the First Official Member got that same understanding.

When he provides that answer, would he provide the second part of that, whether or not it has to be a blood relative that takes responsibility for the prisoner?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** In the case of a lifer who is allowed out, the person who takes responsibility for them is the prison officer who is with them. In the case of a person who is not a lifer, the family or family member will take responsibility. I hope that clarified that part of the question. The Director simply does not have the details of the visits. That will be supplied in writing to Honourable Members.

**The Speaker:** Are there any further supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** This is just to clarify my understanding that it is the guard who takes care of the lifer, if he gets out on visit. Would the First Official Member provide the information to this Honourable House that the lifer has to also, while in the care of the prison guard, go to a blood relative? Is that a policy or can they visit anyone in the presence of the guard?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** That will be provided in writing, as I said earlier.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning. Moving on to item 4—Statements by Honourable Ministers and Members of the Government.

The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

## STATEMENTS BY MINISTERS/MEMBERS OF THE GOVERNMENT

### CRUISE TOURISM IN THE CAYMAN ISLANDS AND PORT AUTHORITY

**Hon. W. McKeever Bush:** Mr. Speaker, I wish to make a statement today that speaks to the specific issue of cruise tourism in the Cayman Islands, and to also say something on the Port development.

As the entire Caribbean suffers dramatic decreases in the number of stay-over visitor arrivals, and we in the Cayman Islands witness the significant downturn in our visitor arrivals, the economic impact and value of cruise tourism becomes even more important to sustaining the local economy.

Cruise ships and their visitors provide the volume of tourists necessary in the short term and on a day to day basis to keep many categories of businesses operating. Without the cruise passengers, we may have to shut down between the traditional high season of the North American winter months.

As the United States economy continues to slow down and vacationers become more cautious with their discretionary spending, cruising is one segment of tourism that continues to grow steadily. For local economies such as ours, the cruise tourist helps provide daily volume business for the retail shops, duty free stores, watersports operators, and transportation companies.

Since taking over responsibility for tourism, I met with various representatives of the cruise industry including local merchants and the Florida Caribbean Cruise Association (FCCA) personnel, which is the umbrella organisation for the majority of cruise lines serving the Caribbean. From the very first meeting in December 2000, we identified problem areas and began working on mutually agreeable solutions. There were several main areas which were problematic, unresolved, or needing significant review.

Over the past eight months, we have had regular meetings over which I have shared with our partners some of our plans for the future, and our ideas for further exploration. The most recent meeting was held just last week, Monday 9 July, when the president of FCCA and managers of each of the major cruise lines, including Disney Cruise Lines, who will have their first call in May 2002, were on the Island to meet with a member from the Department of Tourism, the Acting Permanent Secretary, private sector concerns, and myself.

I wish to bring to the attention of this Honourable House a matter which could have negatively affected the cruise ship industry. In early 2001, my Ministry took the decision to transfer responsibility for the scheduling of cruise ships from the Department of Tourism to the Port Authority because there were

continuous complaints from the cruise lines with respect to the lack of attention from the Department. The decision taken was also because the Port Authority, being the agency responsible for the Port, would be in a better position to determine what they could and could not handle on any given day.

Mr. Speaker, shortly after taking over this responsibility, the Port Authority created a database of approved cruise ship requests as well as requested dates which were not yet decided on, but which the cruise lines had started to sell. It was immediately evident to the Port Authority that there were a number of dates this year, as well as in the years 2002, 2003, and 2004, where the daily number of passengers significantly exceeded the agreed maximum of 8,500. On some dates, Mr. Speaker, the total amount of passengers would have exceeded 15,000.

We obviously had concerns about the congestion this large number of cruise passengers would cause in George Town and the negative experience that these visitors would leave with. The Department of Tourism was questioned on this issue and advised that the previous Minister of Tourism had personally given a number of approvals to cruise lines without consulting the department.

This is yet another example of poor management of responsibilities. The role of the Ministry and any of its departments must obviously be clear and functioning. Obviously, this was not the case in the previous tourism administration.

The Port was unaware of these additional approvals and our harbour clearly does not have the anchorage to handle seven ships. In an effort to resolve this matter the Ministry and the Port Director held a number of meetings and these were followed by meetings in Miami with the Florida Caribbean Cruise Association (FCCA). At the Miami meeting the FCCA was presented with the problem and was requested, in the spirit of partnership, to expeditiously assist with finding a solution to it so that the Port Authority would not have to unilaterally decide which ships could come and which ships could not.

Subsequent to our Miami meeting the FCCA held a number of meetings and presented us with their proposed solution at a meeting in Grand Cayman on Monday, 9 July. The FCCA suggested the following policies, which if agreed, would resolve the problem on the majority of dates:

- The Port Authority should give the historical users the "right of first refusal" on the days of the week historically held by them. The intent of this policy is to ensure that the schedules submitted accurately reflect the actual vessel deployment plans of the cruise operator. This helps Government to more accurately plan its cruise tourism growth and it provides cruise operators with the reliability required to plan their vessel deployments. The application of this policy would require notification to the historical operator if another operator who has not yet submitted its ongoing request for that day of the week. The historical operator

then has the right to confirm a vessel on that day or release the day.

- The Port Authority is using the Lloyds' List to project the number of passengers, and this differs significantly from the Master Cruise Ship File, which is based on the vessels' passenger safety certificates. The vessel's passenger safety certificate sets forth the absolute maximum number of passengers that a vessel is licensed to carry. This number has no bearing on the actual cruising capacity of a vessel which is determined by market forces and desired level of passenger services offered on board. The FCCA advised that they have surveyed their member lines and have ascertained that the average percentage of passengers going ashore in Grand Cayman is 90 percent. This number is lower in Grand Cayman than other ports because of the resistance of some passengers to tendering ashore. Therefore, the maximum number of passengers for each ship calling on Grand Cayman should be reduced by 10 percent to give a reasonably accurate number of onshore passengers.

- As discussed at the Miami meeting on 8 June, we should formally agree to a maximum of five ships; 10,000 passengers per day while maintaining the priority of protecting the regular historical calls as outlined above.

Mr. Speaker, after extensive discussions with the FCCA, we have decided to accept the foregoing proposed policies as this would resolve the problem on all except for a couple of days. Also, we will continue working with the FCCA to resolve those remaining less significant issues.

Turning to other issues, several months ago local merchants approached me about considering an extension of the ships' hours in port. While the FCCA was in Cayman last week this was one of the subjects discussed. The local merchants argue that extending the hours in port so that ships leave later in the evening would have several significant benefits because it would give the cruise passengers more time to experience a greater diversity of things to do on the Island. In discussing this with the cruise line managers, they were receptive to this proposal and open to reviewing their vessels' scheduling.

However, the cruise lines receptiveness was contingent upon the Cayman Islands agreeing to some limited concessions on the opening hours for onboard services while ships are in port. My Ministry is reviewing both sides of this proposal, but it is clear that the local economy needs all the help it can get. Having the ships in port longer would not only benefit local merchants, but also stands to benefit watersports, transportation, and local attractions because now cruise visitors do not have to choose just one activity; they will have time to take in watersports and shopping or shopping and sightseeing.

This brings me to the bigger issue of port facilities and the need for Government to finalise its port development plan. Since taking over responsibility for ports, my Ministry had to scale down the unrealistic

proposals for the George Town Port development. We are still reviewing various options, but what is clear is that a large percentage of the George Town business community would want the cruise tendering facilities to be relocated to the north side of the port where the Watler Building now stands. I have some schematic drawings that I will table at the end of this statement. This means the Watler Building will have to be demolished to facilitate the expansion. The seamen's monument and the Fort George Historic Site would be protected and incorporated into the new plans.

The capital funding requirement for this project has been discussed with FCCA, and they understand that as private sector partners they will have to share this burden with the Cayman Islands. I gave them two options. The first was for the FCCA to completely finance the tendering facilities' projects; or, the second was that the Port Authority would obtain financing but for the duration of the project loans the crews would have to agree to an increase in per passenger fees to help offset the capital costs. Once the financing has been repaid, a portion of this increase would be eliminated. The FCCA will get back to the Ministry with their preferred option in the very near future. I believe this goes to their Board on the 19<sup>th</sup>.

The plans also include a proposed tendering facility in the district of West Bay. The proposed West Bay facility would require ships to remain with their engines running and not anchor. Naturally, the public will have opportunity to review these plans. As soon as the final plans are available, these will be made available for public discussion.

Further development of the tendering facility at Spotts is also on the table as an inclement weather alternative to George Town. The discussion on developing facilities for expansion of cruise tourism to the Brac is ongoing. Last, but not least, we are also examining sites on the north coast of the Island for future development. I should add that the north coast is a popular diving area, but ships today can keep their engines running and not wreak any havoc on the marine environment by anchoring. That is what I prefer in West Bay, and have asked for.

As I have said, cruise travel is the fastest growing sector in an otherwise flat tourism market, with bigger ships and more affluent travellers entering this segment all the time. With our proposed port facilities in George Town, which have capacity for 8,000 to 10,000 passengers on a given day, the proposed West Bay facility allows for the destination to benefit from a large size share of the cruise market without the negative impacts of congestion and infrastructural strain if all forced into George Town.

The potential benefits for the district are obvious, but these will be discussed in more detail at a later stage. One of my stated objectives is to increase the business opportunities for the small and/or independent watersports and transport operators. To that end, the Cayman Land and Sea Co-op was developed and

the FCCA has agreed to give them fair and equal consideration for the shore excursion options. This required that the Co-op operators obtained the necessary liability insurance and, subsequently, the FCCA Tour Operators have inspected the Co-op members' facilities and found that all but a few met their standards.

Also, the FCCA Tour Operators are advancing discussions on tour rates with Co-op members. I expect that, by October, all matters pertaining to the Co-op will be finalised and ready for the upcoming busy winter season.

Another discussion held with FCCA is on the long term commercial agreements between the country and cruise lines dealing with the number of cruise lines in port per day and transparent fee escalation structure that allows them to plan without tying the Government's hands.

Other areas on the cruise agenda being discussed include, continuation of the Co-op training programmes between FCCA and the Chamber of Commerce, sponsored by the Department of Tourism (DOT), as well as exploring the potential for local agricultural products to supply some of the ships' needs such as fruits (mangoes, bananas), and vegetables (lettuce, tomatoes, cabbage).

I repeat that the cruise industry has much to contribute to the local economy. We must bear in mind the traditional isolationist stance of the Cayman Islands will not serve us as well for the future.

Mr. Speaker, in concluding I wish to thank the FCCA, the Port Authority, the West Bay MLAs and certain private sector representatives who have given a lot of their time to participate in the various discussions both here and in Florida. I especially want to acknowledge the cooperation of the FCCA to date and to thank them for making themselves available for the several meetings which I have had with them since taking office as the Minister of Tourism.

I have also indicated to the FCCA our desire to host their annual conference here in the Cayman Islands in 2003. I look forward to a long and productive partnership with the Florida Caribbean Cruise Association.

Mr. Speaker, in regard to the development of our cargo facilities there have been several discussions at the Board and Executive Council level. Also, there have been discussions with the private sector, but no decision as yet on the proposed development. At the present time, the port is taking core samples in the harbour as the options for the cargo section of the development will entail some dredging.

The cost, as presented to me by the port, would be \$10.5 million for the development of the cargo facility to the south as it stands today. The port has also said that if we shifted development for the cargo section to the north, the estimated cost by the port would be \$8.5 million and this would entail more dredging than on the south end.

I intend to get an independent review cost of the construction of the proposed cargo facility before a final decision is made by Executive Council and the Board of the Port Authority. I can tell the country that there is a proposal by a private sector concern for the development of a bulk cargo facility; bulk cargo meaning such as cement, asphalt, and fuel. This could mean moving the Texaco and Esso facilities from their present neighbourhood facilities to a site more conducive to such industrial activity. No decision has been made by Government on this proposal.

Regarding development of the port facilities, there are concerns by the private sector business people on the south side in central George Town, and those business establishments to the north end of the port as to where the port facilities should be positioned. All of them will have to bear in mind that the port will have to do what is most beneficial and cost effective for present and future citizens of these Islands. I would hope to get an understanding and true partnership with the private sector on whatever proposal is decided upon.

Thank you.

**The Speaker:** I think this would be a convenient time to take the morning break. We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.35 AM

#### PROCEEDINGS RESUMED AT 12.03 PM

**The Speaker:** Please be seated.

Other Business, Private Members' Motions. Private Member's Motion No. 19/01, Public Access to the deliberations of Statutory Boards. Continuation of debate on the amendment to the substantive Motion.

The Second Elected Member for West Bay.

### OTHER BUSINESS

#### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 19/01

#### PUBLIC ACCESS TO THE DELIBERATIONS OF STATUTORY BOARDS

*(Continuation of debate on amendment)*

**Mr. Rolston M Anglin:** Thank you, Mr. Speaker.

When we adjourned on Friday, I was speaking to the proposed amendment to Private Member's Motion 19/01. I will quickly reiterate what this amendment seeks to do: ". . . **that this Honourable House approves that the deliberations of all Statutory Boards, with the exception of the Adoption Board, be open to the public, excluding instances where**

**matters affect national security or matters of similar importance to good governance, and that Government, having given consideration to the implications of doing so, report back to this Honourable House within six months of the acceptance of this Motion.**

**"AND BE IT FURTHER RESOLVED THAT during this period, the Portfolio of Legal Affairs be tasked with undertaking a review of the relevant legislation with a view to determining what amendments would be required to give effect to the above provision."**

I think the spirit of this Motion is in line with what the public expects now in terms of openness and transparency. This would then give rise to greater levels of accountability and what I believe most persons, who were elected after November, certainly would have spoken about in their campaigns. That is greater transparency, greater openness, which are all matters that allow for a much more informed issue-educated populace. That will naturally allow citizens of these Islands to be better able to feel as one with the process, as it were.

I support the amendment because I think it sets out more clearly what it is that Government has to do, and by what time they have to do it. Obviously, there is still an area of the Motion that is subject to interpretation, and that is where it speaks to matters of similar importance to good governance. That is in relation to the matters which would affect national security.

I certainly feel when looking at the original Motion and this amendment that the latter still allows us to do what the original Motion sought. This is to vote on whether or not we want to go down this road of openness and transparency in regard to these Statutory Boards in the first instance. After that, it sets the stage where Government would be charged with the nuts and bolts. That, to me, seems the way that all Private Member's Motions would naturally progress. Firstly, there is a concept; there is some consideration that private Members want to be considered by all their colleagues. There would then be some follow-up action Government would have to undertake to see that consideration is brought to fruition.

When looking at openness and transparency, we must ensure that we adequately balance the level between the right to access and the rights of individuals in regard to their perceived level of privacy as part of society. We can think of a lot of these Boards and naturally see the concerns in regard to privacy.

For example, we can look at the Immigration Board and the business they are charged with doing, and how the matters they discuss are often extremely sensitive and personal. That is the balance that has to be struck. We could go on and on. Each Board will have this sort of consideration.

I look forward to being in a position, if the amendments are accepted, in six month's time to have Government report to this House. More importantly, that Government report to the citizens of this

country because after all, we have gone this long and had deliberations of these Boards, for the most part, held in private. So, I think that if we can say 14 months into our term, in some meaningful ways we have increased openness and transparency, and by natural extension the accountability of these various Boards, we will have achieved something worth talking about.

I support the amendment to Private Member's Motion 19/01.

**The Speaker:** The amendment to Private Member's Motion No 19/01 is open for debate. Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

In speaking to the amendment, let me try to set the stage by referring to the original Motion, making it absolutely clear that the Government is in agreement with what we see as the intention of the Motion and what it wishes to achieve. The Government has no desire to be confrontational, or engage in a debate on a matter such as this that would be counterproductive, especially when I believe we all have the same intention.

I believe that the nature of the beast causes certain types of debate. It is the way life is when you have Government, Backbench, and some Members who on occasions need to be seen or want to be seen as opposing the Government. I just wanted to make it very clear before going into the substance of the debate that the Government simply did not bring an amended version of the same Motion just for the sake of doing so. The problem we had was with a simple part of the wording.

The Government was very amenable to the Member moving the Motion, making an amendment that was acceptable. That was not able to be worked out, hence the reason for the amended version.

The proposed amendment reads: **"BE IT RESOLVED, in the interest of openness and transparency, that this Honourable House gives consideration to allowing that the deliberations of all Statutory Boards be open to the public, excluding instances where matters affect national security or matters of similar importance to good governance and that Government having given consideration to the implications of doing so, report back to this Honourable House within six months of the acceptance of this Motion.**

**"AND BE IT FURTHER RESOLVED THAT during this period, the Portfolio of Legal Affairs be tasked with undertaking a review of the relevant legislation with a view to determining what amendments would be required to give effect to the above provision."**

There is an important aspect not included directly in either the Motion or the amendment having to do with Freedom of Information legislation. Mention was made by the Third Elected Member for George Town about a Private Member's Motion in 1998, which was moved by the present Minister of Education and seconded by myself. Perhaps, in some of the deliberations that have gone on, attempts have been made to query if there has been a change of heart on the part of the Minister of Education, or myself, regarding the purpose of that Motion and following through with the Motion that was accepted in 1998.

Let me refer to some of the debate which took place, if you will allow, Sir. I will read a few quotations so that it can be absolutely clear what the position was then, and perhaps what the position is now.

Subsequent to the moving of that Motion, the Mover, who is now the Minister of Education, sought an amendment to that original Motion. When he brought that amendment . . . and I quote. He said: **"Mr. Speaker, before I speak to the Motion, I crave the indulgence of the Chair and the House to move the following amendment: "In accordance with the provisions of Standing Order 25(2) I, the Third Elected Member for Bodden Town, seek to move that Private Member's Motion No. 12/98 be amended as follows: by inserting the words 'and such matters relating to Statutory Boards' after the word 'legislation' as it appears in the last line of the last resolve."** [1998 Official Hansard Report, Vol. 1, page 520]

This means that the Motion, as amended would then read: **"BE IT RESOLVED that the Cayman Islands Legislative Assembly enact a Freedom of Information Law similar to that proposed in the United Kingdom's Freedom of Information White Paper;**

**"AND BE IT FURTHER RESOLVED that a select committee of the whole House be convened to determine the parameters of such legislation, and such matters relating to Statutory Boards after public input."**

During the debate, I spoke to the amended version of the Motion. Again, I just wish to quote a paragraph of my contribution to the Motion. This was 1 July 1998. I said: **"When it comes to matters relating to Statutory Boards, some people with a certain amount of reasoning will take the view that we have to be careful about how widely we expect the information to flow from such Statutory Boards. As is pretty obvious, on certain occasions, there are times when in the best interest—not only for good governance, but also to protect individual rights—it really would not be fair to have certain information disclosed publicly.**

**"So as the Mover has already said, we are not disputing that there are occasions when information should not be divulged readily, but we believe, and are convinced, that much more often than not the information should be able to be**



**made available. So rather than—because there are times it should not be—simply saying let us not have any of it disclosed publicly, let us create the avenues through which what should be disclosed publicly is disclosed quite readily, and what should not be can be protected. There are ways and means of doing it.”** [1998 *Official Hansard Report*, Vol. 2, page 541] There were other areas in the debate that could be deemed to be relevant, but I will just refer to that small paragraph.

The Government has no change of heart about that position which was taken by some of us in 1998. Unfortunately, the bringing about of Freedom of Information legislation has not moved as fast as we would have liked. I think perhaps, if my example might be appreciated, it is like having a stove with only four burners. You can only cook four different pots at any one time. That is all that has happened. For us to say any different would be to either fancy it up, or not be candid. That is the simple explanation.

In speaking to the Deputy Chief Secretary on Friday, his schedule for moving forward in bringing about that legislation is for us to be in full stride by the third quarter of this year. Let me pause, because the Third Elected Member for George Town also raised some queries, to assure everyone that all will have ample opportunity for input into the whole affair. I speak to the Freedom of Information legislation because it will have an integral role to play with Statutory Boards being accessible to the public.

When we speak to the amended version of the Motion, we speak to two things from the Motion but there is a third leg. We speak to the Government reporting back to the Legislative Assembly within six months of acceptance of the Motion and, during that time period, for the Portfolio of Legal Affairs to be tasked with undertaking a review of the relevant legislation with a view to determining what amendments would be required to give effect to the above provision.

While both of those activities are to take place within that timeframe, we also have to be dealing with the Freedom of Information legislation because it is not a totally separate issue. I just want to explain that the Government is cognizant of what has to happen for the situation to be real.

When the Private Member's Motion was approved in 1998, it was to a select committee. Unfortunately, during that period of time the select committee and its activities did not progress as we would have liked. The Government is moving forward without going to select committee, but rather to simply set the platform to have dialogue with all Members of the Legislative Assembly with whatever public input is needed, and move forward with that legislation.

That legislation is going to need the supporting administrative systems and practices to be able to function properly. The other thing it is going to need is a referee. Some people refer to that as an “ombudsman,” some refer to it as “complaints’ commissioner.”

It is all one and the same. While I am not suggesting the affair is not a complex or complicated one, I am trying to paint the picture with all the different segments that will have to be looked at and dealt with in order for such a situation to be able to function properly without continual disruption and questions being asked as to its function.

The Mover of the original Motion mentioned the fact that he is not a lawyer. Neither am I! So, there is much common ground in that area. The point is that we need not get caught up any more in exactly how it should be worded, but simply to agree that we all want to see the same thing happen. It could be argued that if we do, then why cannot we accept the Motion as it was worded? The difficulty is that as the Motion was worded, there was a part that was a bit generic and the legal position from our side referred to certain areas of it which we had difficulty accepting. I do not think there is any difference in what is being sought to be achieved and, I believe, the various other areas I spoke to should be borne in mind when putting this into practice.

The legislation for the various Boards which would have to be amended is for some 70 or 80 Boards. I think if we look at the word “statutory” from a legal standpoint, our advice is that there are some 57. The number and all of the various activities which involve companies, individuals, other types of entities, as a general outlook indicate immediately that one has to be very careful in how one looks at the position of having information available to the public.

The question is not about freedom of information; the question is simply about it happening in a responsible fashion that takes into consideration both sides of the coin. One has to factor in the corresponding rights of individuals to a certain level of privacy, among other things, and I am certain that there is no one in here who has any intention for that not to happen.

Basically, what the Government is saying is: ‘let us get all the ducks lined up, let us all sit down together and agree on the way forward to encompass all of the various parts which will complete the picture and we can let it happen, but let it happen in a manner where we will not have to be back and forth.’

Whatever is dealt with, regarding Statutory Boards being open, or the public having access to the meetings, whenever these Boards meet, has to tie in all the other areas if you are not looking for trouble. I believe that it is logical to say that the Freedom of Information legislation should almost be a precursor to opening up public records to public scrutiny. I can safely say that, when we get all of these lined up and put in place, all Statutory Boards will have to ensure that their practices and procedures meet and hopefully exceed the requirements the legislation imposes with regard to the public's right to information. I think that is basically the genesis of the exercise and perhaps the objective sought.

If it is possible at this point in time to believe that we all wish to achieve the same thing, while there may be some differences in regard to how it is worded. Perhaps we can get on with it as quickly as we can while ensuring it is done in a manner that does not expose the Government to, not just questions, but perhaps litigation, in regard to an individual's right to privacy. I am sure with everyone's input we will achieve that.

I wish to assure Members that Government has no intention of either slowing the process or standing it down so it cannot be done in a timely manner. It has just been many, many irons in the fire to deal with a lot of issues that we simply had to prioritise depending on how quickly the pot was going to burn—and we did not want to burn any pots!

I support the amendment and I hope that we can find a spirit of cooperation that will allow us to achieve what I believe we all wish to. Thank you.

**The Speaker:** The amendment to the Motion is open for debate. Does any other Member wish to speak? Does any other Member wish to speak? Final call, the amendment to the Motion 19/01 is open for debate. Does any other Member wish to speak? If not, does the Mover of the amendment care to exercise his right of reply?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Speaker.

I rise to exercise a right of reply in relation to the proposed amendment. I have the benefit of the comments of the Solicitor General who appeared as Temporary Acting Second Official Member on the occasion of moving this amendment.

In the time available to me I have gleaned the background to the debate on the amendment. It certainly seems to be sensible, in my opinion, that the amendments which have been proposed be adopted in that, although the Motion itself is quite self-evident and clear in its purpose, how to give effect to it in relation to the various Statutory Boards and committees may not be quite as straightforward and will therefore require appropriate consideration.

It will not take six months for the Government to decide whether or not transparency or openness is a virtue. That can be decided in approximately six seconds. By the Government proposing this amendment I think it is evidencing that it does not reject the Motion, in fact, it accepts the Motion. However, it requires an opportunity to ascertain how best to give it effect.

I heard reference to Freedom of Information legislation. It may be, once that legislation comes forward, and I concur it would be good timing that it should do during this process, that that legislation will hopefully set out certain principles which ought to operate in regard to the giving of access by the public to information which is provided by statutory or other government bodies. These parties or these bodies

are there in order to execute public business. What I mean by that is business on behalf of the public.

As the Leader of Government Business has said, according to my estimation, at a quick glance through the papers, there are at least 57 different Statutory Authorities or Committees. Therefore, this is quite a range of activity. They vary from the area of transport licensing authority, to liquor licensing boards, to labour appeals tribunals, to boards of companies operated by the Government, and to such bodies as the Immigration Board, Trade and Business Licensing Board and others.

Yes, as my colleague the Solicitor General said, there are the rights of individuals to be taken into account since individuals make applications to certain Boards and have decisions made in respect of those applications by those Boards.

If one starts at the individual level, those individuals would, it seems to me, have legitimate expectation that they would receive a decision within a reasonable time. They would have reasons given for the decision where that is appropriate, and that will almost always be the case, in my opinion, if not invariably. In addition to the individuals affected, the wider public will have an interest in how these Boards operate in the sense that there will be policies adopted or given to these Boards either by the Government or adopted according to the framework of legislation. The public has an interest in knowing what policies are being applied; in what way, and whether these Boards are operating in an efficient and accountable fashion.

It is right to bear in mind the interest of the individual in terms of a right to privacy. One question which has occurred to me is who will, in fact, determine what information should and should not be made public in a particular case. Sometimes the law can help to decide this kind of question. It just so happens that I have been looking at some other cases in connection with another matter, and it is somewhat possible that we could adopt the approach that was adopted in the Contempt of Court Act, 1981, in the United Kingdom. Not that this has anything to do with contempt of court, but my point is, that Act contains a provision which prohibits disclosure of information unless it is established that disclosure is necessary in the interest of justice or national security, or for the prevention of disorder or crime.

It is equally possible to think about legislation that has the opposite presumption. In other words, that information should be disclosed unless certain conditions are found to exist. Unless, for example, as the Motion indicated, the interest of national security would require that the information not be made available.

So, all I am indicating is that the law, as a tool, to give expression to these matters might weigh or tilt the scales in favour of disclosure with the proviso that where disclosure of information was not necessary or

appropriate, or not thought advisable in particular circumstances, it could be withheld.

Again, the important part of this is that the operations of these Boards and Authorities be transparent. I noted what I heard about transparency leading to accountability and I quite agree with that. It seems to me that the balance which will require to be struck in particular cases, where individual rights are concerned, is the balance of interest between the public having the information and the right of individuals to privacy. That, I think, is reasonably self-evident.

I think too, however, that consideration will have to be given to whether the deliberations of these Boards will be open to the public in the sense of the public being admitted, and the press, as and when these matters are being discussed. Secondly, or in the alternative, whether or not their deliberations should be recorded and in what form, and that record being made available to the public, it may be that both of those things should happen in particular cases.

We tend to focus on decisions of boards, but sometimes their deliberations on matters of policy are also important. In relation to decisions, I have already indicated the desirability of imparting the reasons for those decisions in order to demonstrate the basis upon which they came to these conclusions and, in appropriate cases, quite frankly, permitting the challenge of those decisions. That is what transparency means. Accountability means accountability in every sense.

In winding up the debate on the amendment, I hope in a small way I contributed to the discussion on the general merits of the Motion. If further matters arise and the opportunity also arises, I can say more. I see nothing in the amendment that will frustrate the objectives of the Motion. It will require a little time, but if in fact, Freedom of Information legislation is in the pipeline and coming along. I think it would be wise to see what that looks like at the same time as looking at these issues. I am not saying that to suggest we need to wait. If we are going to look at 57 different pieces of legislation, we will have to do that promptly.

If the Government is going to report back to the House, as the Motion indicates, it should do so in a comprehensive way, and try to illustrate how the rules, if rules are established on Freedom of Information, are to apply to particular boards and committees because it will no doubt be a significant shift in approach. It is important that this House, which, if it involves legislation will have to approve and pass that legislation should be involved in the structuring of it and in deriving the basis for it.

I think there are some terms, which on the face of it might require some elaboration. The expression "good governance" can be very widely interpreted. On the other hand, I think the Government well understands the intention of the Motion and its purpose. In any event, the results of this effort will return in due course to the House.

I think that if there are to be meaningful changes to the legislation, the policy approach would be better outlined first of all in a report by the Government to this House for approval by the House and the changes can then be more swiftly and more effectively implemented.

I think there is little I can add beyond what I have said. These changes will need to be thought through very carefully. If they are, it is possible we may even have model legislation to bring along with the Government's report. I say that, suggesting the time should not be wasted, but used wisely. It should be used to the advantage of the House. It is always frustrating that these matters cannot progress as quickly as all of us would like. On the other hand, if we are going to do a thorough job we had better look at all the legislation and at the principles of Freedom of Information.

I know this topic has exercised the House in the past, and I will not detain you further on these issues. I trust this contribution may assist. I invite the House to support the amendment as proposed. Thank you.

**The Speaker:** I shall now put the question on the amendment to Private Member's Motion 19/01. Those in favour please say Aye. Those against, No.

**AYES, and one audible NO.**

**The Speaker:** The Ayes have it. The amendment is carried. The Motion is amended accordingly.

**AGREED: AMENDMENT TO PRIVATE MEMBER'S MOTION 19/01 PASSED.**

**The Speaker:** I think this would this be a convenient time to take the luncheon suspension before debating the substantive Motion.

We shall suspend until 2.15 pm.

**PROCEEDINGS SUSPENDED AT 12.52 PM**

**PROCEEDINGS RESUMED AT 2.44 PM**

**The Speaker:** Please be seated.

Debate continues on Private Member's Motion 19/01, as amended. Does any Member wish to speak? Does any Member wish to speak? Debate continuing on Private Member's Motion 19/01 as amended. Does any Member wish to speak? Does any Member wish to speak? Last call, does any other Member wish to speak?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, I think it is incumbent on government, albeit briefly, but importantly, to accept the Motion as amended. I also think that should be on the record, notwithstanding that the amendment came from the Government side. While I have little of substance to add to what I said at an

earlier stage, the Government does accept this Motion as amended. It accepts the original intention of the Motion and it occurred to me, since I last spoke, that the one benefit, although not immediately seen by all in that light, is that we have some kind of timetable now, at least, to make progress in relation to the matter. There is an expectation and a commitment that, within six months, matters will be reported back to the House with an agenda for consideration, hopefully for legislation. In the meantime the Freedom of Information legislation will at least be outlined so that its relevance to this Motion can be ascertained, and a much talked about subject might be acted on in the interest of progressive administration in government.

I have no doubt in my mind that the greater accountability of Statutory Boards will lead among other things to the greater demand on the part of such Boards for relevant advice, including legal advice at the time they deliberate. I think that can only be, if I may say, to the good. It may be that such Statutory Boards will consider the necessity to have rather than one of their numbers being qualified in a particular discipline, such as the law, perhaps having access to a clerk with legal qualifications in order to try to ensure that the decisions they reach are as reasonable, are as able to be justified and as judicial review proof as they can be. I do not see any inconsistency between any of these. It will be another step in the direction of trying to ensure that such bodies only consider the matters they should consider and reach decisions that are capable of being tested by the wider public.

In saying all of this, I view the Motion as a positive Motion, one that is timely, bearing in mind all of the other developments including a Bill of Rights, Freedom of Information and the general climate. Therefore, in short, I think it is right to rise in support of the Motion as amended. I commend the Mover of the Motion and others who are responsible for bringing it, albeit that we do not have an entire consensus as to the wording. I think the intent will be honoured and it will serve not just a useful purpose but, ultimately, an essential purpose towards good government, democracy and accountability. Thank you.

**The Speaker:** The Floor is open to debate. Does any other Member wish to speak? Does any other Member wish to speak?

If not, does the Mover wish to exercise his right of reply?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you.

I have but a few words on the amended Motion, 19/01. I have listened to the debate and observations by the Second Official Member. It seems to me that he definitely has given some thought to the ramifications of the Motion and things Government may be called upon to do, even though he was not here in the initial debate in the first instance.

The whole intention of this Motion was to offer to the Government and its Boards the opportunity of conducting its business in an open and transparent manner. I drew the example of how the changes came about in Finance Committee when Finance Committee went from being closed to that of being open. Indeed, I know within myself that should the Statutory Boards of Government, those which could appropriately be opened to the public, if opened, there would be a difference in the way business is conducted. I think there will be better decisions forthcoming from the Boards. It would offer the public the opportunity of being able to hear the matters that affect the public deliberated. In the instance where someone might have an application before that Board, he could actually hear how his application was dealt with—if approved or not approved, the reasons why.

A Member said, similar to the courts. That is right! It is similar to a court setting. You have the prosecution and the defence. All the facts are laid out and a decision is arrived at by the judge. It is similar, I think. In particular, what it would do for society is to remove some of the suspicion. I am not saying that is the case, but it is often stated that there are beliefs where certain persons are singled out to receive approvals, and others are given the long way where decisions in some matters has to go before some boards. I think that perhaps more than anything else it accords with the whole idea of openness and transparency. That would be for the better good of Caymanian society.

I think it would also give an opportunity to create greater public confidence in the Government, or its functioning, as they appoint the Boards, in carrying out those policies. Those policies should always be in the best interest of not just some people, but all of the people, all the time.

Mention was made by three Members. I think it was introduced by the Third Elected Member for George Town, the question of the Freedom of Information Act. It was brought and accepted—but that was two years ago. If I have a grievance with the process of Government, not necessarily the legislative process, it is that we arrive at decisions here calling upon Government to take a certain action, and the slowness to act on matters passed by the Legislative Assembly. I would most wholeheartedly support an act brought forward, which allows public information to be available, albeit after the fact. If persons could access information in Government, it makes for greater accountability. Government is aware that it would be held open for what transpires, therefore, it has to look to greater accountability and be more conscious in arriving at decisions. I support that wholeheartedly.

Seeing that it has taken two years and it has not happened yet, I hope that this Motion will not get tagged to that and fall into that same process. I hope this Motion will get a response in six months.

Another matter raised by the Second Official Member was in regard to privacy. I am a great believer in that. In fact, I remember in 1993 the records will show that I brought a motion here asking for the Government to look about bringing a law that guaranteed privacy. In fact, the Minister who answered on behalf of government at that time had an incident where his telephone conversation was apparently listened to which brought him certain personal problems, and he most wholeheartedly accepted it, saying if I had not brought it he intended to bring certain legislation or a motion to that effect. That was 1993—eight years ago! Until now, it has not arrived. In that period of time, we have shot down a Bill of Rights and everything else.

I daresay I have a right to be a bit doubtful or suspicious about the alacrity of Government in arriving or doing things set for it to do in the Legislative Assembly. When I first presented the Motion, I spoke of the occasion when, by accident, I heard one of the Statutory Boards in the State of Florida conducting its business, and was never more surprised in my life hearing public business being discussed openly before an audience. I have seen articles from time to time from jurisdictions other than the US where reference is made to the Sunshine Laws of Florida, where they openly discuss matters. It seems that that particular State is all the better for it.

To take this thought a little further than it has so far, in regard to statutory authorities being accessible to the public or their deliberations, it is easy to conceive that preparation would have to improve. If persons went into meetings unprepared, it would show before those looking on. There would have to be greater efficiencies within a given secretariat, and it is very likely I would suggest that things would move faster from the point of view that asides or, any petty statements that might creep in otherwise, would not look very good on the board sitting to do serious public business. Any way I look at this, I believe that this particular exercise could prove better for Government.

The question of what is good governance was raised by the Second Official Member and the Second Elected Member for George Town. I make no attempt to try to define good governance. However, from the public administration I have done, I would term it good public management, where an issue was not raised on a certain matter about a citizen because the person raising it knew that it would create an embarrassment for that particular citizen. That, in my opinion, would be good governance. Another example of good governance is doing something which would not necessarily be illegal but could raise a whole lot of public speculation, rumour and all the rest of it, and was avoided. There are many other things that could be cited, which, I believe, fall within the ambit of good governance. Good governance, I would suggest, is making available to the public the opportunity of hearing the deliberation of the Statutory Boards.

Lastly, I trust in six months' time, this House will have the opportunity to hear the Government's Report in regard to this particular Motion, and we will hear which Boards the Government believes is right and proper to make accessible to the public. I can certainly say there are three I have heard over and over again said by the public that should be open. Those Boards are: the Planning Board; the Immigration Board; and the Trade and Business Licensing Board. Whether they will end up accessible or not, I do not know. We shall wait and see.

In the spirit of this Motion, I will give it my support, even though I would have preferred seeing it accepted and Government taking such time as necessary to do the business it is asking for. I will support it in its present form.

**The Speaker:** I shall put the question on Private Member's Motion No. 19/01 as amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION 19/01 AS AMENDED PASSED.**

**The Speaker:** Moving on to Private Member's Motion No. 4/01, to be moved by The First Elected Member for Cayman Brac and Little Cayman.

## **PRIVATE MEMBER'S MOTION NO. 4/01**

### **SPECIAL RELATIONSHIP PRIVILEGE**

**Mrs. Julianna Y. O'Connor-Connolly:** I rise to move Private Member's Motion No. 4/01.

**The Speaker:** Do you have a seconder?

**Mr. Gilbert A. McLean:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 4/01 has been duly moved and seconded. Does the Mover wish to speak to it?

**Mrs. Julianna Y. O'Connor-Connolly:** Certainly! Thank you, Mr. Speaker.

As Members would have now fully perused the said Motion, I will for the benefit of a reminder and for the enhancement of the knowledge of the public, take a few brief seconds to go through the ambit of this Motion. It reads:

**"WHEREAS there are many important relationships which depend upon the assumption that confidence will be respected;**

**"AND WHEREAS presently, such said special relationships' confidentiality is not often viewed as a sufficient ground of immunity;**

**“AND WHEREAS the Courts have an inherent wish to respect special relationships’ confidence, in the absence of proper legislation there is the element of uncertainty based on the exercise of one’s discretion;**

**“AND WHEREAS it is in the public interest for appropriate legislation being passed to enhance, augment and/or preserve special relationships’ confidence which has been a part of our Caymanian culture for decades;**

**“BE IT RESOLVED THAT this Honourable Legislative Assembly appoints a Select Committee of all Elected Members to consider appropriate legislation to preserve and/or create special relationships’ privilege, including, but not limited to, priest and penitent, pastor and penitent and counsellor and client.”**

It is my humble view that the issue of special relationships as it relates to privilege is one of national concern. The issue was perhaps brought to the forefront recently with the matter of Reverend Dee Dee Haines, the circumstances of which I am sure all Members are more than familiar with.

As stated in the resolve, it seeks to set up a select committee of Elected Members which would give us an opportunity to carefully consider this national issue. I am fully cognizant, as in most national issues, it will not be without its controversy. I also think it is a fair approach to put it to a select committee, in that, as far as I am aware, no Honourable Member in this Parliament has a mandate to make a decision on an issue of this respect.

I thought the more appropriate procedure would be to go to a select committee. In doing this, we would not only allow ourselves to be in a more informed position whereby we could solicit further research on this matter. More importantly, the public has become increasingly involved in government and the way things are done in the carrying out of good governance. Therefore, this should either be done by written representation or, by presenting themselves before the Select Committee to make them aware of their concerns, whether for or against.

I believe it is not an unreasonable request to ask all Members to allow the Motion to be passed to give, not only ourselves, but the wider public a full and fair opportunity to come before the Select Committee and discuss the pros and cons of this very sensitive yet important issue.

I respectfully submit, if that is not the case, it would be an unusual position for Honourable Members to take in that if the final result was a negative vote we would perhaps, in my opinion, be saying to the public that we are already informed enough on this particular issue and do not need to take more input; be it from counsellors, pastors or priests, or just the man on the street as to where the country would like us to go.

Unlike the United States, we do not have the referendum machinery in place where things like this

could have easily gone to a referendum. I humbly implore that each Member exercises his good conscience and deviate from the usual temptation of business, and oppose for lesser reasons of politics and not support a Motion of this magnitude.

I would say that I am also fully cognizant of and concur with the basic principle that no party, and I say again, no party, should be entitled to frustrate or hinder the doing of justice in any proceedings, or withholding from his opponent, or from the court, evidence which is first of all relevant and secondly admissible for that purpose. I would go one step further and submit that this principle cannot be taken in isolation but is, in fact, not an absolute rule and, therefore, I wish to say what I feel is the correct exemption or proviso thereto, just for the record.

I believe that this absolute principle of not frustrating or withholding evidence is that it should be overridden by some important public interest. First of all, certain evidence should not perhaps be disclosed to a party because of the likelihood of danger to the national interest, and secondly, if there would be impairment to the working of some aspect of the public service, then I believe that this absolute rule should not go into effect.

There are certain rules that may also prevent evidence from being given. For example, I believe that, as the law bears out, no persons should be compelled to divulge what has been passed between them and their legal advisors in the course of seeking and giving legal advice. It should also be noted that where a privilege is claimed, and indeed upheld, that no adverse inference may be drawn based on that party’s exercise of their fundamental discretion of refusal to disclose the privileged evidence.

I am also cognizant of the fact that, generally speaking, English Law and persons within our own Caymanian context will take an illiberal attitude to confidential communications. I can say without fear of contradiction that the mother country, that is the UK Parliament, has created for the very first time a limited privilege for journalists in that they cannot be forced to reveal their sources of information. This can be borne out by the Contempt of Court Act, section 10, 1981.

Thus far our law here in Cayman has, in my view, failed to recognise the other privileges. For example, American common law has generally upheld which is the disclosure of confidential communications between a doctor, a psychotherapist and a patient, priest and penitent. Although we would be seeking to put some legislation in place, that is, if the public is fully behind the select committee and we reach that stage. We would not be creating a precedent because our American sisters and brothers have already gone down that line.

Without taking the time in my introductory remarks to go into the actual merits and demerits of this application whereby wasting the time of all Honourable Members and the public, I will leave that to the

wider cross-section of the public. I accept, against the background that I do not in any way have a monopoly on intelligence and will seek to use this merely as a vehicle to include the members of the public, those with a vested interest and those with a general interest to come before all Honorable Members of this House to make their presentation. This is to put us in a better informed position that we can make a report and then the Government would have the advantage of this additional information and additional time to either put the legislation in place or come back and report that the majority of the public did not wish for it to proceed.

That is a very simplistic and brief overview of the request this Motion seeks and I ask Honourable Members to give full support.

**The Speaker:** The Motion is open to debate. Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, may I start by saying that I am somewhat surprised that the First Elected Member for Cayman Brac and Little Cayman, in moving the Motion, has not sought to explain the basis on which the Motion is brought and, indeed, has only alluded to the background of the Motion in the scantiest of detail.

I believe it is imperative that this Honourable House understand the context in which the Motion is brought and the possible ramifications of a finding by a select committee of this House, that such legislation, as is sought in the Motion, becomes part of our legislative rubric.

I believe I should start by examining the Motion. It reads, **“WHEREAS there are many important relationships which depend upon the assumption that confidence will be respected.”** That is a fair enough statement.

**“AND WHEREAS presently, such said special relationships’ confidentiality is not often viewed as a sufficient ground of immunity.”** Mr. Speaker, this is where I start to have some difficulty, because I am not certain what “immunity” is being referred to. I suppose if one looks at the context of the Motion, what it seeks to communicate is immunity from giving evidence, or information given and received in the context of these special relationships. I believe that is what it seeks to convey.

It goes on, **“AND WHEREAS the Courts have an inherent wish to respect special relationships’ confidence, in the absence of proper legislation there is the element of uncertainty based on the exercise of one’s discretion.”** Now, that is an assumption, which I do not believe has any real basis. I am not sure how both the Mover and the Seconder can arrive at the view that the courts have an inherent wish to respect special relationships’ confidence. Further, in the absence of proper legislation the courts

believe that there is an element of uncertainty based on the exercise of the discretion.

Having looked at the cases to which I will refer in some detail in a short while, I do not believe that is the view of our courts or indeed the English courts. So, because of that and for other reasons in the public interest, the Motion seeks the resolution of this Legislative Assembly that a select committee be appointed to consider appropriate legislation to preserve and, or create special relationships’ privilege, including, but not limited to, priest and penitent, pastor and penitent, and counsellor and client.

I do believe that the inclusion of the verb, “to create” is an acknowledgement that such relationships or privilege in relation to such special relationships, as outlined, are currently not part of our legislation. That is a correct acknowledgement, and neither are such relationships subject to privilege in the United Kingdom legislation.

Having said that, I understand and empathise with those who are concerned that the value and indeed the sacredness of the office of ministers of religion, priests—however we term them; those who are ordained by God, have within the remit of that office the responsibility to hear confessions of those who have sinned and who somehow seek absolution. I accept all of that and I understand that concern. To seek to elevate confessions or statements made to a priest or minister of religion to the level of giving them privilege which would prevent the court insisting in appropriate circumstances that incriminating evidence, which is necessary for the course of justice to be properly run, should not be given in evidence before the court is quite another matter. I will give two examples in due course of what the consequence of conferring upon these relationships that kind of privilege could have.

Before doing that, as the First Elected Member for Cayman Brac did not outline the context in which this Motion is brought, I thought perhaps I should. This whole issue has arisen because during a trial before the Grand Court earlier this year, in which one Kurt Ebanks was charged with a planned and deliberate murder (*R v. (1) Brian R. Powell, (2) Kurt F. Ebanks, 2000*). The Crown had reason to believe that he had confessed his role in the killing to the Reverend Dee Dee Haines. The Crown, therefore, served a witness summons upon her. She applied to have it set aside, arguing that any relevant evidence which Kurt Ebanks had given her was protected by priest and penitent privilege.

Now, Mr. Speaker, the Reverend Dee Dee Haines was ordained as the Minister in the United Church of Christ on May 31, 1998 in the United States. When she took her ordination vows she was asked: **“Will you keep silent all confidences shared with you?”** To which she replied, **“I will, relying on God’s grace.”** Further, this obligation of confidentiality is also contained in the Code of Ethics of the United Church of these Islands, of which the

Reverend Dee Dee Haines was I believe, until quite recently, a minister.

Now, as things proceeded, the Crown believed that Mr. Ebanks had confessed his role in the killing to the Reverend Dee Dee Haines. Counsel for Reverend Haines, although at the time revealing nothing of the content of the conversation which Kurt Ebanks had with the Reverend Dee Dee Haines, asked the Court to assume that the Crown's thesis was correct. He submitted that the court should set aside the witness summons because any such admission or confession would be protected by priest and penitent or religious communications' privilege.

So, Mr. Speaker, for the purposes of determining this particular issue, the court proceeded on the basis that, in fact, Mr. Ebanks had made self-incriminating important admissions to the Reverend Haines about his role in the killing. The Court also assumed for the purposes of this issue that the confession he had given was done in the course of his seeking spiritual guidance and counselling.

The attorney-at-law, on Reverend Haines,' behalf, submitted to the court that it should recognise and give effect to a general or class privilege protecting all priest and penitent or religious communications without regard to case by case consideration. So, on that basis, there would be no need for the court to know anything of the content of the communication before determining that it was inadmissible. On the other hand, the Crown argued that, in law, there existed no general or class privilege, and further, there was no case authority in the Cayman Islands for or against this proposition. The Crown did concede, however, that the court had a discretion which needed to be exercised in accordance with the particulars of an individual case to refuse, in appropriate circumstances, to compel a priest or minister to answer questions even where those answers might be relevant.

So, against this set of facts the Crown asked that what is termed as *voire dire*, or a trial within the trial, be held to determine whether or not on the facts of this particular case the Court should exercise its discretion to have the Reverend Dee Dee Haines give the evidence or not. The court went on to review the case law, which is all non-Cayman Islands' case law,—the English, Australian, New Zealand, Quebec, and some US cases. They concluded that no such general class privilege existed in English case law, and as indicated earlier, there was none in Cayman. So we get to the point of saying whether or not the law, as it currently stands, is adequate.

Mr. Speaker, one of the cases which the court was referred to and which is set out in the court's ruling in relation to this matter is a case called the *Attorney General v. Mulholland and Foster* [1963] 2 Q.B. 477 (C.A.). This dealt with the situation in relation to journalists. The English courts held that journalists do not enjoy a privilege protecting the identity of their sources. In the course of examining this question, the

late Lord Denning, who was then Master of the Rolls, said, in an *obiter dicta*, that a member of the clergy enjoys no privilege which would permit him or her to refuse to answer relevant questions. The court noted that a member of the clergy, like an attorney, journalist, banker or doctor will not be directed to answer a question unless it is relevant, proper and necessary to the course of justice.

This judgment was also considered and applied by the House of Lords in another case involving a journalist, *British Steel Corporation v. Granada Television Ltd.* [1981] A.C. 1096, at pages 1168-69. There Lord Wilberforce said, "**Thirdly, as to information obtained in confidence, and the legal duty, which may arise to disclose it to a court of justice, the position is clear. Courts have an inherent wish to respect this confidence, whether it arises between doctor and patient, priest and penitent, banker and customer, between persons giving testimonials to employees or in other relationships. A relationship of confidence between a journalist and his source is in no different category: nothing in this case involves or will involve any principle that such confidence is not something to be respected. But in all these cases the Court may have to decide, in particular circumstances, that the interest in preserving this confidence is outweighed by other interests to which the law attaches importance.**" That, Mr. Speaker, is the key.

In this particular ruling involving the Reverend Dee Dee Haines and Kurt Ebanks, our court had this to say: "**The legislature of the Cayman Islands has, in the Evidence Law (1995 Revision), codified a number of the rules of evidence. That law makes no mention of the priest and penitent relationship.**

**"Counsel to the Reverend Haines has advanced a number of arguments in the realm of social policy in the course of inviting this court to create a privilege in the Cayman Islands for priest and penitent communications. As arguments in favour of a general or class privilege, I do not find them persuasive. The modern trend in the law of evidence is to prefer a principled approach to individual evidentiary objections over rules of automatic exclusion.**

**"The issue is best approached on a case by case basis. An answer will not be compelled unless, as the Court of Appeal said in *A.G v. Mulholland*, supra, the answer is relevant, proper and necessary to the course of justice.**

**"The court retains an overriding discretion to refuse to compel a witness to answer where to do so would be to violate a confidence: *Hunter v. Mann* [1974] 1 Q.B. 767 (C.A.); *R v. Payne* [1963] 1 W.L.R. 637 (C.A.). The Evidence Law (1995 Revision) s. 28 permits a court to exclude evidence in criminal proceedings where its admission would operate unfairly against the defendant. Such unfairness may arise where admission of the evidence would violate a confidence. Whether the**



**court's discretion would be exercised in favour of exclusion will depend upon a consideration of all the circumstances, including the nature of the confidential relationship and the probative value of the evidence."**

Mr. Speaker, that is the state of the Cayman Islands Law in this regard. The court reserves its discretion to view the evidence which would be given by a priest, a minister of religion, or a journalist, or a banker, or anyone who is in a relationship to which confidentiality is important. To weigh that evidence and decide whether in the context of the particular case to which it applies, the public's interest is best served by admitting or not admitting that evidence is a balancing exercise and, one, which the court is uniquely qualified to carry out.

I do not believe that we need to pass further legislation to create these privileged relationships. I believe that to do so would create serious moral burdens particularly on priests and ministers of religion, who perhaps have not fully grasped what this obligation would mean. I hear some snickering behind me but for those who believe otherwise let me draw two examples.

Suppose that Defendant A commits murder. Having done so, driven from some inner force over which he has no control he becomes contrite. He goes to his Minister and confesses, *'I am terribly sorry, minister, but I killed Bob Jones last night. I was driven by some inexplicable force and I just could not help myself and I killed him. I came to you for counselling seeking absolution.'* Confession is given.

A week later, he kills someone else and he again goes to the minister, confesses and seeks absolution and counselling. He then kills someone else. Now, if there is legislation in place which creates this sort of special privilege that someone who has committed a criminal act confesses to a minister of religion becomes privileged and, therefore, the minister of religion is enjoined from breaking that confidence and reporting that to anyone. What is the minister of religion to do in that situation—sit back, listen night after night to the confessions of a serial killer with his hands tied by the law, prevented by legislation from doing what every principle within him tells him he should do? Not only should these particular crimes that have been committed be reported to the relevant authorities, but also this man should have been locked up so that he could be prevented from committing more of these crimes.

*[interjections]*

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, I have heard that what I am saying is an exaggeration. Let me use a less more extreme—even though that is not far-fetched at all, serial killers abound; let me use another example, Mr. Speaker. An individual comes to a minister of religion and says, *'I am really so upset with what is being carried on at this school that do you*

*know what I have done? I have set a bomb there and it is going to go off in an hour.'* Now, the minister of religion is bound by the legislation which prevents him from reporting confidences given to him. What is he to do in that situation? Sit back while the school explodes with much loss of life because the criminal has this privilege?

You see, Mr. Speaker, what has been, I believe, not fully understood in the context of this whole situation is this: the privilege in a situation with an attorney and a client is a privilege which attaches to the client. It is not for the attorney-at-law to say whether or not he will disclose information given to him relevant to a case in which he has been instructed. That is a privilege that accords to his client and it is a privilege which attaches only when the information, which is given, is given in contemplation of the proceedings which are afoot or are about to be afoot. It is not any disclosure given to him.

So, Mr. Speaker, we have to be very careful when we seek to create this sort of special relationships. In achieving the legitimate objective—which recognises the importance of sacredness of this moral and Christian duty where priests have to hear confessions from their congregation or charges—we do not want to make matters worse. This is not only for society in general, or for the pursuit of justice but also for those priests and ministers of religion, themselves. We will run the real risk if we impose upon them moral obligations and contradictions, which they will be unable to resolve.

So, Mr. Speaker, I conclude by saying that I believe the state of the law, as it currently stands, adequately addresses the concerns of priests and ministers of religion that confidences shared with them by those who have committed a crime will be respected. What we are speaking about, as the law understands, is not a privilege accorded to a criminal nor is it an absolute bar to evidence of crime being given by ministers of religion in appropriate cases to a court of law to ensure that the ends of justice are achieved. The proper arbiter of deciding whether or not certain evidence should be given is the court of law. That is the state of our Law. That has been the state of the English Law since time immemorial. It has worked adequately.

Until this situation arose no matter had arisen before these courts because I believe in the past ministers of religion understood. They were able to make the distinction between confidences shared with them, which while important, did not really affect the disposal of a case and the attainment of justice in the context of the particular case. I believe that we should be slow to seek to interfere with a legal premise—which has stood for hundreds of years; which has served well; which reposes in the judiciary the discretion and the trust necessary for them to make the decision as to whether or not the ends of justice will be best served by the disclosure of the confidence or by its retention.

Therefore, Mr. Speaker, I cannot support the appointment of a select committee of elected Members to consider appropriate legislation in this case. I have given this matter the most careful thought and analysis and the views which I have expressed are considered views. I thank you, Sir.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I cannot resist the temptation to enter this debate before the Attorney General, the Second Official Member gets up to answer on behalf of the Government. The reason is, I believe that I have heard the Government's position, and if I have not, then it would be hard for me to imagine what the Government's position would sound like.

The Second Elected Member for George Town gave a brief legality which was totally accurate in its legal qualities. There are other qualities to government beside the legal qualities and there are other qualities to society beside the legal qualities.

Should we forget that the Church and the State have been partners in this human exercise for as long as we can remember? Even when man was dancing his primitive dance and worshipping his many gods, the State and what would be considered religion at that time were involved in an enterprise, which was to create human order and to maintain that order.

I am quite sure that the question we are dealing with is not just a question of how the English legal tradition would best be continued. The issue here is within the confines of our jurisdiction whether or not we have stumbled upon a predicament which demands we not only think legally in terms of jurisprudence, but that we also think in terms of theology.

When we consider the fact that the Church has always regarded its responsibility as a responsibility it could carry out as a result of its commandments from God, and as a result of the mission and commission which Jesus Christ left it, we have to understand the Church is not a group of preachers, but is in fact the wider community. When talking about issues of Church, we are also talking about issues of State.

One high-ranking law enforcement officer answered a question for me that helped me to be able to decide where I stand in regard to this Motion. He said that you can live without the policemen, but you cannot live without the priest. So, if as a State we had to make a decision, as to which we would first of all support in terms of giving a class of privilege, it would have to be after researching the situation; not because we are any holier-than-thou person—like a lot of those who profess in this place—but simply because we understood the logic of the development of society over a period of time. We would have to say that the role of the priest is a very important role.

Now, some of us say priest; some of us say pastor; some of us say minister. Some of us are not even

sure we are talking about some State-sanctioned church, or religion, or just any person out there who decides to call himself a member of the clergy and establishes a church. One reason why a Motion like this is going to be better off in a committee that would allow input from the religious community is that these details which they are also concerned about would be aired to Members of this Legislative Assembly. So, whatever results from this situation could be the result of consultation with members of the religious community as to how they see this particular request being able to assist them in terms of performing their sacred duties in our community.

Now, we are talking about how to assist and how to preserve the possibility of the police and the rights and jurisdiction of the judges and the law courts. We are not talking about how to preserve or assist the religious leaders of our community in preserving that kind of relationship that exists between the priest and the penitent, which is a very important relationship of trust.

There was a time when a person went into a Roman Catholic Church and they were almost un-touchable. They enjoyed, just by being on those premises, the same kind of privileges we enjoy here in this Parliament. We enjoy certain kinds of privileges ourselves because the Second Elected Member for George Town referred to different classes of privileges that exist in English law and society, which reflect more the type of evolution of their society rather than any kind of absolute correctness in regard to how these types of situations should be, or could be handled. What English law does is reflect English society, and English society values and priorities. It does not reflect absolute right or wrong. I cannot believe the evolution of British law to this point can always help me in terms of knowing what is right and wrong.

If we look at the Catholic Church the fact is that when the Catholic Church was first formed it was the original church; the church with the authority from the Emperor who was the State. So, the Church and the State did marry at the point in which it began to civilise and Christianise creating the whole empirical framework that Britain itself would later inherit as a result of Roman conquest. Much of Europe would have inherited it. There was little ability to actually separate Church and State.

Later there was the move to separate Church and State. There is still argument today over what is meant by Church and State and if the separation of Church and State is the separation of different functions rather than the literal separation. There is no literal separation between the values of Church and State. If there were, our community would have civil war. There could be no real separation in that sense.

We say that the judges have one function in order to command witnesses to attend. If we were dealing with the Roman Catholic Church, even in the heyday of their power, to demand that a priest attend

court would probably have to go through the Pope or someone in a high position of authority able to suggest that the Pope and King were equal. In the eyes of the society and in the eyes of the law and order, they were complementary parts of the same Crown.

As we evolve and separate more, what appears to be happening especially in the English society is that there is not as much reliance upon the power of the church because it is questioned in the first place. We know why, because of Henry VIII and the change from the Catholic Church under the direct authority of the Pope to a church that was more localised with more local authority. There was no need to invest in that local clergy the same power clergy had when they were a part of the Roman Catholic Church.

If, in English Law, there seems to be a lack of a clear-cut written position in regard to the Church having the unchangeable privilege, I can understand that when looking at the history. What is important when judges are making decisions, according to the Second Elected Member for George Town, is that they do look at every individual case to see if there is sufficient merit to grant special privilege to the—

**The Speaker:** May I interrupt you for just a minute? Is it the wish of the House that we continue without interruption until 4.30?

**Dr. Frank S. McField:** Mr. Speaker, I feel that I can continue.

**The Speaker:** We shall continue without interruption until 4.30. Please continue.

**Dr. Frank S. McField:** Mr. Speaker, I hope that the ends of justice are really the preservation of social order. That is what I am saying, that the justice system is integrated into the whole societal system, and that the end of justice is the preservation of social order. So, justice is served most clearly when the social order is preserved.

Therefore, when individual judges have been using their individual power to call clergy members and say they do not have to testify, they are exercising a power to show us that within the legal system, within British law, judges really do have more power than the priest. They exercise that power in such a way as to not upset the social balance. The social balance depends upon the respect of the priest; his role in society and the role in which confidentiality plays in terms of their protecting and preserving the relationship they have with the penitent.

When the question came concerning the Reverend Dee Dee Haines, I remember being in court listening to the case because I was interested in it. I must admit that I have gone through a few different versions of what I think as well. The particular position I am advocating today is not necessarily the position I started with because it is indeed a very complicated issue and should not necessarily be concluded with

debate in this House. It should go on to a select committee where this issue can be considered even further with the assistance of those persons who found themselves as a fraternity, at one time, in conflict with the dominant view or the view of the judges as representatives of the State.

I did an interview with the Reverend Colin Powell—

**The Speaker:** Cowan.

**Dr. Frank S. McField:** Colin Cowan. Yeah, Colin Cowan. It was a fine point he made which convinced me that maybe I had to give a little bit more attention to the religious position, the position of the church, simply because I was not as versed in that particular consideration as I was in considering the other end, that of the judiciary and the police.

What was being said in terms of his understanding of why Reverend Dee Dee Haines found herself in the position she did was because . . . There are different opinions on this. She was asked a question as to the information that she was told. I heard the presentation of that question was so general that it did not bring up the question of the serious crime. It was not asked whether or not someone had told her in confession that he had murdered someone.

Part of what the defence was arguing was that the Crown was taking a fishing expedition to find out as much as possible about the case without, at some point, committing itself by more or less saying that she was compelled by law to give evidence as any other person summoned by the court. They played and played with that situation and used different tricks until they basically imprisoned that woman. They intimidated that woman. The person she had confessed to said: "tell them" because it was the only way out for her as she had refused to say what it was or tell anything about that confession made to her.

As the Second Elected Member for George Town has already said, the confidentiality had nothing to do with our laws; it had to do with her commitment to her church and to her God. All that is being asked in terms of the Motion is what importance do we place in a judicial setting on that commitment that persons living according to those religious codes and principles have made? What importance do we put on that commitment?

If those of us who use the Bible in the courtroom to solicit truth were to turn around and say that that is not important, then we are defeating the very foundations of our justice system. The justice system, believe it or not, is not just based on the ability to know how to weigh evidence, but also the truth of that evidence. The truth of that evidence is partly established by the oath persons take in giving evidence.

If we are going to say, on one hand, that our judicial system depends upon the oath people take based upon the Bible; because on the other hand if they tell a lie we say they will be punished for it.

Therefore, we believe, until it can be proven otherwise, that because they are taking this oath they are telling the truth. So, we must believe, have trust and confidence in those who have taken this oath to make a particular mission their way of life, which is to preach the gospel and live according to those principles that have been established by their leader, their King, and their follower, Jesus Christ.

The position we found ourselves in may not necessarily be something we will experience tomorrow. I do not think we will get into this problem again in a hurry; at least I pray not. It does not necessarily mean that we cannot believe in the whole concept of written law. The English are strong believers in the unwritten law, and we know that people who established the American Republic believed in the written law. We had the argument about whether or not the human rights convention in Britain was there as an unwritten law. Britain now has a written convention going to show that there is some logic in actually having the rights and privileges of persons and classes of persons defined in law.

We are not necessarily saying that we are going to run into the problem tomorrow, but I believe we should get to the point where we seriously discuss these problems and their possible ramifications in committee with persons who feel they have an interest at stake.

In speaking to some of the members of the Ministers' Association, I believe there is a need in any case for us as a Government and Legislative Assembly to insist that there is more structure, definition and clarity in regard to the religious roles in our society. I am not saying the Government should favour one denomination over another. However, there comes a point when we have to understand the importance of religion in preserving values and in transmitting positive values. We need to also understand where it is important that we make sure, as a government, that the wrong people do not get their hands on innocent, believing people who are there to become victims of some people who are preaching the gospel. I think this could possibly begin to happen as a result of the consideration of this particular privilege because the existence of a privilege will also mean the existence of a responsibility.

If there are persons who are going to be asking that they benefit from certain privileges, they are going to have to be established in a very responsible way. I am not saying that the Government should get directly involved in the structuring of these responsibilities, and the maintenance of this type of code, but certainly the Ministers' Association and persons involved there might be the types we need to take on board in terms of looking into it.

The Second Elected Member for George Town has really made a case to say that the public interest would be better served by leaving things the way they are; leaving it to the judges to use their discretion to decide whether or not some should be considered to

have privilege and whether or not the evidence that has been given to them is privileged. They can only decide whether or not the evidence, which has been given to the priest or the pastor, is considered privileged once that evidence has been disclosed to the enquiring person or body.

In doing that, they are saying that the judge is more dependable and trustworthy than the priest. I do not think that is necessarily true. The judge might be able to talk about principles of justice as those principles have evolved in common law but the priest is still able to talk about a greater kind of justice, and that is divine justice. Therefore, the basis of that justice is that everyone should be treated equal. Everyone should be given a fair chance to repent and seek redemption.

So, when a person goes to a priest and says, 'I have sinned', it is not necessarily up to him to say, 'Oh, you have sinned, let me judge you'. He is not a judge so he cannot judge that person. God is going to judge him or her. That is not the function of the priest. If the police or a judge finds that they need that evidence in order to judge the person, then in a lot of cases he or she might be willing to disclose that evidence. However, in a lot of cases he or she might not want to disclose that evidence simply because an agreement was made with the person it would be held confidential.

I am not a priest but we are doing a survey now and we are telling people it is going to be held confidential. I do not know how far that might work out. There are times when you must establish a certain amount of confidentiality and trust in order to achieve what is necessary.

So, if someone went to the pastor and said, 'I am going out tomorrow night to kill', there is no reason why he should not tell the police. They all say they would tell the police. If the Second Elected Member is saying, in fact, the law would prevent them from doing that then I guess we would have another problem again. Most people, I believe, are so righteous that they would inform the police if they knew they could save another person's life. When a murder has already been committed and someone tells a priest then the priest is not necessarily helping the person who has been a victim of it by disclosing that information, if he is under the obligation to hear the confession and keep it confidential.

Mr. Speaker, I would just like to end this by saying that we need to just give other persons who have an interest in this Law a chance to voice their opinions. They are not Members of the Legislative Assembly but they do trust us sufficiently to realise that we would, at least, create an opportunity for dialogue. Sending this Motion, as it reads, to a select committee would create the possibility for dialogue, not close it. If we vote against this Motion now, it closes the possibility for dialogue and there is no reason why that should be done at this particular point. We gain nothing at this point by closing this dialogue and not

allowing those who also have an interest in it to have a say.

The First Elected Member for Cayman Brac brought this Motion because she is one of the persons who have that type of relationship and orientation. So, we might say she is acting on behalf of a community that wants to discuss this more, and does not want just the Legislative Assembly to discuss it here and make a decision.

So, Mr. Speaker, I hope when the Government gets up to reply, they can find it in their hearts, minds and soul to understand and accept the benefit of dialogue rather than the benefits of sending this to a position of silence.

**The Speaker:** We have about thirteen minutes to the hour of interruption. Does any other Member wish to speak? The Motion is open for debate.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, thank you.

I noted that you pointed out that there were thirteen minutes left and then asked if whether there was any Member who wished to speak. Are you implying that if a Member wishes to speak for more than thirteen minutes you would be minded to adjourn at this point? I am willing to speak but I will speak for more than thirteen minutes.

**The Speaker:** Well, you will finish up on Wednesday. Please continue.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. That is all I was trying to ascertain.

Mr. Speaker, Private Member's Motion 4/01 is one that so far I have heard two advocates speak for. One, looking at the legal perspective and, the other, looking from the point of view of whether or not taking this matter to a select committee is a bad thing. In so doing, saying that, at least, creates a possibility for dialogue, which is true.

I certainly, as a Member here, wished that the Mover of the Motion had spoken to whether or not we should indeed go that far. I say that because I do not believe that I, or any other Member in this House, need necessarily vote in a particular manner just to take something to a select committee for the sake of it.

I certainly hope in the First Elected Member for Cayman Brac and Little Cayman's winding up that a much clearer position is outlined bringing to bear just what it is that certain denominations in this Island seek to achieve and what denominations they are.

Mr. Speaker, when we speak about priest and penitent, pastor and penitent; priest and pastor means a lot of different things in these Islands and this world. These days I hear persons speak of different religions and not different denominations. That is how far we are removed from the ideal world of having one universal church, which in itself is the desire

of the acknowledged leader of the Christian church, that is, Jesus Christ.

When we look at the Cayman Islands we see an Island that potentially could have the highest per capita rate of churches in the world. It is astounding the amount of churches we have for such a small population. It is also known that many of our churches are family based. In fact, the church I grew up in had a lot to do with my grandfather. The church I currently attend has a lot to do with some of his distant relatives. What I am saying, when one looks at the Book of Church Order for numerous denominations in this country, one will quickly see that a lot of the churches in Cayman do not necessarily follow the letter of the law in regards to the Book of Church Order for the home church.

Now, when we are going to talk about creating legislation that in effect protects relationships and, by extension, conversations, we have to be absolutely clear as to what it is that we are seeking to protect. What is a priest? What is a pastor? Who defines it? Who is it that looks after the fact that the rules laid down are necessarily biblically based?

Mr. Speaker, three and a half short years ago, on a personal level, I decided that I was going to change my personal way of living. When a person seeks to ensure the way he lives is by a standard that is laid down in the Bible, we will quickly see that it is really depending on one's persuasion whether or not the person made the choice; whether or not the person, depending on your denomination, was predestined and therefore did not naturally make the choice but, in fact, has come under grace because of the predestination spoken of by St. Paul.

I have searched long and hard in the Bible. In fact, I have searched long and hard in three different versions of the Bible, namely, the New International Version, the King James Version and the Oxford International Version trying to seek out where such thought processes come from. One would think that if any church seeks to have such protection, Mr. Speaker, I would hope that the protection is biblically grounded and does not just come out of a thought process that says, *'This would be good'*. What is good and what is biblically grounded can often be something that is very different.

Mr. Speaker, this matter is covered and not covered by numerous Books of Church Order. For example, the Lutheran faith looks at this issue and they speak to different scenarios. One of them is whether or not the penitent, that is, the person who has this remorse and is coming and seeking counsel and guidance, is getting something off their chest.

**The Speaker:** When you have reached a convenient time we will take the adjournment.

**Mr. Rolston M. Anglin:** Mr. Speaker, I think we had better break now because I was just about to get into

one particular denomination and that would take us quite a few minutes to get in-depth.

**The Speaker:** I will entertain a motion of the adjournment of this Honourable House.

The Honourable Minister for Planning, Communication and Works.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** I beg to move the adjournment of this Honourable House until Wednesday morning at 10 am, Sir.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am on Wednesday, 18 July 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM WEDNESDAY, 18 JULY 2001.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**18 JULY 2001**  
**2. 25 PM**  
*Sixteenth Sitting*

*[Prayers read by the Second Elected Member for West Bay]*

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies for absence from the Honourable First Official Member, who is on his quarterly official visit to Cayman Brac, and from the Second Elected Member for Cayman Brac and Little Cayman who is on Cayman Brac for official business.

Item 3 on today's Order Paper, Questions to Honourable Ministers and Members, but before doing so, I would appreciate a motion to suspend Standing Order 23(7) and (8).

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

*[Moved by the Second Elected Member for Bodden Town and seconded by the Third Elected Member for George Town.]*

**QUESTION PUT. AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** Question 87 is standing in the name of The Second Elected Member for Bodden Town.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 87**

**No. 87: Mr. Gilbert A. McLean** asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development what is the monthly payroll of government as of May 2001, including employees on pensionable and permanent employment and group employees.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The monthly payroll of government, as of May 2001 for permanent, pensionable employment and group employees are as follows (for the period January through May 2001):

|                             |                  |
|-----------------------------|------------------|
| Monthly                     | \$ 56.84 million |
| Bi-Weekly (group employees) | 9.21 million     |
| Veterans and Seamen         | 2.20 million     |
| Financial Assistance        | 1.55 million     |
| Total:                      | \$ 69.80 million |

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Member say what percentage of the National Annual Budget the total represents?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** In responding to the Member's question, the Annual Budget for the year 2001 amounts to \$360.3 million including capital development, but specifically, recurrent expenditure by itself, which amounts to \$276.5 or \$275.7 million as shown on page 13 of the annual estimates. It can be seen that the amount allocated for personal emoluments amounts to \$151.7 million.

The amount allocated to personal emoluments as a percentage of recurrent expenditure through the end of the year approximates to 55 per cent.

**The Speaker:** On a point of clarity; the question asks for the monthly payroll of government as at May 2001, including employees on pensionable and permanent employment and group employees. Is it my understanding that the figures you have given are for the months of January through May, four months?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker. You raised the point I was going to ask. I would like to further clarify. We are talking about \$69.80 million in a five month period. So, we would divide that by five to see what the monthly payment is, which, according to what I get is \$13.96 million per month. Is that correct?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.



**Hon. George A. McCarthy:** I have the details for the Honourable Member.

For the month of January, the amount paid out was \$12.87 million broken down to:

|                             |                 |
|-----------------------------|-----------------|
| Monthly                     | \$10.52 million |
| Bi-Weekly (group employees) | \$1.6 million   |
| Veterans and Seamen         | \$440,000.00    |
| Financial Assistance        | \$310,000.00    |
| Total (Month of January)    | \$12.87 million |

For the month of February, the amount paid out was \$15.6 million broken down to:

|                             |                |
|-----------------------------|----------------|
| Monthly                     | \$12.8 million |
| Bi-Weekly (group employees) | \$2.04 million |
| Veterans and Seamen         | \$440,000.00   |
| Financial Assistance        | \$310,000.00   |

For the month of March, I can give the total. The amount paid out was \$15.59 million. For April, \$12.85 million; for May \$12.89 million. So, it is averaging approximately \$13 million per month when taking it to the nearest million dollars.

We know that the months of February and March had the question of the back pay and that was 6 per cent carried over from the year 2000.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell us if veteran and seamen's grants and financial assistance are considered personal emoluments in Government?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** No, Mr. Speaker, they are considered grants made to persons. The reason they are included with those persons is that they receive their salaries at the end of the month. As can be seen, this can be separated out quite easily with the amount deducted to show specifically the amount paid to those persons receiving monthly salaries and those in the group employee category.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** That is exactly what I was trying to arrive at. He has clearly explained that. Thank you.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Would the Member say if the monthly figure includes civil servants who receive pension?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Would the Member be talking about persons receiving pensions on a monthly basis? If that is the case, the payments are made by the Pensions Board out of the pension fund.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say if COS (Contracted Officers' Supplement) is included in these figures for the monthly payments here given?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Yes, these figures would include the cost of living supplement.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In a previous reply the Third Official Member said that pensions are paid out of the pension fund; could he elaborate? It was my impression that the fund was something being held in a large amount over a period of time. Is money actually now being taken from the fund to pay the present pensioners?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** If the Member will recall, the amounts to be paid out to those persons who would normally be receiving pensions on a monthly basis is paid over to the Pensions Board and becomes a part of the funds available in the pension fund balance. We have that unit making direct payments to pensioners.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for today.

Item 4—Other Business. Before moving on, I ask for the Suspension of Standing Order 14(2) in order for Private Members' Business to be taken on a day other than Thursday.

#### **SUSPENSION OF STANDING ORDER 14(2)**

*[Moved by the Honourable Minister for Health and Information Technology.]*

**QUESTION PUT. AGREED: STANDING ORDER 14 (2) SUSPENDED TO ALLOW OTHER BUSINESS TO TAKE PRECEDENCE OVER GOVERNMENT BUSINESS.**

**The Speaker:** Private Member's Motion No. 4/01 Special Relationship Privilege. Continuation of Debate thereon. The Second Elected Member for West Bay.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 4/01

##### SPECIAL RELATIONSHIP PRIVILEGE

*(Continuation of Debate thereon)*

**Mr. Rolston M. Anglin:** When we adjourned on Monday, I had started to outline some of my concerns in regard to the Motion before us. To back up slightly, I would like to say that when the Mover of the Motion has the opportunity for her right of reply I would like a clear understanding of exactly where it is this Motion is seeking to go.

I think this is the third or fourth such Motion calling for this House . . . the sixth Motion, I understand from a well-informed colleague that is going to a select committee. The business of the House is the business of the country, and this could be due to my inexperience, but we on the Backbench have a lot of work to do in our constituencies. We all have offices, and keep office hours. I am greatly concerned about the amount of time we will again have to tell our constituents that we will not be in our offices. After sitting we will then be tied up in numerous committees.

I personally would like to understand exactly why this Motion needs to go to select committee and why we cannot have the arguments outlined here and now, and move ahead. I know this is something new to the Island. However, I think we could competently grapple with the situation here in the Legislative Assembly once we were to hear a strong argument for or against the proposals this Motion speaks to.

Obviously, we were put here to do the job, and part of the job is to be in select committees, but a big part of the job is to be in our offices. I know that my constituents have had some frustration due to the fact that we have sat for two rather extensive periods so far.

When we look at the fact that certain matters being called for in this Motion, from my research at least, do not seem to meet with any clear-cut agreement across denominations or any clear-cut agreement across countries and jurisdictions, gives us one potential answer as to why the Mover would seek to have this go to a committee. Be that as it may, from the arguments both for and against that I have seen, I think that once the House can get a clearer understanding of exactly where this legislation seeks to take the relationships considered to be confidential, and therefore a call for a special relationships privi-

lege, then we should be able to adequately deal with the information.

It is worthy of note what some denominations say about this topic. I will begin by looking very briefly at the Wesleyan denomination. I have searched and was not able to find anywhere in the rules of the Wesleyan Church in America, which most, if not all the Wesleyan Churches in Cayman are members of. However, they do cover an area that is at least peripherally associated with this topic.

They speak of "Christian citizenship" and go on to give rules that members of the Wesleyan denomination are asked to follow in regard to government duties. I quote, with your permission, Mr. Speaker.

**The Speaker:** Please do.

**Mr. Rolston M. Anglin:** From the contemporary issues faced by persons in the Wesleyan faith, and what the church official says on it.

**"In regard to earthly citizenship the Christian should support the government with prayers, taxes and respect.**

**On its part, human government should promote justice, preserve the peace, and respect the separation of church and state. Justice should be expressed in the restraint of social evil and the protection of individual rights. International peace should be promoted consistent with adequate national defence against external forces. Separation of church and state is necessary if the church is to serve as a moral force and a conscience in society. When there is conflict between heavenly and earthly citizenships as to specific claims upon the Christian, the individual has a right to seek a change in the law and to act so as to maintain a clear conscience before God."** That is as close as I could find from the official information provided by the Church as to dealing specifically with—and it certainly does not—the matter before us.

**The Speaker:** At the conclusion of your debate, will you make that paper available to the Clerk to be passed on to the Hansard Officers for recording?

**Mr. Rolston M. Anglin:** Certainly.

It was brought to my attention as I arrived here today, that on CNN there was a rather interesting case being reported this morning. It had to do with two young men who have been jailed for a murder. A particular pastor has now come forward to say that he has information that would exonerate those two individuals. The information he had was an admission from a third individual who has subsequently died.

It is my information that in this case the district attorney has refused the evidence being provided by the pastor, on the grounds that in that particular state there is specific legislation covering the confidentiality of pastor and penitent relationships. To allow the pastor to come forward with this information would be in

contravention of that particular statute. That seems to most of us who are ordinary citizens, seeking justice in cases, to be a rather harsh and unconscionable way to act. The point being that it certainly highlights some of the potential pitfalls when we seek legislation on such matters.

I would certainly think that if a person gives permission for a pastor to testify, even if there is legislation, my understanding would be that that pastor or priest would be able to testify. However, in this case that was frustrated because the particular individual was deceased and could not give such permission.

This certainly would serve all of us well in terms of getting a much fuller understanding of the details of that case, so that we can all be informed to the point where we do not make those sorts of errors if we were to ever have such legislation in these Islands.

I move on to Presbyterianism. I am a member of the Boatswain Bay Presbyterian Church, a member church of the Presbyterian Church in America (PCA). In our book of Church Orders, which governs the church, this matter is not spoken to at all. The reason behind this is, as far as that denomination is concerned, if an individual is truly repentant, it is incumbent upon the pastor to try to make sure he guides that individual spiritually to a point where he would be repentant and not commit whatever illegal, immoral or sinful act he has committed any longer. However, the church also believes that to not have the ability to report and testify about illegal activities to the Government is not in standing with biblical doctrine; we see it as incumbent that we support the Government of whatever country a PCA church is in, in all ways possible.

We also see it as a moral obligation to society, that if the code society has laid down as the way in which persons are supposed to behave and interact within that society, and if the church is not part and parcel of ensuring that code is upheld, the church would be going against the Government which is an integral part of society in which the church is located.

The Presbyterian *Book of Church Discipline* actually does speak to this issue. The *Book of Church Discipline* is what is taught at the Westminster Theological Seminary. If I may quote from page 30, under "Confidentiality" it says: "**Several matters must concern us in a preliminary way. To begin with, take the ever-larger number of persons involved in the ongoing process of church discipline. First one, then two, then three or four, then the entire church, then the World. The implication of this biblical requirement to seek additional help to reclaim an offender is that Christians must never promise absolute confidentiality to any person. Frequently it is the practice of Bible-believing Christians to give assurances of absolute confidentiality, never realising that they are following a policy that originated in the Middle Ages and is unbiblical and contrary to scripture. There is not a scrap of evidence in the Bible for this practice.**"

That is the view of the Presbyterian Church, namely, Dr. J. E. Adams. In fact, the church actually holds certain views in regard to persons who sin against each other, and persons who then go on to sue each other. That view is taken from the Bible, Matthew 18:15-17.

**Mr. Gilbert A. McLean:** Mr. Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** May I hear your point of order?

**Mr. Gilbert A. McLean:** The Motion before the House is asking that a select committee be appointed of all elected Members to consider appropriate legislation to preserve and/or create special relationship privilege, included but not limited to priest and penitent; pastor and penitent; counsellor and client.

I fail to see the relevance of a Member debating what is said to be the order book or directives of some particular church. I call the Chair's attention to the matter of relevance.

**The Speaker:** I carefully note your point of order and it is a point of order.

I noticed that in the preamble, the Second Elected Member for West Bay did not support the Motion going to a select committee. This would be relevant to his idea. The Motion does call for it to be a select committee and really that is what we are debating.

You do have a point of order.

*[Addressing the Second Elected Member for West Bay]* Please refrain from going into extreme detail in your debate.

**Mr. Rolston M. Anglin:** I note that the resolve of this Motion is asking for me as an Elected Representative to vote whether or not we go to select committee "**to consider appropriate legislation to preserve and/or create special relationships' privilege, including, but not limited to, priest and penitent, pastor and penitent and counsellor and client.**"

If the way in which pastors view the notion of a special relationship privilege is not relevant to my decision as to whether or not we go to a select committee, then I am not sure what would be.

**The Speaker:** As a point of clarification, the simple thing is that you would vote against the Motion, or you would support the Motion as written.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker. I agree and I take your point.

When we seek to take an important matter such as called for to a select committee, I feel it incumbent upon myself to ensure that when I vote I do so with a clear conscience while conveying to the people of

these Islands the reason why I voted in such a way. I believe I should have some logic to what I do.

I have carefully noted the legal argument put forward by the Second Elected Member for George Town. I feel as though those arguments were clear and highlighted enough evidence from the legal basis that at this point in time I cannot be convinced that such legislation is appropriate for these Islands. I cannot, therefore, support going to select committee. At that stage, I would be wasting my time in looking at something that I do not feel appropriate.

I also looked at the other side of the coin. I spoke to a number of pastors and looked at a number of denominations to get guidance as to where this matter actually stands. While I acknowledge that there are certain States in the United States which uphold such relationships, just about every denomination I saw that supported this always had one word of caution. This was that such relationships should not be used by persons who simply want to get something off their chests. In other words, one commits an act that causes one to feel guilty and one needs to tell someone, and who better to tell than your pastor or priest?

I also noted the reservations of certain pastors locally in regard to the fact they do not feel that such protection is necessary because they operate on a code of high moral and ethical conduct. Whatever comes to them is information they feel is very important to the person giving it. However, they also recognise they have a biblical duty to the State when crimes are committed and confessed to them. They expressed they did not see any need to seek any legal protection because they felt duty bound to the community they live in to testify if called upon by the courts.

I would like to wind-up by actually saying that the argument as outlined by the Second Elected Member for George Town I thought was good, clear and succinct. Given the nature of the specific case that has brought about a lot of the reaction in this area, the case involving the pastor from the John Gray Memorial United Church, I would hope that the judiciary has taken the opportunity to ensure that the Cayman Ministers' Association, indeed all pastors and priests in this Island, clearly understand the way in which common law operates in this specific area so that they have a clear understanding of the legal ramifications of their pastoral duties.

I would also like to add, that when it comes to making a judgment call in regard to whether or not a person who is repenting of some simple act, is either truly repentant and want to change his ways, or just get something off his chest, is a matter of great subjectivity.

I would like to end by saying that as a Member of the Legislative Assembly, I would like to hear exactly what it is that we are seeking to do. I look at the Motion and see that it says in the second, and third, "Whereas": "**AND WHEREAS presently,**

**such said special relationships' confidentiality is not often viewed as a sufficient ground of immunity;**

**"AND WHEREAS the Courts have an inherent wish to respect special relationships' confidence, in the absence of proper legislation there is the element of uncertainty based on the exercise of one's discretion . . ."** I think that speaks to the concern I just raised in terms of the actual subjectivity of some of this matter we are seeking to debate.

My final point is, that when we seek to protect pastor and penitent relationships, I think we have to bear in mind the backdrop to which all of this is taking place. It has been made clear that the expectation is we will have a Bill of Rights in this country in the near future. Freedom of religion is something a lot of people in this country take to mean you are free to choose what denomination within Christianity you want to go to. However, we have an ever-increasing global village in which we live. We should not think that everyone in this community is going to practice Christianity. Indeed, one of the denominations I researched in this matter spoke of spiritual advisors. As I said on Monday, 'What is a priest? What is a pastor? What is spiritual guidance?'

I was at the Constitutional Commissioners' meeting in West Bay last night. A Caymanian lady rose to speak on this very issue and tell everyone that she practices a different faith and welcomes a Bill of Rights so that her right to practise her religion will be a fundamental freedom. This legislation obviously, at least in my view, seems to be geared a lot more toward Christianity. The First Elected Member for Cayman Brac and Little Cayman can clarify that in her winding up. However, that is probably not going to be the only religion practised in these Islands. My question is: what about the other religions? What is their belief? How is this Motion going to seek to provide assurance that they too, as a matter of right, are covered?

This is an extremely controversial topic. There certainly seems to be a myriad of views across Christianity and I am sure once we see how other religions look at this we will see a lot of other views. At this point, I feel convinced that the arguments put forward by the Second Elected Member for George Town were sound and adequately dealt with this area. However, I look forward to hearing the Seconder and the Mover debate on this matter. Thank you.

**The Speaker:** Would it be the desire to take the afternoon break at this time? We shall suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 3.25PM**

**PROCEEDINGS RESUMED AT 4.34PM**

**The Speaker:** Please be seated.

We have reached the hour of interruption. I would entertain a motion for the adjournment.

The Honourable Minister for Health and Information Technology.

### **ADJOURNMENT**

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.34 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM THURSDAY, 19 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**19 JULY 2001**  
**10.50 AM**  
*Seventeenth Sitting*

*[Prayers read by the Honourable Minister for Planning, Communications and Works.]*

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements

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

**APOLOGIES**

**The Speaker:** I have apologies for the unavoidable late start and apologies for absence from the Honourable First Official Member who is in Cayman Brac and Little Cayman on his quarterly visit. I also have apologies for late attendance from the Honourable Minister for Health and Information Technology.

Item 3 on today's Order Paper, Statement by Honourable Ministers/Members of Government. A Statement by The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**STATEMENTS BY  
MINISTERS/MEMBERS  
OF THE GOVERNMENT**

**PROGRAMME DIRECTOR QUINCENTENNIAL  
OFFICE AND NEW DIRECTOR OF TOURISM**

**Hon. W. McKeever Bush:** Thank you, Mr. Speaker.

I wish to advise this Honourable House that His Excellency the Governor has offered the current director of tourism, Mrs. Angela Martins, the post of Programme Director in the Quincentennial Office effective 1 August, 2001. A decision by Mrs. Martins is expected shortly and the appointment of the Quincentennial Celebrations Committee will be done by Executive Council on Tuesday of next week.

I can also advise this Honourable House that the administrative process has commenced to identify a new director of tourism. This process will involve advertising the post locally, as well as employing an executive search firm which will identify potential applicants. The applications emanating from this process will then be forwarded to the Public Service Commission (PSC) for consideration, along with the local applications.

A short list of the most qualified applicants will then be prepared and the PSC will interview those applicants and subsequently make a recommendation to His Excellency the Governor.

Although the post has not yet been advertised, we have already received a number of applications from both local and overseas applicants in anticipation of the advertisement. In the interim period, between 1 August 2001, the selection period and placement of the new Director, the department will need leadership. Accordingly, the Acting Permanent Secretary, (PS), in my Ministry, is considering all available options for an acting director and will make a recommendation to the PSC shortly. An acting director of tourism will be in post by 1 August 2001 and the appointment will continue until the new director is in post. This appointment will ensure continuity in the directorship of the department.

**The Speaker:** In accordance with Standing Order 30(2) I will allow short questions.

The Third Elected Member for George Town.

**SHORT QUESTIONS—STANDING ORDER 30(2)**

**Dr. Frank S. McField:** Would there be a possibility for us to have a copy of the statement read by the Minister?

**The Speaker:** It will be circulated, yes.

**Dr. Frank S. McField:** I noticed that the Minister said Mrs. Angela Martins had not given her consent to this post as of yet. I wondered whether or not it was normal to comment on the offer at this time without first of all giving her the opportunity to make a decision.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport, do you wish to comment on that?

**Hon. W. McKeever Bush:** That is a civil service staffing matter which is between His Excellency the Governor and the Director, Mrs. Angela Martins.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Did I hear correctly that the Minister said the Permanent Secretary in his Ministry will fill the post of Director of Tourism temporarily? Will he make an appointment to that?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** What I said was that the acting PS will propose a recommendation to the PSC shortly, and is considering all available options.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Is it the case then that such will accord or get approval of the Governor as well, via the PSC, as is the normal process?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I imagine that the PSC advises His Excellency the Governor on any recommendation. As such, I suspect that is the route.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I was wondering if the matter regarding the previous Director of Tourism is a civil service matter which involved the Governor. Why is it that this Honourable House has not been informed of the matter by way of the Chief Secretary? Why is the Honourable Minister informing us at this time?

My concern is that it puts the previous Director of Tourism on the spot in that people already know she has been offered a position, when, in fact, she has not had an opportunity to make her decision before this was announced.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The Governor is responsible for appointments and that is what the statement says. I am responsible for the good governance, orderly conduct and progress of my Ministry. To save speculation, Mr. Speaker, I thought it best to make this statement. Perhaps if I had not, the same people questioning would be asking why I did not.

**The Speaker:** Item 4, Other Business. Private Members' Motions. Private Member's Motion No. 4/01, Special Relationship Privilege. Continuation of Debate thereon.

The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 4/01

##### SPECIAL RELATIONSHIP PRIVILEGE

*(Continuation of Debate thereon)*

**Hon. W. McKeeva Bush:** Mr. Speaker, The House is being asked to consider a very delicate and important matter. I have listened to what some Members have said.

In looking at the Motion, I believe it is flawed to an extent in that it presupposes somehow, that legislation already exists to do what it asks. Rather, if the House was so minded and a committee was set up, it would be looking at what could be put in a law, or what kind of law, if one were to get some kind of privilege.

I have my personal feelings about a pastor and parishioner relationship. As far as I am concerned, it strikes at the very centre of our being. However, I do not think the Holy Bible, which I often look to for some guidance, is saying that any relationship is so privileged to allow injustice to prevail. What I most consider also is that the Church is one of our greatest vehicles for social partnership and I have always recognised it as such.

If this is so and if it is not this committee—that seems to be the way the House is moving—then perhaps more dialogue in these times, when every institution is called upon more and more to face delicate issues, needs to take place between Judiciary, Elected Representatives and the Church on this issue. What I would suggest to the House on this matter is that we give an undertaking to the Church to have discussions on it; that is the Church and Judiciary, so as to come to an understanding we can all live with.

It is a very delicate matter and I do not believe that anybody in this House wants to do the wrong thing. When my previous Pastor got caught up in the issue I readily told her that I did not think anyone should withhold information that could bring justice to the table. On the other side, there is great importance to be paid on the relationship between a pastor and parishioner, or someone who goes to him for guidance or counselling.

I would make the suggestion that the House, in not passing the Motion, would give an undertaking we would call together the Judiciary, the Church, and Elected Representatives to discuss what could be an arrangement we all are satisfied with. Thank you.

**The Speaker:** Does any other Member wish to speak?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you Mr. Speaker.

I too, rise to respond on the part of Government to the Motion. This is a significant issue. In the Motion as proposed, there are four propositions which lead to a resolution. I intend to look at each of those.

Firstly, it said: **“There are many important relationships which depend upon the assumption that confidence will be respected.”** I have no doubt that that is the case. The question might be what are they? The Motion does not limit them, but it cites several including priest and penitent, pastor and penitent, and also counsellor and client. It could have gone on to include journalist and source; doctor and patient; and others that some legal systems recognise as being entitled to some kind of privilege.

The second proposition states: **“Presently, such said special relationships’ confidentiality is not often viewed as a sufficient ground of immunity.”** I am only aware of one not unimportant, but one recent case here where that view was taken. However, as a general proposition, I am in some little doubt that this may be the case because it does not appear to be supported by case law in relation to the matter to which I will advert at a later stage. An examination of the attitude of the courts may assist in establishing whether or not this proposition is as stated.

The third proposition is an acknowledgement also, which states: **“The Courts have an inherent wish to respect special relationships’ confidence, in the absence of proper legislation there is the element of uncertainty based on the exercise of one’s discretion.”**

I have to say that the first part is undoubtedly accurate. The courts do have an inherent wish to respect these confidences and endeavour to do so. The courts generally support preserving certain confidences. The second part is true, in the sense, that in any exercise of a discretion there will be some uncertainty, as to the outcome, otherwise there would be no discretion. The issue underlying the Motion, however, is whether that discretion should be removed by granting immunity from disclosure as a rule of law.

In the final proposition it is assertively stated: **“It is in the public interest for appropriate legislation being passed to enhance, augment and/or preserve special relationships’ confidence which has been a part of our Caymanian culture for decades.”** This seems to be the core issue, namely, whether it is in the public interest to create or enhance such privileges by means of a general rule in the law. It appears from the Motion that the remit of any select committee would be predicated on this position.

Accordingly, the resolve section of the Motion seeks to have a Select Committee of all Elected Members (I note) to consider appropriate legislation to preserve and/or create special relationships’ privilege, but not limited to the categories mentioned earlier.

*[interjections]*

**Hon. David Ballantyne:** I am only referring to the Motion as tabled. I am not taking any issue with any aspect of it, other than those to which I specifically refer.

I simply say, let us look at where we are and where we are likely to go in order to put this matter in context.

It is undeniable that much of the heritage of the law here has stemmed from England and English common law to which the Cayman Islands law and legal system often looks for guidance, as was, in the recent case. In that case, the judge carefully reviewed the position on the authorities and brought out the contrast between the United Kingdom and Cayman position, with that which obtains in the United States, Australia, New Zealand, and to Canadian Provinces.

The English authorities in support of the priest and penitent privilege, and some were cited in that case, are from around 1830 to 1850. The case of B-road v. Pitt was cited by both sides to the argument. The reason for that is not too surprising in that that case evidenced an attitude of the courts against compelling the disclosure of information which had been imparted in confidence. It also is authority for the proposition that no such privilege exists at law.

Subsequent cases tend to support the absence of privilege, but support putting limits on the circumstances in which disclosure would be compelled. The conclusion of the judge in the recent matter was that no general or class privilege existed for priest and penitent communications, and he mentioned that the Evidence Law makes no such provision.

The judge rejected argument in favour of the court creating such a general rule, and as we heard, he mentioned that the modern trend in the law of evidence is to prefer, what he called, a principled approach to individual evidentiary objections. He preferred that approach as against automatic exclusion, which is what would occur if a general privilege were established.

There is a fair amount of case law on this issue, and I only intend to refer to such of it as may be helpful. Some of it was already touched upon in earlier contribution.

I would point out, as a matter of statute, the Evidence Law of the Cayman Islands in section 28, enables a court to exclude evidence in a criminal trial where to admit it in evidence would operate unfairly against a defendant. That was acknowledged by the judge in the recent case. In fact, he said that such unfairness may arise where admission of the evidence would violate a confidence.

Just so that the House and the listening public are clear about the provision, it says: **“Nothing in this Law derogates from the power of a court in any criminal proceeding to disallow evidence otherwise admissible which, in the opinion of such court, would, if allowed, operate unfairly against**



**an accused person.”** So, there is already a statutory safeguard in the Evidence Law, under the label of “Discretion of Court to disallow evidence in criminal proceedings.”

Whether the discretion to exclude evidence would be exercised will, as matters stand, depend on consideration of all the circumstances including the nature of the confidential relationship and the probative value of the evidence. When I say “probative value” I mean the importance of that evidence towards establishing the guilt or innocence of the accused.

In the recent case, the judge found that in view of the gravity of the charge, which was a charge of murder, and the high probative value that evidence of a confession might have, he needed to be able to assess the nature of that evidence. So, the judge decided to hold what is known as a *voire dire*, which sometimes is described as a trial within a trial; that essentially in a jury trial involves the jury being taken out and the issues being canvassed in front of the judge alone. The judge can then take a view as to the admissibility of the evidence or the other issue he is asked to deal with. In this case, the judge cleared the court so that it was an entirely closed court; therefore the confidentiality of the information given would be respected at that stage. He had not yet formed a view.

He found that there was no other way than obliging the Minister to testify in a closed court for him to ascertain the probative value of anything said to her because that was an important element in the balancing of interests which he said must take place. I would just like us to focus on this balance of interests because I think it is at the heart of the matter.

What interests are there in such a situation? The first and most obvious, which the Motion seeks to have acknowledged through a select committee, but ultimately in the form of legislation, is the interest in preserving certain confidences. There are other interests, of course. Another is the interest in ensuring a fair trial for the accused primarily. A third interest is the public interest in the proper administration of justice. The cases which have guided the courts in the past do touch upon some of these questions. I do not propose to refer to them in detail, but I do intend to refer to them, Mr. Speaker, which will take a moment or two.

There is a case called Crompton v. Customs and Excise Commissioners, which is a House of Lords case from 1973. I only refer to that because it refers to a principle from a book called *Bray on Discovery*, which reads as follows: **“The mere fact that the giving of the discovery will involve a breach of confidence as against some third person or in any way affect or prejudice his interest does not constitute of itself an independent objection to giving the discovery; a disclosure under the compulsion of the court being distinguished from a voluntary disclosure out of court.”** I am saying, by referring to

that case, merely because information is given in confidence does not by itself mean that it should not be disclosed. There has to be more.

The other case is that of Attorney General v. Mulholland, which includes this statement by Lord Denning: **“The only profession that I know which is given a privilege from disclosing information to a court of law is the legal profession. And then it is not the privilege of the lawyer, but of his client. Take the clergyman, the banker or the medical man, none of these is entitled to refuse to answer when directed to by a judge. Let me not be mistaken, the judge will respect the confidences which each member of these honourable professions receives in the course of it and will not direct him to answer unless not only is it relevant, but it is also a proper and indeed necessary question in the course of justice to be put and answered [my emphasis] in the course of justice.”** So, it has to be relevant, proper and necessary in the course of justice.

On this particular topic regarding respecting confidence, it is appropriate to refer to what Lord Wilberforce said in British Steel Corporation v. Granada Television Ltd. (1981). It was referred to, but I am going to repeat this because it is important. He said and I quote: **“Thirdly, as to information obtained in confidence, and the legal duty, which may arise to disclose it to a court of justice, the position is clear. Courts have an inherent wish to respect this confidence, whether it arises between doctor and patient, priest and penitent, banker and customer, between persons giving testimonials to employees or in other relationships. A relationship of confidence between a journalist and his source is in no different category: nothing in this case involves or will involve any principle that such confidence is not something to be respected. But in all these cases the Court may have to decide, in particular circumstances, that the interest in preserving this confidence is outweighed by other interests to which the law attaches importance.”** It is on the theme of resolving the conflict of competing interests that I wish to focus.

Let us look at what we might all consider a fair trial. If any of us has a day in court, we want to be able to come away from it, regardless of which side we are on, with the impression that whatever the outcome the procedure was fair. Whether we are plaintiff or defendant, prosecutor or accused; whether we are a member of the public who happens to take an interest in the proceedings, it is important that the proceedings are seen to be fair and are indeed fair. Thus, if the prejudice to an accused outweighs the probative value of evidence, it will be excluded. Fairness does not just operate to the benefit of the accused. Is it fair that a guilty party might avoid conviction because he chose to speak to a priest or counsellor?

Look at what happened in this case! Was any unfairness worked against the accused? Perhaps it could have been handled differently. In the end it appears to have transpired and I wish to try to get this right that, in fact, no relevant evidence that would have pointed in any particular direction was available. In these circumstances, my recollection is that the judge suggested this could have been accomplished with an affidavit to that effect which would have preserved the confidence in the particular matter.

As it is, I am not aware that, ultimately, the matter proved to be significant other than in the sense of the compulsion of the witness. In that regard, I am reasonably confident that, had the Crown engaged in any form of dirty tricks or undue intimidation, the judge would not have been slow to deal with that. To the best of my knowledge the Crown advanced the position which you would expect it to in an appropriate way. Are we then to review the law of evidence on this relatively rare occurrence? Is the public interest in preserving an undefined range of confidences to be preferred always to the public interest in securing justice? Penitents have rights, but so do victims.

Mention was made of society and how justice should serve the social order, if I am getting that right. There is another way of putting that: the social order should also be directed to serving the ends of justice. Society, in my submission, is entitled to question which interest should prevail. If a privilege were to be recognised, would it be that the priest would have the say and, according to oath, would not say? The question then, in my submission, would be permanently decided one way and perhaps unsafely. Not that I question the integrity of any Member of the Ministry. Simply unsafely, in the sense that the competing interest of securing the ends of justice may be adversely affected.

May I ask that we look at this issue of competing interests? There are no recent cases, of which I am aware, directly regarding priest and penitent privilege, but there are quite a few regarding journalistic privilege and protection of sources. Secretary of State for Defence against Guardian Newspapers [1984] (House of Lords case) illustrates this. It explains that the rationale of the existence of the discretion was that, unless informants could be confident that their identity would not be disclosed there was a serious risk that sources of information would dry up.

So, the exercise of the discretion involved weighing the public interest in eliminating this risk against the conflicting public interest, that information which might assist a judicial tribunal to ascertain facts relevant to an issue on which it is required to adjudicate, should not be withheld from that tribunal. In the course of a criminal trial evidence of a confession would clearly be relevant if it was not improperly obtained. Unless the balance of competing public interest tilted against disclosure the right to disclosure of sources of information in cases where this was rele-

vant prevailed. I merely illustrate the point that there are two interests to be served here, Mr. Speaker.

Also on the question as to what justice consists of, I quote from a case called *X Limited v. Morgan Grampian*, House of Lords case 1990. It refers to the Guardian case, which said: **"The exceptions include no reference to the public interest generally, and I would add that in my view the expression 'justice' the interests of which are entitled to protection is not used in a general sense as the antonym of injustice; but in the technical sense of the administration of justice in the court of legal proceedings in a court of law, or by reason of the extended definition of 'court' in section 19 of the 1981 Act before a tribunal or body exercising the judicial power of the state."**

My point in making reference to this is, that it is possible to put in statute some form of protection against disclosure. The United Kingdom Contempt of Court Act, 1981, section 10, which was the subject matter of the two last cases I mentioned, is indeed a case in point. The provision in question reads as follows: **"No court may require a person to disclose, nor is any person guilty of contempt of court for refusing to disclose the source of information contained in a publication for which he is responsible unless it be established to the satisfaction of the court that disclosure is necessary in the interest of justice or national security or for the prevention of disorder or crime."**

So, even where journalistic privilege is acknowledged, it is not protected where it is established to the satisfaction of the court that disclosure is necessary in the interests of justice. The interests of justice mean the interests of the particular matter before the court. That, indeed, is the position which has obtained here.

Let us look and be sufficiently open-minded about this looking at what happens elsewhere. Start off, however, with legal professional privilege. This is not as some might think, by the title, a privilege attaching to the legal profession. It is a privilege which belongs to the client; it does not belong to the lawyer. By analogy, a priest and penitent privilege would not be the privilege of the pastor, but would be the privilege of the penitent.

You may want to ask what the position is in the United States. I cannot give you an overview of the entirety, but I can give you some information from *Black's Law Dictionary* which describes "privileged communications" as statements made by certain persons within a protected relationship, such as husband and wife; attorney and client; priest and penitent; which the law protects from forced disclosure on the witness stand at the option of the witness, client, penitent and spouse. It makes it clear that privilege attaches to the individual who made the communication, not to the person to whom it was made.

In the particular references to privileges, priest and penitent privilege in the United States, as I indicated earlier, is recognised in some 50 States and

consists, according to *Black's Law Dictionary* which states: “[I]n evidence the recognition of the seal of confession which bars testimony as to the contents of a communication from one to his confessor. Nearly all States provide for this privilege by statute.”

In relation to doctor and patient privilege in the Law of Evidence, the right of the patient to exclude from evidence communications made by him to his physician recognised in most jurisdictions, but sometimes limited, for example, communications to psychotherapists. Lastly, attorney and client privilege in the Law of Evidence, clients' privilege to refuse to disclose and prevent any other person from disclosing confidential communications between himself and his attorney. Such privilege protects communication between attorney and client made for the purpose of furnishing or obtaining professional legal advice or assistance.

The UK position, as I indicated, is different. Archbold—*Archbold: Criminal Pleading, Evidence and Practice*—the leading criminal law textbook, advises that no legal privilege arises out of the relationship between a patient and doctor, nor does it arise between journalist and informant. The position of priest and penitent has not been authoritatively decided, but the tendency of judicial dicta is that while in strict law the privilege does not exist, a minister of religion should not be required to give evidence as to a confession made to him.

However, the authorities cited are in the last century, 1853 and 1896. It does, however, mention a more recent authority, to the effect that the court has discretion to excuse a witness from answering a question when to do so would involve a breach of confidence. The example given is from a case called *Hunter v. Mann*, which was referred to in the Grand Court case, where Lord Widgery said: “**If a doctor giving evidence is asked a question which he finds embarrassing because it involves him talking about things which he would normally regard confidential, he can seek the protection of the judge and ask the judge if it's necessary for him to answer. The judge, by virtue of the overriding discretion to control his court, which all English judges have, can tell the doctor that he need not answer the question if he thinks fit. Whether or not the judge would take that line, of course, depends largely on the importance of the potential answer to the issues being tried.**”

Archbold then goes on in a passage, that you might think revealing, or insightful which states: “**Before compelling disclosure, a court should be satisfied that the potential answer is relevant and will serve a useful purpose in relation to the proceedings and then weigh the conflicting interests to determine whether confidentiality be overridden or respected.**” There are references to Mulholland, British Steel Corporation and the inherent wish to re-

spect confidences mentioned in British Steel Corporation.

Having looked at these differences in legal systems we come back to the central question: should a penitent criminal should be enabled to enjoy blanket immunity by relieving his conscience while protecting his liberty, or is it better left to the judgment of a court, which is experienced in balancing competing interests and in ruling on such issues?

There was a hint in the debate of a possibility of power struggle between judiciary and the church. With the church, on which I am only qualified as a practising member of a church, accountability is of a higher order. In my submission, no one is entitled to contract out of obligations to society whatever their calling. This is about reflecting the interests of the public in the law and applying the law in a particular case.

At this point, I would like to refer to issues raised in the debate so that I can attempt to answer them in, hopefully, a helpful way. Those issues will come down to who is to decide whether a privilege obtains. Should it be the penitent or the pastor? Should the court have the task of balancing the competing interests, if it is accepted that there are indeed competing interests?

I agree that it is not just a question of whether the English legal tradition should be continued, but instead the tradition should not be lightly discarded. It is not the relationship that is privileged; it is the communications between the parties to that relationship. I would like to say something about the notion of what happens in a trial. A trial is an adversarial process. The Crown prosecutes on behalf of the public, for society in general. The Crown must prove its case. The defence need only give rise to a reasonable doubt to have the benefit of that doubt. In other words, the burden of proof remains on the Crown throughout.

In serious crimes there is an obvious public interest in convicting guilty parties. No one would seriously dispute that. In the social order, there is a public interest in maintaining the confidential nature of certain communications and relationships. The law as it stands respects both, but does not generalise a rule favouring one or the other.

The benefit of the doubt is an aspect of fairness, which is also reflected in section 28 of the Evidence Law. In my submission, the Motion would resolve the conflict between these competing interests permanently and automatically in the favour of the exclusion of confession evidence. Although I accept that the mechanism offered in the Motion would be a select committee, it is predicated on incorporating the privilege into legislation. In that sense, it would serve one public purpose, namely, preserving confidences, but it risks failing another—the due administration of justice, if it were to invariably protect a person who confesses to persons with whom they would be deemed to have had a relationship assuring confidence.

In my view, as a professional lawyer, and as the Government's legal spokesman, which interest should prevail is not best answered by a rule, which is unable to distinguish between cases.

It was said in debate that there is no difference in values between church and state, only functions. Unless the competing interests of administration of justice takes its place within religious values, there may be potential for a difference. As I indicated earlier, justice may well be served when the social order is preserved, but in my view, it can equally be put the other way that social order is preserved when justice is served. I do not see this as a conflict or power struggle between judges and the ministry. I think that would be an unhelpful way in which to perceive the issue. It is not the judges, but the law; therefore, this is not a political struggle.

In my view, the existence of a privilege would also mean that there should be responsibilities. Will this mean that a priest or minister or counsellor, however described, will never be under an obligation to disclose evidence of serious crime? I do not think that leaving it to the judge means that it is more justifiable or that he is more trustworthy. He is simply more used to trying issues where there are competing submissions and interests and it is a matter of law. I daresay we will all ultimately face the ultimate judgment in whatever form that means for each of us, but in relation to the civil power, I believe it is also biblically correct to render unto Caesar what is Caesar's.

It was suggested that voting against the Motion would go against any dialogue. I am not in favour of a position which would defeat dialogue. I think it is possible to have that dialogue in a different way. The way in which that dialogue might occur is in the context of human rights to which reference was made in the debate. If regard is to be had to principles, we do not need to look further than the United Kingdom to see the European Convention on Human Rights having been enacted by legislation in the Human Rights Act there.

One of the provisions in the Human Rights Act and the European Convention is Article 10 on Freedom of Expression. It may not seem obvious at the outset, but if you bear with me a moment, I will hope to explain what I mean. Article 10 provides that everyone has the right to freedom of expression and states: **"This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent states from requiring the licensing of broadcasting, television or cinema enterprises."**

The second paragraph says: **"The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interest of national security, territorial integrity or public safety, for the preven-**

**tion of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, [and the point I wanted to underline] for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."**

I am not suggesting that is a solution to this problem, but my suggestion is that it may point the way. That kind of language is repeated in the draft model Chapter of Human Rights which has been suggested for possible incorporation in the Overseas Territories which do not have a Bill of Rights. It is repeated in substantially the same way under the heading of "Freedom of Expression" and contains substantially the same provisions as I read out, in particular the ability to prevent the disclosure of information received in confidence.

In referring to this, I want to refer to the other interest. Although we have a Bill of Rights contemplated, it is not just limited to containing provisions regarding confidence. I have already referred to the United Kingdom's Contempt of Court Act as statutory restriction on disclosure of confidential information. I also want to talk about protection of the law to which everyone is entitled.

Under the proposed Bill of Rights for the Overseas' Territories, which would be a matter for adoption in the particular territory, persons will be entitled to the due protection of law, due process if you like. Even if the creation or enhancement of special relationships' privilege were created or extended, even if that was considered to be desirable, it would appear at this point to entail giving to possibly, guilty parties, added protection, in respect of their own admissions beyond what the law provides at present.

If evidence is wrongly admitted, there is a right of appeal. If, however, evidence is automatically excluded there is no right of appeal by the victim, or the surviving relatives. My submission on which I would wish to repose the argument is that justice as between the parties should remain the prime consideration in criminal trials and the fairness of the procedure should operate both in the direction of the accused, and in respect of the interests of society and the community at large.

This is a difficult issue to address comprehensively. I have tried to give an indication of where the law presently stands. I would also suggest that the issues canvassed here, could, and should in my view, be contemplated as part of a Bill of Rights, and should occur within the dialogue on the content of a Bill of Rights.

So, in not supporting the Motion by means of having a select committee, I hope it is clearly understood that I am not in favour of curtailing debate on the issue. I do say that perhaps the better method would be in the context of a formulation of a Bill of Rights because a simple proposition, that Bill of Rights ought as its objective to seek to balance the rights of the individual with the rights of society at

large. If there is a method of reconciling the competing interests which are presently entrusted to the judiciary, and rightly so, in my opinion, then it may be found in the context of the development of a Bill of Rights.

The individual has rights, society has rights, and there will always be the potential for tension between them. Therefore, I think it preferable to allow for this tension to be resolved if it can within a Bill of Rights. I suspect that, at the end of the day, it will continue to be necessary to have matters adjudicated by the judiciary who are both competent and capable to adjudicate between the need to respect confidences and the need to ensure the fair and proper administration of justice in particular cases.

For these reasons, and others which you have heard, Mr. Speaker, the Government is not in a position to support the Motion, but would support the continuation of dialogue with a view to attempting to address, in an appropriate way, the issues raised. Thank you.

**The Speaker:** We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.51 AM

#### PROCEEDINGS RESUMED AT 12.20 PM

**The Speaker:** Please be seated.

Debate continues on Private Member's Motion No. 4/01. Does any other Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker.

As the Seconder of this Motion, I rise to offer my views on the subject.

I am aware that laws are made in some instances as a result of things which happen in a society. Laws come from the mindset of legislators as well. I know that amendments to laws, and laws, come as a reaction or response to certain conditions. It has been said by the Mover, and I think, noted by other speakers, that this Motion was largely due to the situation in fairly recent months regarding a reverend of a local church and a case involving murder.

I also believe that negative conditions are not helped by not facing those conditions, or examining those conditions with a view of making changes. Therefore, since there was an occurrence in the Caymanian society involving the law, with a religious leader involved, and which brought about a query in the minds of the public about the privilege between a religious leader and someone who makes a confession or statement to them, it is a good time to examine the whole matter.

I would like to add, at this point, that I do not think any decision taken today would mean that this matter will be put to rest forever. This is a dynamic matter and every time similar conditions arise, it will

be the debate and the question all over again. There is no such thing as putting it to rest.

I am happy to offer my views, which are not legal, nor necessarily sociological or theological, just commonsensical as best I understand it, and certainly my own. One thing I would like to note—and I think we get lost sometimes, but I can remember bitter times in this Legislative Assembly where in motions a “whereas” said “on” instead of “no” and that became a major part of the debate. Therefore, I am not one who believes in “whereas” clauses or in recitals to motions. Any that I bring have a straightforward resolve which is all the House can deal with and vote on. A motion is really a resolve and a resolve the motion for all practical purposes. In this case, this Motion has “whereas” clauses and I note that there are those who have pounced upon this because of what was said to take it apart, or to imply that the Mover or me, the Seconder, never really had a thought about.

My thought was singularly and largely what the resolve asks for. It asks that this Honourable Legislative Assembly appoint a Select Committee of all Elected Members to consider appropriate legislation to preserve and, or create special relationships' privilege, including, but not limited to, priest and penitent, pastor and penitent, counsellor and client. Of course, the list could go on. So, Mr. Speaker, that is all I am speaking to, and I will give my reasons for so doing.

I was informed very much by what the Second Official Member said, particularly where he compared British law to American law in regards to privilege. Again, the fact is that American law tends towards the written word and, as I understand, British law tends more towards rulings by the judges. It is caught up in something called common law. Common law, I understand, is based on custom, usage and judicial decisions.

It strikes me that common law could be the judgment of one particular judge on some issue which could change if it went to a higher court and another judge judged it to be something else. I see certain dynamics for possible change in the particular usage or customs or judicial decision, whereas, my understanding is, Americans want to write it down in law. Therefore, it gives the persons at the grassroots the opportunity of knowing what the law prescribes or dictates rather than having to wait to get to court where the judge tells them, which costs money. The ongoing process could even cost more.

There is one thing which seems to be the same in both jurisdictions, and that is attorney and client privilege. The latter being that I can tell my attorney something and my attorney is required to keep it confidential, and does not have to tell it to the judge which is quite unique. Obviously, this is a special group of professionals that can keep that information confidential without giving it to the judge. Now, I am sure the lawyers in here could give me 1,000 arguments as to why that is necessary, just the same way I could have 1,000 different reasons to ask why they

should get that privilege and others not get it. There seems to be agreement in both jurisdictions in that regard. I am not saying that that should not exist, for as best as I understand, it is necessary for the judicial process.

So that we do not make a privileged class of professionals, I think we should take a broader view as to where consideration of privilege might exist. One area where it was suggested it might exist was between priest or pastor and penitent. We are talking about people who are ordained. They more or less devote their lives to certain religious principles, behaviour, and all the rest of it.

Persons go to their pastor when they have personal problems; they may even have information that relates to a crime. It could be capital crime, and they are deathly afraid to go to the police. They may have a religious belief that they are not supposed to go to the police, but they will tell it to their pastor. It then becomes a question of whether or not the pastor passes that information on to the police.

As far as the practice of the law goes, and the belief of a majority of Caymanians, would be *'yes, you are supposed to pass that information on to the police because it is a crime and because the person who committed the crime should be punished.'* However, the vow that the preacher has to take virtually commits him to keep the information, given to him in confidence, confidential. Now, that creates a problem between the church and the law. Who is wrong? Which is the greater right? Does the pastor practise the vow he has taken, or does he give in and acknowledge the greater power of the judge? That is a question that we in Cayman and in this Legislative Assembly are faced with right now.

Is it satisfactory to meet, as the Second Official Member says, in the Dee Dee Haines case, like a trial within a trial? I gathered that was in camera, where the preacher was questioned on certain matters and expected to give an answer to the questions put to her. The other question is: do we want to legislate at what point a pastor, reverend or whoever, who would be expected to give information, be given in confidence, or whether it should be given at all?

Do we simply want to leave it solely to the discretion of the judge to determine? Do we want to set something down in writing which says it can or cannot be given, or that it can be given in whatever circumstances? It is within that controversial, unanswerable condition that I view this Motion.

I think the Third Elected Member for George Town spoke more to the role from a sociological point of view that the Church and religion plays. When we think of times past, like when the Rotary Club is working with the government towards encouraging people to turn in firearms, one of the persons they say you can turn the firearms in to is a pastor. It is assumed that the state is saying, *'If you will turn in the illegal arms you have, then go to your pastor and give him that bazooka.'* I am saying they have the privilege to

tell the police who turned in that bazooka. Is that not similar to the situation, which is in question with this Motion? I suggest that it is.

The religious leaders do play a very strong and significant role in any kind of law-abiding society. Countries like Iran are largely guided by what their religious belief is. I do not think there is any clean-cut argument that can be made here to show what is the more correct position, or best, or the greater good. It is a matter of argument, Mr. Speaker, and of the views held on either side of the debate.

I believe it would help if it were set down in our laws. In the United States there are protections given to the priest and penitent; lawyer and client; and I think doctors and patients, if I recall correctly. That is not the case in all of those areas in British law. At least it is written in the U S law and they know what obtains. It seems to me that in the British setting it is more dictated by the court. I am not saying there is anything wrong with that, but is there anything wrong with making a law that sets down to what extent privilege obtains in the British setting?

I would prefer a piece of legislation that I could go and pick up which says my doctor cannot tell anyone that I was treated for such and such, or that I am somewhat of a goofball and under heavy sedation. This is the consideration that comes into play. Again, I believe, a person would feel safer knowing that if a psychiatrist or a counsellor with the ability to open their mind can release things which are locked inside of them, could do so without disclosing such information for public consumption whether in a court setting or otherwise. At least if it had to be so, you would know at what point it would happen from the beginning, therefore you would not have to go to court to find out that it would be done.

We need to seriously bear in mind that if, in the Caymanian society, we create an atmosphere that the religious leaders who normally hear much more from their flocks, devotees or whatever, believe that they cannot do without those religious leaders being required to give information about what is happening in this society rather than the information which comes from the police, we could find that we are working against the best interests of law and law-abiding in society.

It is all a human condition. From the time I learned that a "court" is a human being who chose at one point to become a lawyer, winning cases, losing cases, and went on to still be a lawyer but adopt another name, "court" and have a final say at any given level on what one may do or not do, or what is right and what is wrong, I became much more focused on understanding how human this whole world is in all its areas and skills.

I am intrigued by the process of law and particularly when I read some of the wisdom and logic of people like Lord Denning; his mind is incredible and I acknowledge all of that. I think that the practice of law, the judiciary and all that goes with it, the lawyers,

the judges, the whole process falls within the wider court of public opinion, the society. Within that society are different levels of justice or fairness, or persons involved in the process, such as the reverends, the priests, pastors and brothers.

There was one thing said by the Minister of Tourism, which seems contradictory to me. He spoke against the Motion, yet suggested that the same thing the Motion would have allowed be done; that is, that Members of the Legislative Assembly, officers from the judiciary and religious leaders get together to discuss this matter. I think we all know that the select committee is the only means open to the Legislative Assembly to involve anyone in the legislative process within the whole process of legislation. We cannot bring persons into the Chamber to have any say in any debate before the House. The only way we can do that is through a select committee.

In effect, he said he does not agree with the Motion going before a select committee, but he said that we should do the very same thing a select committee would have adopted; that is contradictory. Once this Motion is voted down that whole process ends. There is no longer any use us sitting down and talking about it with such persons because we cannot make any report back to the House and what a select committee does is allow the House to hear from it. So, when the Motion is voted down, that will come to an end.

With all respect and due regard for everything that has been said, I am better informed having listened to two practitioners of the law. I do not see how it could hurt the legislative process if this Motion was accepted to go to a select committee where we could discuss it and have the religious leaders along with persons involved in the judiciary process come in and discuss it also.

My position is that I would not have seconded the Motion if I did not believe it had merit. I support the Motion and think it is rather unfortunate that it could not go to a select committee to be discussed, and a report made for the House. Thank you, Mr. Speaker.

**The Speaker:** I think this will be a convenient time to take the lunch break. We shall suspend until 2.15 PM.

#### PROCEEDINGS SUSPENDED AT 12.47 PM

#### PROCEEDINGS RESUMED AT 2.45 PM

**The Speaker:** Proceedings are resumed. Debate continues. Does any other Member wish to speak?  
The Elected Member for East End.

**Mr. V. Arden McLean:** *(Part of tape inaudible at the beginning of Mr. V. Arden McLean's debate)* . . . thus the lawyer is under obligation not to disclose it because his client could then sue him; that is my layman's understanding.

If we really look at lawyers, and as much as we may not like them, if that were not the case, then every time—

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** May I hear your point of order?

**Mrs. Julianna Y. O'Connor-Connolly:** Standing Order 35 (3): it is out of order to use insulting or offensive language about another Member. As an attorney I take it to be just that.

**The Speaker:** That is a point of order. Please do not single out any one profession.

The Elected Member for East End, you can continue.

**Mr. V. Arden McLean:** Thank you. I will bow to your ruling. It was not intended to be offensive or otherwise, Mr. Speaker.

As I was saying, if that were not so, then the same lawyers would have to be summoned every time they had a client. Thus, there would be no need for lawyers.

The criminal would go to court and we would then have a lot of lawyers out of jobs. Maybe that would be a good thing, not to have it there also; that way we would all defend ourselves. Contrary to the First Elected Member for Cayman Brac and Little Cayman, and other lawyers in this Honourable Chamber who I respect, I believe there is a fundamental difference between the lawyer and client privilege and that of pastor and penitent privilege.

Someone can come to me and confess that they have committed a crime too. The only reason the authorities would know that would be if I went and told them, or the other person did, or if I told someone else. Why would the pastor have privileges over me not to disclose it? I understand that is the entity, the individual who people will confess to, the one who is trusted. It is understood that people feel like once they have confessed to a minister, then they have paid their dues. I do not find that good enough. It is also my understanding that the communication between lawyer and client is merely for the giving or obtaining of legal advice. If it is with the intent to further a criminal act, then the lawyer is obligated to disclose that. I stand to be corrected, but that is my understanding. It is not right to say that the lawyers enjoy such exclusive privilege. They too have to be responsible for what is said to them.

I wonder if the onus would be on the clergyman to decide whether or not that information lies within the exception, because it cannot be exclusive or absolute privilege. Therefore, I would venture to say that the pastoral care would be useless.

I believe there is a distinction between confidentiality and legal privilege. There has to be a distinction somewhere in there. We cannot have perpetrators of crime walking the streets with clergymen who knew. For instance, paedophiles who molest young children and confesses that to a clergyman; I do not believe any clergyman in this country would support that because the clergyman would have to live with that for the rest of his life, knowing there is a high probability, not possibility, but probability, that the crime will be committed again. I may be wrong, but if the clergymen in this country with the moral standings I respect them for have those moral standings, then I do not believe that one of them would be comfortable knowing that within two weeks there would be another report of another such confessed crime. That is a heavy burden to place on any individual, much less a clergyman who can go into the church and ask forgiveness.

I see no reason why the clergy cannot say to anyone or any penitent, that if their confession is of criminal content, they would have to report it; I think that is fair. At the same time they could inform the individual, that anything other than a criminal act, their confession would be held in the highest of confidence.

We talk about human rights. I think the Second Official Member spoke on that. While I respect the rights of the perpetrator of a crime, I am sure that his rights are no more than those of the victim's and, or his family. To think that the preacher who teaches society about its rights; and its morality; and its conduct; and to think that legislators would give that clergyman the right to decide the better good of society, those legislators would not be good legislators; that would be a mistake in any country.

We cannot allow any preacher, pastor or minister to decide who goes to trial. Yes, some may say that is the job of the police. The police need help too; and the prosecutors need help too. Nobody is going to confess to them that they did it, unless they are going to plead guilty. To put that responsibility in the hands of a pastor far exceeds my comprehension. In fairness to society; in fairness to this country; and in fairness to the children of this country, who in a lot of instances are the biggest portion of society preyed upon; I cannot put that responsibility on a clergyman.

The real question in this whole thing is: should a perpetrator, a criminal, enjoy immunity just because he is a penitent? We cannot—I will not allow him to go free because he confesses to a minister. That is what we are saying, in my opinion, and that is the main question in this whole thing. I challenge any of the Honourable Members of this House . . . and I will give way. Would they allow one of their siblings, their offspring to be hurt and allow a preacher to hold that and prevent the perpetrator from coming to justice?

Mr. Speaker, I am prepared to give way.

**The Speaker:** Please continue with your debate.

**Mr. V. Arden McLean:** Thank you.

That is what it all boils down to. We are not concerned about it until it drops on our own doorstep. We will then want . . . at least I know I would want the preacher to report this individual so we could put it to rest and the authorities could deal with it by removing the perpetrator from society, at least for a time in accordance with the law.

It is a simple situation where the preacher can say that if it is a confession concerning criminal activity he has to report it. Each and every one of us, whether we are lawyers, doctors, or legislators, have that same responsibility to ensure justice is served. Which of us who saw a crime committed, or knew that a crime had been committed, would not report it? We have a responsibility, a moral responsibility, to do that; and we are telling the preacher he does not or he should not?

Well, I have heard of a case built on the basis of an individual being imprisoned for a different case and confessing to an inmate and the case was built on the testimony of that inmate. Even in jail, confessions are disclosed to solve crimes. We would like to tell the preachers that they are immune from that.

Which good is the clergyman serving? Is it the general good of society or the penitent's good? Which is more important? That is another question that needs to be answered. We have to decide whether the greater good is to remove that perpetrator from society, or allow him to remain without justice being served, and live with the high probability that it will happen again. The worst thing that could happen is that it would be against the same victim.

It is wrong, and the perpetrator should have been behind bars. If we decide as a country that the perpetrator can decide whether he discloses it or not we would not have any crimes solved.

I have a lot of respect for the clergy, and I trust that the clergy have a lot of respect for this country. I cannot support in any way, with as much respect as I have for this profession, allowing the clergy to decide whether the perpetrator of a crime be brought to justice.

This is not a situation that happens every day. It is like what other Members who spoke, said that it came about because of one case. I can only recall that one case, but there may be more. Yes, I understand this is what creates laws, and amendments to laws. This is a rare case, obviously. I do not believe that we need to rush to judgment on it. I cannot see one time justifying changing the situation as it stands where the clergy is required to disclose information, especially in the case we talk about of more recent times, the one case.

This was a deliberate murder. While at the end of the day there was nothing to disclose, I support we cannot take the chance and leave any stone unturned before getting into a court of law where the evidence must be presented. If that means the preacher, pastor



or minister has some information which will further the case, then that information must be forthcoming.

It is my understanding that in most Commonwealth countries the case is as we have it in this country. Now, why should we change it? Yes, we love to be unique. That has its merits, but sometimes it has its pitfalls too. I think we have seen enough pitfalls from being unique.

Before I sit down, I would like to say to the Mover and the Secunder that while I do not support their Motion, I respect their right to bring it. To the First Elected Member for Cayman Brac and Little Cayman, the Second Elected Member for George Town and the Second Official Member who are all lawyers in this Chamber; without any malice I merely made a point that a lot of people do not particularly care for lawyers. One of my best friends is a lawyer . . . well, two. That is the problem, I have too many! It was without malice.

If I have offended anyone, I will publicly apologise. I hold no malice against any profession. I cannot afford not to use the lawyers. Therefore, I will not be bringing a motion to take the privilege away from them! I believe it was said that every man deserves to have defence. The only defence we have in this world are the lawyers or the unions at times!

*[laughter]*

**Mr. V. Arden McLean:** As I said, I respect the rights of the First Elected Member for Cayman Brac and Little Cayman and the Second Elected Member for Bodden Town for bringing this Motion. I am glad it was brought so Members could make their views known.

We can walk out of here and still respect the clergy. I cannot give the clergy any right or any burden not to disclose any confession that would aid in bringing justice and having justice done. Thank you.

**The Speaker:** The Motion is open for debate. Does any other Member wish to speak?

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Mr. Speaker, as I listened to the debate on this Motion, I contemplated hard and long whether it was necessary for me to add to those very detailed contributions. I see the relevance of trying to finish the business of the House as quickly as possible so we can get to our constituents and other duties. I therefore, make this contribution after much consideration.

Knowing that the purpose of the Mover and Secunder, in bringing this Motion, was to bring to light the need for some privilege relationship between pastor and penitent, I realised the merit in what they were trying to achieve. I have heard good arguments both for and against, and I have done a bit of research on my own.

There is a case in the press at this time that is very similar. I would like to quote some articles I found on the Internet regarding a similar case this morning.

**The Speaker:** Just state your source.

**Mr. Cline A. Glidden Jr.:** Mr. Speaker, it comes from the CNN (Cable News Network).com web site. It shows a real life example of what these relationships can do. I will not try to read it all, but briefly, there is a priest from New York City, by the name of Rev. Joseph Towle, a Catholic Priest. He is in a case right now where he is attempting to come forward and give evidence in relationship to a crime that occurred in 1987. It says: **"In a setting Towle described as less formal than a sacred confession, Fornes told Towle in 1989 that he and two friends—not the ones in custody—were responsible for the beating and stabbing of a man killed in a South Bronx park in September 1987.**

The priest said: **"So I advised him then that if he had the courage and the heart to do it that he should go to the court and should reveal in detail, just as he had done to me. His purpose in having this conversation with me was to decide what he could do publicly to exonerate these two boys who were accused in his place."**

The priest had met all the boys involved in the case after becoming the parish priest in 1984. The boys were 17 or 18 years old at the time of the crime. Neither the individual who committed the crime, nor the priest came forward to give evidence in the case. So, a State jury in December 1988 found the two individuals, who were innocent, guilty of the murder. Now, just before the sentencing of those two innocent individuals, the criminal went to the priest (that is the conversation I referred to). The priest said: **"Fornes called me. I was very close to him. We had a trusting relationship,"** They spoke at Fornes' home, not at the church. That is significant because the Catholic priest maintained that neither his actions in 1989 nor his subsequent court testimony have violated any Catholic doctrine. Towle said: **"There is nothing, first of all, nothing more sacred than the seal of confession,"** He went on to say: **"I did not consider this to fall under that precise seal of confession because he had not come to me explicitly seeking absolution, but to find a solution on how he could help his friends."**

If he had come seeking absolution, he would have felt that his Catholic doctrine stopped him from making known the confession. So now, some 13 or 14 years later, we have two individuals who have been tried and convicted for a crime they did not commit. It is an example of a priest having had the information not coming forward. It so happens, in an ironic twist of events, that, in 1997, the individual who committed the crime was shot and killed.

Now, the Federal Court has allowed the appeals by the two individuals whose appeals were denied by the State court. The priest is now willing to come forward and testify on their behalf at the appeal. There is a question as to whether or not the priest would have come forward if the individual who had committed the crime was still living. Having said that, and not having an answer to that question, the district attorney has argued that the priest cannot come forward now and give evidence in the case. The district attorney feels that his confession was secret and privileged and could never be revealed by his priest.

So, here we have the priest arguing that he wants to give evidence and that it is the intent of the individual to let the public know. We have a very real life situation; two innocent individuals in court found guilty, serving some 13 years of their lives when there was a priest who could have changed the whole outcome of that event; not only because of law, but, in his particular case, he thought it was his obligation as a Catholic priest. He refused to come forward.

If we are looking at now implementing legislation that would give all priests the feeling or obligation of this privileged situation, I see, as I am sure other Members of this House will see, a real area of concern.

I was upset when a well-respected pastor was involved in a case a few months back. The decision was basically left in the judge's hands as to what he felt was the right course of action. I feel that having seen what possibilities exist, by removing that authority which the judiciary now has, I cannot support the idea of going into a select committee. Members of that committee have already made their contribution publicly.

I simply wanted to make the point that if Members would like to go onto the CNN web site, they could get a lot more information on this case that is very relevant to what we are discussing now. Because of the information and looking at the possibilities that exist, I would not be able to support this Motion. Thank you.

**The Speaker:** Would you make that available to the Clerk for the Hansard Officers?

The Motion is open for debate. Does any other Member wish to speak? The Motion is open for debate. Does any other Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, I do not normally rise to speak on motions I intend to support, unless I can add some substance to the debate that has not been contributed before.

However, I feel compelled to rise to offer the Mover and Seconder of this Motion my public support for the Motion they have brought to this House. I think it is a Motion well put together because it did not pre-determine the exact piece of legislation needed, it

simply asked for this House to go into select committee to review and, at that time, contribute and craft what we deemed to be the relevant governing legislation to accomplish the resolve of this Motion.

I see the substance of the question at hand as being the role of the Church and the others covered under the special relationships stated in the Motion, and the role of the State. The State has a responsibility, but so does the Church. If we attempt to intertwine those responsibilities, the effectiveness of each of those entities is reduced. It is imperative that we understand the Church is the pulse of the morals of the community. It is an outlet where individuals go to get advice, to relieve themselves of certain burdens, and the individuals receiving these confessions are held in high moral esteem.

I see this Motion as being one that simply protects the clergy, priest, pastor. It does not add responsibility, it protects. It does not remove them from their responsibility to community. It does not remove them from their obligation to ensuring that we have a safe community. These are individuals who we have all stated in our contributions so far are persons we hold in great respect. These individuals would still be what the lawyers and judiciary would term "competent witnesses." They can still provide evidence, but they cannot be compelled to provide evidence.

Using the oft repeated case of Rev. Dee Dee Haines, we can examine that same case to see the merits of this Motion. Dee Dee Haines, in adherence to her religious conviction, respected the right that her role as pastor of the church provided to her, to maintain a confession in a confidential manner. As a result of that, she was questioned and sometimes harshly questioned, retained at the police station. This Motion simply seeks to protect these individuals we all hold in high esteem from such exposure to potential abuse.

We have all stated that this community is based on strong Christian values and part of that is respect for the clergy. In respect for the clergy, we must provide them with a certain degree of protection about information they receive in carrying out their duties; their role in society building, one of moral building, one of instilling in a community a basis of sensitivity that can only be derived from an appreciation of biblical concepts. We must protect them to ensure that the citizens of this community feel comfortable to use this outlet. It is a necessary part of the community; a necessary part of the country.

We must keep that separation and allow the State to carry out its function of criminal investigation, gleaning of information, prosecution, conviction, and incarceration.

If we attempt to remove that separation, we will make the church less effective and make the judicial system of the country less effective. It is for this reason only that I fully support putting this question into select committee so that all Elected Members and individuals from society can be represented. None of us have canvassed or questioned the general public

because none of us have put this as an issue of the campaign process—the only process we have to ensure there is true political mandate.

For that reason, we have the option of putting these things into select committee to allow for wide public consultation. It is a simple Motion which calls for no decision here today, but a Motion that recognises there is an issue faced by our community; an issue that has sparked and we must deal with it. Putting it into a select committee would allow us to consult with the general public; therefore I see no reason why this Motion should be rejected. I will be voting for this Motion. Thank you.

**The Speaker:** The Motion is open to debate. Does any other Member wish to speak? The Motion is open to debate. Does any other Member wish to speak? Last call, does any other Member wish to speak?

If not, does the Mover wish to exercise her right of reply?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

I will begin by extending my thanks and appreciation to those Honourable Members who saw fit to offer publicly their support for the said Motion. I had hoped that with national issues such as this, that there would have been some hope that much could have been accomplished.

Certainly, in the mode of politics in which we operate in here, I did not expect complete and unadulterated support. From all indications the Government and its supporters intend not to approach this Motion with the desired openness of mind, allowing the Motion to go to a select committee where I respectfully submit the public could have an opportunity to come before the said select committee and make representation.

I should also wish to record that this methodology of going before a select committee in my view provides the most appropriate forum for open dialogue with the people who elected us, and to whom we are still the trustees for.

We campaigned, on both sides of this Honourable Parliament, quite strongly on the concept of transparency and openness. I truly believe that by using the select committee as the means or mode for an appropriate forum whereby we can actually meet, as an Elected Legislative body with members of the public, those with direct vested interest or otherwise, that we could perhaps continue, if not begin, to put these concepts into an implementation mode.

I first wish to take issue with the Second Elected Member for West Bay who questioned whether or not this was the best way to deal with this Motion, by taking it to select committee. I take issue to a specific extent in that our own standing orders, Standing Or-

der 70, allows for the creation of a select committee. It then goes on to give the power as we all are fully cognizant of whereby we can call for representation by way of an express mode or for oral presentations before the select committee. Indeed witnesses can be summoned.

If memory serves me right, since the commencement of this Honourable Parliament back in November, there have been six select committees which, I hasten to add, none brought by me were duly passed. I remind Members it is the minimum wage committee, passed on 15 March 2001; the review of the Standing Orders Committee, passed 16 March 2001; the establishment of a select committee to review the Caymanian owned businesses, passed 27 March 2001; the review of the Trade Union Law, passed 22 March 2001; the select committee to review health insurance; and a select committee for a Fair Competition Act.

Before anyone yields to the temptation to call a point of order as to relevance, let me hasten to say that I am using that to simply illustrate that the methodology of using a select committee is by no means a novel one, but one that has been proven by a test of time. I believe that if Members wish to adhere to the concepts we hold so high that we would allow this Motion to go to the implementation stage of select committee giving our people whom we represent an opportunity to speak on this national issue.

I also wish to refer to the biblical principles. In St. John 20: 22, 23, which says: **“And when he had said this he breathed on them, and saith unto them ‘Receive ye the Holy Ghost: Whosoever sins ye remit, they are remitted unto them; and whosoever sins ye retain, they are retained.’”** I would like to refer as this relates to the Catholic Church in particular, where I was able to find on the *Encarta Encyclopedia* dealing with the aspects of confessions and theology, I quote: **“The seal of confession refers to the obligation binding the confessor (priest), interpreter, or bystander who overhears the confession not to divulge the secrets of the confessional. This custom of secrecy is traceable to the 4th and 5th centuries, but was only made canonically binding by the Fourth Lateran Council in 1215.”** Perhaps this is a concept that I can refer, as my learned friend did, as one being put in place from time immemorial.

I also note that the deputy Leader of Government Business, who I may say is known for his shrewdness as a politician, has acknowledged here today in this very forum that the Motion, although he was not going to vote for it, if he was indeed present (and he is not right now), that we should call the judiciary, the other persons with vested interest, the clergy, and perhaps Members of Parliament to commence an open dialogue. That is precisely what this Motion is calling for in select committee. Perhaps the only missing ingredient is in the form of the

Mover and Seconder because for the life of me I cannot see the distinction.

The select committee would bring pre-eminence to this national issue. It would allow for order and would crystallise the formality that I believe such a national, sensitive and perhaps controversial issue deserves. As I said, our own standing orders give us the power to collate and elicit this information as we have done so far this year for six other important issues and worthy issues brought by private members' motions.

If the position of elected government, and with the very specific intent I drafted it to say "elected government" giving the Government of the day, taking politics for what it is, the opportunity to amend it if so desired, putting the ball in its court to include Official Members. That was the only reason for the omission thereof and no other, but they sought not to do that.

As I said, the Deputy Leader of Government Business acknowledged that there was scope for discussion and acknowledged publicly his respect for the clergy, but chose not to use this Motion. The only means of us having legislative discussion with the public is by means of a select committee.

I should also wish to thank my learned friend, the Honourable Second Official Member, for sharing the English and to some extent the Cayman and perhaps his personal legal take on the issue. Most, if not all of the issues shared with us are precisely the reason giving rise in my mind and members of the public for the uncertainty in the exercise of discretion that we should, on a national front, discuss these issues. We would find out, once and for all, what the majority of our constituents, voters or not, and residents within the Cayman Islands, wish to see as the way forward rather than taking an ostrich approach whereby we say, *'No, we are not going to discuss it here'*.

There was some mention that it be incorporated with the Human Rights legislation. I would submit that, based on past experience, by the time that becomes invoked in Cayman perhaps we will all be out collecting our pensions and there will be three or four pastors incarcerated across the street. I should not wish to partake of that.

There was also mention of the scanty presentation I gave. I wish to categorically state that it was not done by any defect on my part, but having had the opportunity to study the art of negotiation in more than one forum, seeing that I do not have to rely on my legal profession which seems to come under much fire in this House, I also have my teaching profession to rely on.

**Hon. David F. Ballantyne:** Mr. Speaker, I apologise for interrupting—

**The Speaker:** Is this a point or order?

**Hon. David F. Ballantyne:** Point of clarification.

**The Speaker:** [addressing the First Elected Member for Cayman Brac and Little Cayman] Will you give way?

**Mrs. Julianna Y. O'Connor-Connolly:** I most certainly will, Mr. Speaker.

**Hon. David F. Ballantyne:** Thank you.

I believe I heard reference to the possibility of several ministers or pastors being incarcerated. I am not clear that actually occurred in the recent case, although I appreciate that there was the possibility of a finding of contempt. Perhaps that was the allusion being made. I do not understand that the Pastor concerned was in fact ever detained or incarcerated. I just wanted to seek clarification of the position.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, By way of clarification, I was speaking to the future. I should also wish to state that having had first-hand evidence and sitting through the majority of that particular hearing, the Rev. Dee Dee Haines was in fact held in lock-up in the Court House for a number of hours.

Be that as it may, I will continue.

**The Speaker:** Please continue.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

I feel that this is the most appropriate mode for us to deal with an issue as sensitive as this. One almost enters into a realm of frustration when one knows the Christian heritage from whence the majority if not all of us come from, and hear the comments being made by persons in such high offices. I really wonder where the history of this country is going to end up in years to come. I know that God is still in control, for what that is worth, Mr. Speaker.

Irrespective of what has been said, I trust that upon reflection Members would exercise discretion, put politics aside, which seems to become more and more the order of the day, and appreciate this Motion for what it was intended to be—simply asking all Members to allow their constituents an opportunity to hear from the pastors, the judiciary, and from other vested interests the way forward. I can assure all Members if it is not in the affirmative today, this Motion will be resurfacing again in one form or another. It is better now to remove ourselves from the ostrich syndrome that has been the downfall of many others in power before, and vote our conscience with this Motion.

I thank you very much for your indulgence Sir.

**The Speaker:** I shall now put the question on Private Member's Motion 4/01. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Noes have it. The Motion has failed.

**Mrs. Julianna Y. O'Connor-Connolly:** May we have a division please?

**The Speaker:** Madam Clerk, please call the division.

**The Deputy Clerk:**

**DIVISION NO. 13/01**

**NOES: 10**

Hon. David F. Ballantyne  
Hon. George A. McCarthy  
Hon. Linford A. Pierson  
Hon. D. Kurt Tibbetts  
Hon. Edna M. Moyle  
Hon. Roy Bodden  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden Jr.  
Mr. V. Arden McLean  
Mr. Alden M. McLaughlin, Jr.

**AYES: 4**

Mr. Gilbert A. Mclean  
Mr. Anthony S. Eden  
Mrs. O'Connor-Connolly  
Mr. Lyndon L. Martin

**ABSENT: 4**

Hon. James M. Ryan  
Hon. W. McKeever Bush  
Mr. Rolston M. Anglin  
Dr. Frank S. McField

**The Speaker:** The results of the division, 10 Noes and 4 Ayes. The Motion fails.

**PRIVATE MEMBER'S MOTION NO. 4/01 NEGATIVELY BY MAJORITY.**

**The Speaker:** Moving on to Private Member's Motion No. 18/01, Prevailing Economic Conditions of the Cayman Islands. To be moved by the Second Elected Member for Cayman Brac and Little Cayman.

**PRIVATE MEMBER'S MOTION  
NO. 18/01**

**PREVAILING ECONOMIC CONDITIONS  
OF THE CAYMAN ISLANDS**

**Mr. Lyndon L. Martin:** Mr. Speaker, I rise to move Private Member's Motion No. 18/01, Prevailing Economic Conditions of the Cayman Islands.

**The Speaker:** Do we have a seconder?  
The Third Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 18/01 has been duly moved and seconded. Does the Mover wish to speak to it?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, I would first like to take the opportunity to break down the Motion that has been brought to this Honourable House and to read its full resolve. It is captioned: Prevailing Economic Conditions of the Cayman Islands:

**"BE IT RESOLVED THAT this Honourable House debates and takes note of the present state of the Cayman Islands' economy, taking into account the effect of Government's recent tax measures and the OECD (Organization for Economic Co-operation and Development) initiatives, and consider possible stimulus measures that may be undertaken to revive the economy."**

This resolve can be broken down into three subsections. First, it is asking for us to debate the present state of the Cayman Islands' economy. Secondly, to consider recent tax measures impact and the OECD initiatives. Thirdly, to consider possible stimulus measures to revive the economy.

On the part of debating the current state of the economy and taking note I would first like to recognise the presence of the Director of the Economics Unit, Dr. Parsons, and her staff. I give thanks to the Third Official Member, the Honourable Financial Secretary for ensuring that his economic advisors are present here today to take note of the contributions made by the Honourable Members of the Legislative Assembly.

This Motion does not call for a decision, it simply asks for a debate. Take note, I consider it an ideal opportunity to brainstorm, provide ideas, recognise areas of concern and for the Parliament of the Cayman Islands to provide the Economic Unit with our views of what we consider areas we can use to revive the economy.

A country like the Cayman Islands has no central bank. The role of monetary and fiscal policies and all other tools to control, shape, guide, monitor, stimulate and revive the economy is one that is carried out by the Legislative body. Many of our actions taken in this Honourable House will have direct effects on the economy. In every citizen's mind there is no subject more pertinent, today, than that of the state of the Cayman Islands' economy.

As legislators, I am sure all of us have come across constituents who have complained of the slowdown in the construction industry and the hardship they are facing. In earlier debates in this Honourable House when I mentioned the need for Government to take affirmative action to provide a positive direction for the economy and some policy guide-

lines, the common response I received was, 'Be patient, give us time'.

We have been at the reins of this economy for some 240 days—eight months. Most governments are gauged and determined in their first hundred days. They normally have 100 days to formulate their policies, objectives and direction for their government. We have had more than adequate time for this legislative body to come up with firm methods of stimulating the Cayman Islands economy, and simply to provide strong motivation for all Members of the Honourable Legislative Assembly to pursue this initiative with zeal and vigour.

I would like to remind each and every Elected Representative here that most governments in the Cayman Islands which have fallen have done so as a result of poor economic conditions and, or constitutional review. I would like to remind this Honourable House that this year we have the two things simultaneously.

We must take action to ensure that this economy is put on a firm footing. We must also realise that citizens do not have the privilege of being patient like the Elected Members of the Legislative Assembly. They, the citizens, are the ones waiting and watching, and experiencing the hardships. We must take action immediately but it cannot be hastily. We must ensure that we understand the slowdown we are experiencing in the Cayman Islands is one that has some fundamental backing.

I would like to point out the periods in this country that have been characterised as healthy economic prosperity are the periods that were governed and guided by a macro economic plan—a plan that ensured orderly, stable and sustainable economic growth.

The format of my contribution will be to examine the variables that indicate this economy is truly in a slowdown period and the fundamentals which have brought us to this position. I will examine the linkage between our economy and the world economy, especially of the United States of America, and what I consider seven essential ingredients necessary to ensure stable economic growth of the Cayman Islands, analysing how we as a country are pursuing each and every one of these ingredients.

I will then examine the interaction and the influence of Government's revenue measures and further look at the entire Government financial position that requires revenue and its effect on the national economy. I will then look at the two major sectors of the Cayman Islands' economy, tourism and financial services, and the future prospects of those two industries. I will make suggestions as I have made in previous contributions of methods and means of reviving the economy, and reviving in line with the seven ingredients provided earlier which are necessary for sustainable economic growth. I will conclude by encapsulating all that was contributed by previous

Members in this Honourable House as to methods of stimulating the economy.

Mr. Speaker, the Cayman Islands has a very unique, extremely open economy; one which the history of the country will show is extremely vulnerable to external forces. Also one which we need to understand is nine months lagged to the United States economy.

I was privileged to read a report prepared by Sir Vassel Johnson in 1982 entitled *Economic and Financial Review*. I will take this opportunity to recognise Sir Vassel Johnson and his contribution to the economic development of this country and in providing a framework to ensure sustainable economic development. I would like to recommend to all Honourable Members of this Legislative Assembly and to the listening public that Sir Vassel Johnson's book, "As I see it", is a book worth reading. A book that provides great insight to what we now have as an economy.

The second point in his report on the economy and the finances of government was a very important one. I read directly from the report which states: "**The progress and economic stability of the Cayman Islands was indeed created by design and it did not all happen by sheer coincident.**" That is so true because in our early days of our economic development we were carefully guided by well put together economic development plans.

While these plans yielded prosperity, we continued to adhere to the philosophies outlined in these plans. Once we came to periods of slower economic growth, the country deviated and refused to accept the discipline that such planning requires. So, for the past decade and a half—in fact, the last economic development plan expired in 1990—we have been without a macro economic plan. This country recognises the need for macro planning.

Before I continue I just want to simply make a point to ensure that the Honourable House appreciates the relevance. The Motion calls for the state of economy. My argument will be that the state of the economy is one that has simply fluctuated over the years because there has been a lack of certain foundation principles in place, and I am building to that point.

The Vision 2008 [*The Cayman Islands National Strategic Plan 1999 - 2008*], Strategy 13, articulates that the populace requirement of this country is guided by a comprehensive development plan. Strategy 13 states: "**We will ensure that Government, in partnership with the Tourism and Finance industries, strengthens plans for the continuing success of these two critical sectors, and we will identify opportunities for diversification.**"

[Strategy 13, Action Plan 1], Action Step 2 says: "**Develop a long term economic management strategy for the Cayman Islands, which will be comprised of specific plans addressing various aspects of the economy.**"

I encourage each Member of the Honourable House to familiarise himself with this section of Vision 2008. It is quite extensive and makes some very positive suggestions. I also encourage each Member of the House to read what is referred to in the Vision 2008 as the 1986 Hunte Report on Economic Diversification, and the Economic and Financial Review prepared by Sir Vassel Johnson—I will elaborate on this later in my contribution. This will also familiarise ourselves with the 1986 to 1990 Economic Development Plan and the 1998 to 2002 update of that very plan.

In my preparation for this contribution I was exceedingly impressed by the economic foresight and appreciation our forefathers, those who sat in this Parliament before us, had in dealing with planning for the economy. I must also give special recognition to the now Minister of Tourism, the Honourable W. McKeever Bush, and a past member of the Legislative Assembly, Mr. Ezzard Miller, for bringing a motion to this Honourable House in 1985, calling for more comprehensive and longer term economic development planning. This Motion resulted in the 1986 Economic Development Plan and subsequent plans.

I am gravely concerned that we have not taken it upon ourselves as a new Government to make, as a priority, the formation of an economic development plan for this country. I compliment the Leader of Government Business for his insistence over the years for a medium-term financial strategy but that is just that. It is a medium-term plan and simply deals with the financial strategy of the country. It is different, and in my opinion, should be a follow on to the larger economic development plan.

The Leader of Government Business has also indicated that it is his intention to formulate what he calls a growth plan, which is a physical plan. In my opinion, I submit, that again this should be a follow on to a larger economic development plan. This umbrella is necessary to ensure that we are developing in an orderly manner.

I would like to read briefly from a section of the Economic and Financial Review by Sir Vassel Johnson, Section I - 3 entitled, "Economic Development". In an earlier section of this Report it captioned some of the early developments and in this particular section it shows 1956 and 1957, as being two years that witnessed extreme development (page 7):

1. **"The opening of two of its first hotels, the Galleon Beach Hotel on Grand Cayman and the Buccaneers' Inn on Cayman Brac.**
2. **"Cayman Public Service Limited provided George Town with a reasonable 24 hour power supply for the first time. Previously electricity was supplied for a few hours nightly by the Hislop Brothers.**
3. **"The institution of an air service between Grand Cayman and Cayman Brac by Cayman Brac Airways Limited."** I stress once more—Cayman Brac Airways Limited.

In these early days, such monumental development was occurring but this was carefully planned and managed. The finances of government were called upon greatly, as expenditure had to increase by 40 percent in a year to accommodate the need that resulted from such economic growth. However, those who sat in here before us were wise, insightful and ensured that this increase in expenditure was carefully monitored and revenue was brought in line. We did not see a period of deficit during these years.

In fact, in the economic review, Sir Vassel Johnson listed the revenues and expenditure from 1904 to 1982 and closely analysed how government's finances were affected in a deficit position only during the periods of time that there were external recessions or hard times. That is an important fact when understanding today's economy in Cayman. It is for that reason I make a point that we have almost a hundred years worth of information and if we correlate that information with the economy of United States we will truly see how vulnerable we are to changes in the United States' economy, knowing that there are special provisions put into the policy by government.

It is important when I read this section that we understand this Government was operating under some macro economic policy guidelines, something that is not currently present in the Cayman Islands—such macro guidelines that every economy should operate under. The United States' economy operates under four macro guidelines: high employment; price stability; economic growth; and sometimes included, home ownership.

In 1982, [Economic and Financial Review, page 7] Sir Vassel Johnson wrote: **"In response to the Islands' development needs the Government has promoted a strategy for the greatest good for the greatest number of people in accordance with a programme of moderate growth. More specifically the aim has been directed toward**

- i **The broadening of the structure of the economy to reduce the dependence on few sectors;**
- ii **Encouraging foreign investment to enable the diversification by providing some basic infrastructure for the establishment of industries;**
- iii **Providing adequate social services for all members of the community to enable the most effective utilization of talents and abilities and optimise the welfare of residents; and**
- iv **Maintaining an acceptable balance between Caymanians and other residents of overseas origins."**

Mr. Speaker, by no means am I suggesting that we adopt these. I am simply saying that I am extremely impressed that the Government in this period—the period of time that we experienced greatest prosperity—were operating under some large macro-economic policy guidelines.

Sir Vassel Johnson, also, spoke of an economic theory that he proved to be very true for Cayman. I will simply read this theory at this time because it will be relevant to a later part of my contribution. He says: **“There is an economic theory which states that if one wants more of something, such as work, savings or output, one should tax it less and if one wants less of something for example, unemployment, or no work, one should then subsidise it less. The Cayman Islands have in fact effectively demonstrated the correctness of the former part of the theory.”** This theory is known as the supply side of economics.

#### **MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** As soon as you have reached a convenient point, we have reached the hour of interruption.

**Mr. Lyndon L. Martin:** Mr. Speaker, this is a convenient point.

#### **ADJOURNMENT**

**The Speaker:** I would now entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Community Development, Women Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I beg to move the adjournment of this Honourable House until 10 a.m. tomorrow, Friday, 20 July 2001.

**The Speaker:** At 1 pm because there is an informal meeting at 10 o'clock tomorrow morning.

**Hon. Edna M. Moyle:** I am glad to learn that, Sir, but I did not know. Until 1 pm, 20 July 2001.

**The Speaker:** The question is that this Honourable House do now adjourn until 1 pm, 20 July 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned. I would like to remind all members that there is an informal meeting with His Excellency the Governor scheduled for the Committee Room at 10 a.m. for Backbenchers.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED UNTIL 1 PM FRIDAY, 20 JULY 2001.**





**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**20 JULY 2001**  
**2.13 PM**  
*Eighteenth Sitting*

*[Prayers read by the Honourable Second Official Member.]*

**The Speaker:** Please be seated. Proceedings are resumed.

Reading by the Honourable Speaker of Messages and Announcements. There are no apologies handed to me today.

Moving on to item number 3, Other Business. I would ask for a Motion for the suspension of Standing Order 14(2) in order that Private Members' Business may be taken on a day other than Thursday.

The Honourable Minister for Planning, Communications and Works.

**SUSPENSION OF STANDING ORDER 14(2)**

**Hon. D. Kurt Tibbetts:** I move that Standing Order 14(2) be suspended to allow for Private Members' Motions to be dealt with on a day other than Thursday, namely, today.

**The Speaker:** I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 14(2) has been suspended.

**AGREED: STANDING ORDER 14(2) SUSPENDED TO ALLOW PRIVATE MEMBERS' MOTIONS TO BE DEALT WITH ON A DAY OTHER THAN THURSDAY.**

**The Speaker:** Moving on to Private Members' Motions.

Private Member's Motion No. 18/01 entitled Prevaling Economic Conditions of the Cayman Islands. Continuation of Debate thereon.

The Second Elected Member for Cayman Brac and Little Cayman.

**OTHER BUSINESS**

**PRIVATE MEMBERS' MOTIONS**

**PRIVATE MEMBER'S MOTION  
NO. 18/01**

**PREVAILING ECONOMIC CONDITIONS  
OF THE CAYMAN ISLANDS**

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

I commenced my contribution late yesterday evening on Private Member's Motion No. 18/01, Prevaling Economic Conditions of the Cayman Islands, brought to this Honourable House by myself and seconded by my learned friend from Bodden Town, The Second Elected Member.

The resolve of the Motion reads, "**BE IT RESOLVED THAT this Honourable House debates and takes note of the present state of the Cayman Islands' economy, taking into account the effect of Government's recent tax measures and the OECD (Organization for Economic Co-operation and Development) initiatives, and consider possible stimulus measures that may be undertaken to revive the economy.**"

I was quite pleased to see in today's *Caymanian Compass*, a significant amount of attention given by the local press on this very issue. Today is also significant for this issue, as the G-8 nations meet to determine ways that the great eight nations of this world can co-operate and co-ordinate to bring the global economy out of its trough.

Mr. Speaker, what we are experiencing in the Cayman Islands today is a cyclical slow down. We have seen this throughout the history of the Cayman Islands; a slow-down that every economy experiences. We can never hope to achieve macro-management of the economy that will prevent such periods of lower than average economic growth. It is simply part of the economic cycle. What we must try to do is to reduce the depth of these economic troughs and give a more stable path. By a stable economic path, this sometimes means we will have to suffer from not experiencing some of the peaks that we are accustomed to. The economic peaks—those boom periods of economic growth above and beyond that would be considered the capacity growth of the economy contributing significantly to the depth of the troughs.

When we grow at rates of 6, 8, 10 and 12 percent there are certain inflationary impacts that this growth has. Some may ask, *'How is it during the early stage of our development we were able to sustain double digit growth rate rates without excessive inflation?'* The economic model today is a lot different from what it was in the 70s and early 80s.

The Cayman Islands is a lot different in the year 2001 than it was during those periods of time. We had excess capacity in our economy. We had unemploy-

ment that could be observed from this growth without having strong inflationary impacts. However, today we see ourselves stabilising at a natural unemployment rate of approximately 4 percent.

I do make a remark of caution at this point. We must all recognise that one of the limitations we have in the Cayman Islands with macro economic planning and prediction is the lack of accurate and timely information on the economy. It is something that we must address. We must look at some way of improving upon the availability of indicators and of statistical monitors of economic activity. However, one such statistic available is our unemployment rate. We also have accurate, regularly collected information on economic and consumer price index, the measure of inflation.

For the benefit of the listening public, I urge this country to truly appreciate the value of having such information and show eagerness in participating in the provision of information. Without such information, the policymakers are throwing the darts in the air. Even in the Vision 2008 exercise it was recognised that there was a great need for statistical information. As a business owner, I have been subject to the receipt of a macro-economic survey in the past as most business owners have. I urge everyone to take time, fill out this information and provide accurate information to allow for timely statistics.

Returning to my point about the natural rate of inflation, it is seen from historical data that the Cayman Islands' natural rate of unemployment is somewhere in the region of 4 percent. That is a rate of unemployment which is acceptable and we should never hope to achieve unemployment below this rate. There are individuals who certainly do not care to work. Once we start to pursue policies in an effort to go below the natural rate of unemployment we are starting to contribute to inflation. I will spend a significant part of my contribution talking about inflation and the cause, tying it to the recent revenue measures of \$27.4 million and the effect that it has on the local inflation, and how inflation has historically led to slower economic growth.

I want to convince anyone, at this point, who is in doubt that this economy is in a slow period. I want to point out some indicators, which show a slow down in the Cayman Islands' economy. In the year 1999, value of development approved in the Cayman Islands was \$393.4 million. In the year 2000, those approvals fell to \$310.2 million. The development approvals in the year 2000 reflect the construction activity for the year 2001, as there is a lag period between the approval of plans and the implementation of that construction work. So, we can see that the period from 1999 to 2000 saw significant slow down for Grand Cayman. This is made up of residential which fell from \$72.6 million to \$63.3 million; apartments and condos fell from \$204.5 million to \$90.6 million; hotels (including expansions) had an increase from \$16.6 to \$75 million; commercial work fell from \$52.3 to \$21.2

million; industrial development saw an increase from \$1.5 million to \$14.4 million; government saw an increase from \$15.9 million to \$21 million. In the category of others, there was a fall from \$30 million to \$24.7 million.

It is obvious that the greatest areas of shortfall were in residential, apartments and commercial activities. Consequently, we are experiencing that construction slow down in the year 2000 and that which is borne out by all indicators including my recent informal survey of block manufacturing. There was extensive coverage by the *Caymanian Compass* earlier on this year showing the slow down in the construction industry as they surveyed many of the contractors.

That one sector of our economy, construction, carries such an important role. It has such a spill-over effect on various other sectors and it is certainly down. I would like to now include the Sister Islands, which saw a reduction from \$14.3 million to \$12.4 million, bringing the grand total for 1999 to \$407.7 million and reducing in the year 2000 to \$322.6 million.

This is one particular sector and indicator that we are in a slower period of economic growth. It is important at this time I point out that when we talk of slower economic growth, we are not referring to recession. A recession is negative economic growth for two consecutive periods. The Cayman Islands is in no way in a recessionary period; we are simply in a slower economic growth period.

Mr. Speaker, it is estimated that the year 2000 saw an increase in the Gross Domestic Product (GDP), the measure of aggregate economic activity of 3.2 percent. So it did grow. However, that is significantly below the average over the past five years. In 1995 we saw a growth of 4.98 percent; in 1996 an estimated growth of 5 percent; in 1997 an estimated growth of 5.5 percent; in 1998 an estimated growth of 5.8 percent; in 1999 an estimated growth of 5.4 percent and in 2000 a growth of 3.2 percent.

When looking at a slow down in the economy, we must look at it in relation to the population because for this same period that the economy grew by 3.2 percent, the population grew by 4.3 percent. The fear of slower economic periods, or periods of stagnant growth, is that the population will grow at a rate greater than the growth of the economy thus reducing the per capita income in an economy.

Other indicators that there is a slow down in the economy are provided and covered in the *Caymanian Compass* today. I take this opportunity to read from the front page of today's (20 July 2001) *Caymanian Compass*, with your permission.

**The Speaker:** Go ahead.

**Mr. Lyndon L. Martin:** "The tourism sector appears to be in a major trough, real estate sales are well down on last year and the construction sector is slow, but the financial industry appears to be ticking along reasonably satisfactorily."

It goes on to say, **“Tourism, one of the mainstays of the economy, is definitely in a ‘deeper-than-seasonal trough’, commented Rod McDowell of Cayman Tourism Alliance.”** It is important that we understand that this is not a seasonal slow down in tourism. He has indicated, as well as the other informal surveys, to the hoteliers on occupancy that there is a slow down in stay-over tourists.

I would like to interject at this time that I have been attempting to get the statistics on tourist arrivals in the Cayman Islands from the Department of Tourism and the Ministry of Tourism. I would like to commend the Minister and his department as I was told that the figures were available but they were being vetted to ensure accuracy in compliance with the policy stated in the Legislative Assembly by the Minister. I compliment him because I certainly would not want to be making **judgments** on inaccurate information.

Mr. Speaker, I return to the article in the *Caymanian Compass*. **“There has been a ‘significant drop’ in occupancy rates for May, June and July this year compared to those months in 2000—which was not a good year. Hotel bookings were also well down for this August compared with last year.”**

**“Mr. McDowell added that he sees ‘no relief in sight’ He pointed out that the spill-over of a slow down in tourism has gone over to the restaurant industry which has even resulted in two restaurants on West Bay Road closing this year.”**

Not only do we see a slow down in tourism. I have just spoken on construction and the volumes are down 35 percent for real estate, according to one prominent realtor, as stated in the *Caymanian Compass*. He used the Cayman Islands Real Estate Brokers’ Association (CIREBA) figures.

The article highlighted that financial services seemed to be ticking along at a satisfactory rate. I am quite pleased to say that there are certain sectors in our financial industry which are doing just that. However, there is a significant decrease in company formulation and registrations, as reported in the *Caymanian Compass*. I was provided with figures that showed company registration is down, as of the end of June, by 33 percent.

I can recall an article published recently in the Cayman Net News in which the Honourable Third Official Member commented that, although company registration was down, banking was certainly up. I note with interest that it is common when reporting figures on the health of the banking industry that we use the assets on deposits—the dollar value of assets on deposits—which is a good indicator of the health of the banking industry. However, it is not a good indicator of the effect the growth of that industry will have on government’s revenue, as this is collected on the number of bank licences and not on the dollar value that transacts through these banks.

Mr. Speaker, it is quite obvious, and I do not think we will get any disagreement that the economy is in a

slower period than normal. In fact, I was also quite pleased with some comments by the Leader of Government Business, and I am in agreement with a lot of what he said, about the fundamentals still being strong behind the Cayman economy. I am not reading from his article, I am simply surmising from what I read. It is true and I would not in anyway contribute to talking down the economy of the Cayman Islands because I am still very confident that our economy is a strong one.

As the Leader of Government Business pointed out, we are very sensitive and volatile to changes in economic cycles of the external world especially the United States of America. It is in this respect that, I think, the Government can do something. He alluded that he would be looking at ways in which the Government could take local action to ensure we were not so heavily impacted by changes in the external world.

It is imperative we understand that some 70 percent of our Gross Domestic Product (GDP) comes from two industries, which is a high concentration. This makes us very vulnerable especially since these two industries are subject to changes in economic activities especially in the United States. Eighty percent of our tourists come from the U.S. and a significant amount of our offshore financial services’ business originates from the U.S. or via the U.S.

We need to truly look at methods of diversifying our economic base. We need to continue to support the Ministry responsible for information technology in its efforts in E-commerce. We need to support the Ministry responsible for agriculture to seek ways of improving our agriculture output. We need to, once more, introduce an agricultural development plan. I urge the Minister responsible for agriculture to talk to his colleague, the Minister for Health, who was responsible for the introduction of a former influential agricultural development plan.

It is imperative that we, as a government, understand the impact of our activities and our legislation on the local economy. I would like to speak briefly of some of the activities we have embarked upon recently, since being elected, that have had direct or potential impact on contributing to the slow down in economy activity.

We passed a Motion to form a Select Committee to prescribe a minimum wage; we passed a Private Member’s Motion for a Select Committee for fair competition; we passed a Government Bill in this House to borrow \$56 million; we approved a Budget with revenue measures of some \$19.88 million for nine months in the year 2001 and \$27.4 million every year thereafter and we passed a motion for the Government to review the Labour Law. I heard in the various contributions, remarks such as increasing maternity leave and the introduction of paternity leave, which I am not commenting on. However, I am just mentioning that they have an impact on the economy—an inflationary impact.

We are the body in this country that determines

the legislation, the expenditure and the policies which thus create the economic environment in which this country operates.

In my introduction yesterday, I outlined briefly that one of the things I would do in my contribution is to highlight seven ingredients which are necessary for long-term economy performance. We must understand and accept that the world has changed. The traditional economic models no longer work. The normative economic principles that were studied and learned by most no longer apply. Free trade and globalisation has changed the traditional economic model and the tradition of flow of economic activity.

The new growth model in the new world, the new concept has been facilitated through trade and various trade theories. As I mentioned earlier today, (20th July 2001), the powers of the world will be meeting to determine the future of trade. The new economy, which is a very open economy, interacting with the global world responding to global changes, has brought about many challenges. Some are even questioning the new benefits of this new economy.

The central hypothesis behind trade and growth is that incomes across countries tend to converge at a common level. In other words, facilitated by trade, lower income countries will tend to grow more rapidly than countries at a higher level of income. That is something we can attest to right here in Cayman. During the period of time where we were at a lower level in our economic development chain, when we invested into certain infrastructural work, we saw rapid immediate response. We saw immediate growth in the economy. We saw immediate and tangible growth in government revenue. That sort of growth is attracted and only possible during lower periods of economic development.

I would like to read from the "Economic Development Section" in Sir Vassel Johnson's *Report on Economic and Financial Review*, page 7, in which he quoted His Honour the Commissioner, Mr. A.M. Gerard on the 7th March, 1956 in his one but last Budget address. It says: **"The key to every development we have seen in the Cayman Islands without exception has been communications. When we built the Grand Cayman airfield few people outside the dependency had any confidence, either that it was a practicable proposition or that we would be able to pay for it. What has happened? It has opened new worlds to our seaman, it has increased the tourist industry ten-fold and it has generated such prosperity that in the two years since the airfield was opened the public revenue has increased by one-third. We cast our bread upon the waters and behold it has come back to us in the shape of buttered scones."** On this point I want to illustrate through that very example that primary infrastructural development is what brings about greatest economic gain to a country.

Mr. Speaker, the enhanced free trade we have seen over the past two decades is now under threat

because during the period of globalisation that was pursued the catalyst. The movement for globalisation would bring about this convergence of income between lower-income and higher income countries, and the world would be better off. However, empirical evidence has shown that there has been a greater divergence of incomes during this period of globalisation. Now, that the world is seeing an economic slow down there is a tendency for the world powers to preach protectionism and isolation—to keep our resources within our boundaries during hard times.

This is certainly a threat to the world's economy because this slow down is simply a temporary one and we do hope that after the meeting of the G-8 nations we will see an endorsement for future talks on trade and globalisation.

Mr. Speaker, researchers, econometricians and economists have determined that long term economic sustainability requires:

1. Investment in private and public capital;
2. Education and training;
3. Financial intermediation;
4. Macro-economic stability;
5. Openness with respect to trade and investment;
6. Equality of income distribution;
7. Stability of political and social conditions.

As I illustrated earlier, Infrastructural Investment, under the caption of Investment in Private and Public Capital, is the single item that yields greatest returns to a country. The prioritisation of infrastructural investment has to be determined by the stage of your economic development. In the early days, it was considered a fundamental achievement for the economy when we created the port, the airport and when we built the bridge to the rest of the world. However, in the year 2001, such prerequisites for development are in place. We must look at other areas that are still in their primary stage of development and ensure investment is made in these because they will bring the greatest economic results.

We boast of our level of development, yet, we have not truly addressed national provision of sewage service and water. Such infrastructural development is what should be top priority. Every citizen of this country at this stage in our economic development should be connected to city water and public sewage. Every citizen of this country including the sixth electoral district of Cayman Brac and Little Cayman should be driving on good paved roads with good port facilities, good airstrips and airport. I compliment the provision recently made for the paving of the Gerrard Smith International Airport and the commitment made for the construction of a landing strip in Little Cayman. These are the sort of investments that will yield the greatest return to this country.

Mr. Speaker, it is imperative that we prioritise the investment in this country to ensure we are putting

money into the areas that will yield greatest economic impact. It is important that we understand that infrastructure investment is the preparation for the country to produce positive economic growth in future generations.

In our early stage of development when we invested in education, we needed to stress primary education because it was what this country needed. We needed to provide a basic minimum level of literacy and comprehension. As the country progressed up the development chain so did the demand for education and thus the incentives and returns coming from investing into higher levels of education.

I submit that at this stage in our economic development this country should have a fully-fledged university present in the Cayman Islands. To keep pace with our economic development we need to invest to ensure that we have an institution present here that will allow mothers, including single mothers, politicians such as ourselves, and other workers to pursue tertiary education—to gain a degree, such as a master's degree or doctoral degree.

When our country needed the ability of readers and writers, our forefathers saw fit to invest into primary education. When our economy and our development grew that we needed secondary education, our forefathers stood to the plate and ensured it was provided. Now, our economy and our economic development are at a stage that we need fully-fledged tertiary education present in the Cayman Islands. I make the challenge. It is our responsibility to fulfil the legacy that has been passed to us and provide such tertiary education.

Mr. Speaker, investment in education, training, and human capital is essential during economic development. We must view this in tandem with immigration reform because the need for immigration reform has a strong impact on the current state of our economy. We have developed at a pace that has far exceeded the ability of indigenous Caymanians to keep up with the development. We need to invest in human capital to ensure that we are coming into a replacement stage. We had to rely on foreign labour, which was predominantly here without security of tenure. Consequently, foreign workers' money did not remain. The economic activity generated here did not stay here because, as a country we did not provide foreigners with any certainty of their future in this country so the money left. These are leakages in our economy. At the same time, we were not producing sufficient numbers of qualified Caymanians, in a mode and in a practice, under a scheme that ensured these Caymanians would one day replace those transient workers.

We must view development from the holistic point of view. We must ensure we are not simply talking economic growth but about sustainable economic growth that can only be achieved if the indigenous, or those whom we have made Caymanians—those who have a stake in this community, those that have rights

in this community—benefit, and thus the benefits stay within our shores.

I was recently part of Private Member's Motion No. 17/01, a Motion which was modified and defeated and called for the investment of pensions' funds locally. In my argument on that particular Motion I illustrated the negative economic impact of leakages that result from money leaving this country; economic activity produced by these shores but leaving these shores.

The only solution to immigration and to the reduction in economic leakages is effective education investment to ensure that we are producing Caymanians to fill the jobs our economy is creating. It is the pre-requisite for our next stage of economic development.

I now turn to financial intermediaries and the financial structure. Financial institutions mediate the transformation of savings into physical capital. The presence or absence of a stable and well-developed financial system can profoundly influence a country's long-term growth. We have an issue to deal with in the Cayman Islands. We have a coalition between the banks in this country that establish interest rates. We have a Cayman Stock Exchange that does not have a secondary market and does not allow for local entrepreneurs to develop a business strategy or concept, and a business that capitalises itself.

We must look carefully at the financial intermediaries in Cayman and what we can do to ensure their competitiveness; to ensure that they are effectively transforming the savings into capital. That can only be achieved if transformation is occurring at the most competitive interest rates.

We must also carefully look at the confidence in our banking industry. In my case I have read about, but in some other Members' cases they have experienced the days when monies were held under the mattress, under the stairways or buried in the yard rather than banked because there was a lack of confidence in the banking system.

I am very concerned over recent developments such as the closure of two banks over the last couple of years. We can all remember what was termed as the 'bank run' that affected the British American Bank. I compliment the management of British American Bank for producing and demonstrating strong management techniques to ensure they met the challenges of the two-day bank run. However, as the depositors fight to settle with the two closed banks we must ensure, as regulators, that we are providing a strong regulatory framework to ensure such closures are not necessary in the future. They can jeopardise the confidence the consumer has in the banking sector and if the money is not going into the banks to allow for loans or for it to be invested into capital there is a reduction in the multiplier effect of money and the velocity of money.

We must ensure that we look at areas such as the depository insurance. We must see that our regu-

latory regimes are ensuring that banks are operating at appropriate reserve requirements and we must make sure that our banks and insurance companies are not jointly and co-operatively setting interest rates. The impact of proper investment on the economy is phenomenal. There are novels of information, empirical evidence, that show the direct correlation between those countries that have well-developed financial intermediaries and stable economic activities.

A recent study, deemed as the King and Levin Study of 1993, demonstrates a correlation between various measures of financial development and the rate of GDP growth, capital accumulation and multi-factor productivity growth in a large cross-section of countries. This should be noted because in several of my arguments I will speak of the correlation between various variables.

I urge the Economic Unit that when looking at and studying the correlation between macro economic models, with the information available in the Cayman Islands that it is by no means statistically clean information. There are some problems with the level of samples in that the statistical accuracy of these correlations might not be as great as we would like in order to make economic predictions and measurements. However, it is important, and the method I use is that if correlating variables, over various periods of time the same direction is produced, then we can attest they are correlated. We cannot attest to how correlated but we can attest that they are moving in a particular direction be it directly or inverse.

I want to also speak about macro-economic stability as a determinant for stable economic growth. The major factor under macro-economic stability that affects economic growth is inflation. A study by Barrow in 1995, and Fisker in 1993, quantified and demonstrated empirical evidence that linked inflation and economic growth as being inversely related. These two studies determined that for every point of increase in inflation, there was a 0.05 percent decrease in economic activity. That was the Barrow. The Fisker study indicated that there was 0.25 percent reduction in growth as a result of inflation. The relevance of this particular section applies to this Motion that talks of the impact of the recent Government measures on economic activity.

The major determinants to the Cayman Islands' inflation are Government revenue measures and, secondly, U.S. inflation. During the period of 1995 through 1999, the country experienced healthy, above normal, economic growth, 5.0 percent, 5.5 percent, and rising to 5.8 percent. Throughout that period, inflation remained very stable. Inflation was 2.6 percent, 2.8 percent, 2.9 percent and 6.25 percent in 1999. So, it remained stable at 2.6 percent, 2.8 percent, and 2.9 percent during the period of 1995 to 1998, respectively, during the period that we experienced stable economic growth. In 1999, the inflation peaked to 6.2 percent and immediately following the peak of inflation the economic growth dropped to 3.2 percent from 5.4

percent.

Inflation by its very nature and design, by the early neo-classical economists, was determined as the economy checkpoint, something that always brought economies back in line. Periods of economic growth resulted in inflation and inflation brought the economy back down. We must look at what happened in 1999 and learn lessons from 1999 inflation. Economic growth brings about demand for infrastructure. The Government was faced with tremendous demand on infrastructural development. This infrastructural development was pursued. Significant accumulation of infrastructure and capital can be accounted for during this period. In 1999, the price was paid when inflation took over and the economy slowed.

In November 2000, when the new Government took over it fell into the same trap of looking at a slower economy which resulted in slower periods of government revenue. Rather than trying to stimulate the economy, which in turn would bring in greater revenue, the Government sought to pursue an inflationary policy of raising revenue. When I stated earlier that there were certain local initiatives which have contributed to the slow down in our economy, this is what I was referring to. The Government revenue package put forth in this Honourable House, the largest revenue package in the history of this country, resulted in a further economic slow down.

I will remind Honourable Members of an economic principle by Sir Vassel Johnson that I read yesterday: **"There is an economic theory which states that if one wants more of something, such as work, savings or output, one should tax it less and if one wants less of something, for example, unemployment or no work, one should then subsidise it less."** It is an economic theory that I encourage the Government to adopt. If we want more output we have tremendous empirical evidence, showing that economic output positively impacts government. We so often talk of economic slow down causing a slow down in government's revenue. The opposite is also true: an economic recovery will generate greater revenue for the Government.

At the time of making my contribution to the Budget, I said that I did not think it was an appropriate time for such a revenue package. I thought it more prudent for the Government to invest into areas and pursue policies that would stimulate the economy, and bring us back to our desired level of revenue. I want it to be known and understood that in 1999 and 2000, in particular, where we hear so much about the deficit, this occurred because of a reduction in revenue as a result of a slower economic period. If we want to get over that period we need to stimulate the Cayman Islands' economy.

I want to briefly share with this House some words on price stability from the New Zealand Reserve Bank Governor, Don Brash who said, **"The purpose of price stability has always been to allow maximum sustainable economic growth. Price sta-**

**bility has never been an end in itself rather it has always been the best contribution which monetary policy can make allowing the economy to grow at its maximum sustainable pace.”** The issue of price stability is essential to understand when we seek to control and influence the level of economic activity in the Cayman Islands. The Central Bank of the European Union’s major economic macro policy is not aimed at economic growth, but price stability.

Many powerful individuals, including the President of the United States of America have tried to challenge the Central Bank of the European Union to break away from their policy of price stability. They would like the European Union to cut interest rates to try to stimulate their economy because the world is an economy. If the European Union is stimulated then their demand for American products would increase and that would aid in the recovery of the United States’ economy and the rest of the world. The Central Bank has stood fast to their economic policy of price stability because they fear that the reduction of interest rates will lead to other variables which would affect the level of inflation in their country.

The adherence to grand policy guidelines such as price stability is important when making economic decisions and, as a country, we operate in the absence of such commonly agreed macro-economic policy guidelines. I must emphasise that it is my submission that inflation in itself, or the control of it, cannot be the method used for economic stimulation. However, my submission is that high inflation is incompatible with economic growth so it is fundamental that we keep inflation under control and we understand that our actions in this Legislative Assembly affect the level of inflation in the country.

Openness of trade and investment was another determinant of stable economic growth. This ingredient is one we must pursue carefully. We must ensure that, as the world grows into groups of trading blocks, the Cayman Islands will not be left in an isolated sense. I understand and truly appreciate the efforts made for an associate membership of the Caribbean Community and Common Market (CARICOM). We must pursue trade, and trade does not have to be only physical products, things you can see, but also services. We must look at certain activities, certain clean industries that can be located in these Islands which will contribute to providing some form of export.

Recently, as a result of a parliamentary question about the level of duty concessions, various Members of this Legislative Assembly commented that we needed guidelines and the issuance of concessions. Concessions should be granted to institutions that are establishing industries which have export potential employing a certain amount of Caymanian labour and making a minimum amount of capital investment. It is quite common in developing nations that we use a theory called ‘infant industry concessions’. We allow industries to benefit from certain relief during the period of start up. However, the evidence of the world

and certainly of Cayman is that these infant industries never become mature.

We must ensure that the technology infrastructure, including telecommunications, is at the cutting-edge and at a competitive cost to attract such industry. We must pursue initiatives that would fall under the school of thought of import substituting industries—industries which are established locally to replace the reliance on various imports. We must look at some way of increasing the products and services that can be produced in Cayman and exported to the rest of the world.

Income distribution is also a very important factor in developing the country in ensuring long-term sustainable economic growth. It is virtually all cross-country growth that is measuring variables of economic growth of numerous countries. If we regress that against income inequality we will see it is negatively correlated with future economic growth. I will not attempt it because there are better individuals in this House to deal with the socialistic perspective of income distribution and redistribution.

I am not in a position to attest whether the quality of education at the public schools is greater or worse than that of the private schools, but it is imperative that opportunities are provided to all individuals to pursue education. This is their means of improving their income levels and their own directive at redistributing income that is accessible to all, including private schools. So, if there is a financial restriction that prohibits lower income individuals from gaining advancement from what some perceive, whether it is real or not, as being greater educational opportunities in private schools, Government must then utilise its social services’ network in a method to subsidise these individuals to ensure that each individual is given proper opportunities for educational advancement.

By no means would I want to talk outside the school as I am a member of the Education Council. However, I am a great advocate of scholarships being awarded on a need base rather than offered to every student who applies. There are individuals in this country who certainly can afford to educate their own children and they should be encouraged to do so. We should reserve the funds that are available in this country—those funds that are becoming so limited—to be spent on education. Opportunities should be offered for the less fortunate to gain access to educational opportunities to further advance themselves so they can greater participate in the economic wealth of the Cayman Islands.

I cannot over emphasise the importance of ensuring that when economic growth is occurring and economic income is growing, we ensure that all sectors of our economy are benefiting and that we do not contribute to the growing gap between the wealthy and the poor. On that subject I want to emphasise that I adhere and buy into the global commitment of poverty reduction through investment in education. It is



the goal to reduce by 50 percent the portion of the people of the world living in extreme poverty by the year 2015. As a country we must make our small contribution to ensuring that the wealth of this country is distributed evenly.

Political and social conditions are listed as my final determinant for economic sustainable growth. It is imperative that the country's political system, this democratic system that we have in this country, truly reflects the wishes of the people. It must be understood that for the democratic system to work the elected representatives are spending the money and legislating the policies in this country in the direction of the populace. For that system to work we need to ensure the representatives are cognizant of the needs of the community. We must also ensure that the populace is educated about the cost associated with the provisions of their needs. We must make sure the country understands that there are no free meals. We must ensure there is no suspicion of any form of political corruption.

So far in our history, we have been able to run a government without any serious charges against our country for any form of political corruption. Our people must remain confident in the elected representatives. I have every reason to feel confident that this country can express surety that the elected representatives who formed the Legislative Assembly in 2001 have great adherence to this concept.

We should try to pursue our development in an orderly manner and ensure that our very limited resources, human capital, monetary and physical capital, are all utilised for the greatest good and for the greatest amount of people, as Sir Vassel Johnson put it.

We must ensure we look at all elements that threaten our resources. We must carefully look at our capacity for economic growth. We must look at how many tourists we can sustain before they negatively impact the very product that attracts them here. We must look at how many office complexes in George Town we can sustain without the populace being negatively impacted. We must look at traffic congestion because to simply grow is not enough. We must grow in a manner in which the country is benefiting. So, if we are growing and creating results from that growth, such as congestion in George Town, which is not the desire of the people, who are we growing for?

**The Speaker:** If I may interrupt you for a moment, we have reached the time we would normally take our afternoon break. There appears to me there has been free mobility of Members in and out of the Chamber. Could we forego the break and continue until 4.30 pm?

**Mr. Lyndon L. Martin:** Mr. Speaker, my voice would greatly appreciate if we could exercise the break.

**The Speaker:** Could I ask Honourable Members, let

us try to be back in fifteen minutes?

We shall suspend proceedings for fifteen minutes.

#### PROCEEDINGS SUSPENDED AT 3.35 PM

#### PROCEEDINGS RESUMED AT 3.58 PM

**The Speaker:** Proceedings are resumed. Debate continuing on Private Member's Motion No. 18/01.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

I spoke earlier of the direct impact of the United States' economy and the economy of the rest of the world on the Cayman Islands. Yesterday evening I suggested our economy operated on a nine-month lag period. That is proved by a long history of empirical evidence which shows movements in the United States' economy are followed in the Cayman Islands after nine months.

Mr. Speaker, that movement does not only occur in the negative at the point of a downturn but also there is a lag in the period of recovery, not necessarily the same nine-month period. It is important as the body of individuals in this country who are responsible for providing macro-economic policy that we carefully monitor the currency in the United States. In the *Caymanian Compass* of yesterday (19 July 2001) and also in the *Wall Street Journal* (19 July 2001) was coverage of the Federal Reserve Chairman, Alan Greenspan, in a speech on Wednesday of this week. He cautioned that the year-long economic slow down has not ended and may require another interest rate reduction to revive sluggish growth.

It is predicted that the United States growth in real GDP for the year 2001 on a low would be 1 percent and on a high 2.2 percent which is *The Economist* economic forecast.

Mr. Speaker, the Euro area is expected to grow by 1.6 to 2.2 percent; Australia, 1.4 to 2.3 percent; Britain, 1.9 to 2.5; percent; France, 2.1 to 2.5; percent; Germany, 0.8 to 1.5; percent; Italy, 1.6 percent—

#### POINT OF ORDER

**Hon. W. McKeever Bush:** Mr. Speaker, on a point of order.

**The Speaker:** Let me hear your point of order.

**Hon. W. McKeever Bush:** Mr. Speaker, as to the introduction of this Motion, I am wondering how much longer the Member will be, and whether he has actually overstated the case relevant to the Motion. I would like to have some indication as to when he will finish his introduction.

**The Speaker:** I do not call that a point of order but if

you could give us an indication, I think, it would be appreciated.

**Mr. Lyndon L. Martin:** Mr. Speaker, would the Clerk be able to indicate how much time of my four hours remains?

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman, these are not accurate figures, but you have spoken for approximately 2½ hours, yesterday and today. Let us say you have two hours left.

**Hon. Roy Bodden:** Mr. Speaker.

**The Speaker:** The Honourable Minister for Education.

**Hon. Roy Bodden:** Under Standing Order 38, I move that the question be now put.

**The Speaker:** Unfortunately, this Motion does not have a question.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, I have listened carefully to the debate even though I was not in the Chamber. I have been in the Common Room. The Motion actually calls for us to take into account the effect of Government's recent tax measures and the OECD initiatives, and consider possible stimulus measures.

Now, the Second Elected Member for Cayman Brac and Little Cayman was just starting to get into Alan Greenspan's view of the United States' economy. We need to bear in mind relevance because I want to hear about the tax measures—the OECD initiatives, and the possible stimulus measures. I do not want to hear about Greenspan making another interest rate cut.

**The Speaker:** I listened very carefully to what you are saying and I would like to advise all Members I am cognizant of the fact that a lot of irrelevance goes on in this House, and I shall not allow it in the future. So, be prepared.

Would the Second Elected Member for Cayman Brac and Little Cayman, please continue?

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker.

**The Speaker:** I do not intend having a debate this afternoon. That is not the purpose.

*[Addressing the Second Elected Member for Cayman Brac and Little Cayman]* Would you give way?

**Mr. Lyndon L. Martin:** Yes, Mr. Speaker, I will give way.

**The Speaker:** The Second Elected Member for

George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, I would like you to clarify something for me, Sir. You said that the question could not be put because there was no question. When debate concludes and the Second Elected Member for Cayman Brac sums up, what then are we to do, Sir?

**The Speaker:** I have been wondering that from the very beginning, to be honest with you, but we will find a way.

**Hon. Edna M. Moyle:** Mr. Speaker, if I may, Sir, and maybe I am out of turn . . . If a motion does not have a question to be proposed to the House it should not therefore be debated by Parliament.

**The Speaker:** If you could tell me exactly where that is in our Standing Orders I would be very grateful to you because I do not see it. Let us not take any more time.

Please continue Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, Erskine May *[Parliamentary Practice, 22nd Edition]* covers Motions, and I think it is page 441 for those who are interested in reading.

I have to say that I am stunned that the Second Elected Member from West Bay does not see the relevance of the United States' economy when debating a Motion that takes note of the state of the Cayman Islands' economy.

**The Speaker:** I will not entertain any further debate.

The Second Elected Member for Cayman Brac and Cayman Brac, please continue.

**Mr. Lyndon L. Martin:** Mr. Speaker, I was just speaking about the United States' economy and broadened it to include various other countries that are seeing a period of slow economic growth. Consequently, we can continue to expect a slow down in our economy.

I simply read an abstract from the speech of Mr. Greenspan to show that the individual who is deemed to be most intimately knowledgeable about the United States' economy. . .

**Hon. W. McKeever Bush:** Mr. Speaker, on a point of order.

**The Speaker:** I have made a ruling and I am not going to allow any further debate. So, let us go along—

**Hon. W. McKeever Bush:** Mr. Speaker, it is not a debate I am asking for! I am asking for a point of order.

**The Speaker:** Well, let me hear your point of order.

**POINT OF ORDER***Procedure*

**Hon. W. McKeeva Bush:** I am rising on a matter of procedure.

**The Speaker:** Let me hear your point of order.

**Hon. W. McKeeva Bush:** I am asking the Chair on what basis are we debating this matter? What conclusion are we coming to? Which Standing Order provides for this Motion to be debated? I think the House should be told this, Sir, with all due respect.

**The Speaker:** Have you read the Motion?

It says, "**BE IT RESOLVED THAT this Honourable House debates and takes note of the present state of the Cayman Islands' economy, taking into account the effect of Government's recent tax measures and the OECD initiatives, and consider possible stimulus measures that may be undertaken to revive the economy.**"

The Second Elected Member for Cayman Brac and Little Cayman, please continue.

**Hon. W. McKeeva Bush:** All right, Mr. Speaker, I can sit here as long as you can.

**Mr. Lyndon L. Martin:** I am amazed that a Government preaching human rights wants to even take away my parliamentary rights to speak on a motion—the only motion I brought to this House.

**POINT OF ORDER**

**Hon. W. McKeeva Bush:** Mr. Speaker, on a point of order, I think the Member is insulting in saying that the Government is trying to take away a right from him. No such thing, Sir! We would rather have procedure followed correctly.

**The Speaker:** I would ask that you not make statements that could be termed derogatory. Let us continue with the debate, and that is a point of order.

**Mr. Lyndon L. Martin:** No problem. Mr. Speaker, I would just let the Minister responsible for Tourism know that I was referring to the Motion for the closure of the House cutting off my debate before completing as being—

**The Speaker:** Let me make it very clear: if we cannot have a Parliament, I shall adjourn this House without question so let us have order at this time.

The Second Elected Member for Cayman Brac, please continue your debate until the hour of interruption.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker, for that ruling.

The point that I have been trying to make is that the Cayman Islands' economy is largely influenced by the United States and the rest of the world economy, and I am debating the Motion which seeks to discuss the state of the economy. I am illustrating that part of the problem we are now experiencing, part of this economic slow down, is a result of our dependency and vulnerability to the United States. That point has been made and established. However, it is necessary for me to illustrate what is happening to those economies to then make the linkage of what is happening in Cayman, and what is predicted to happen in those economies.

Mr. Speaker, your ruling is welcomed and I hope strongly enforced so that I am allowed to complete my debate.

The first economic development plan for the Cayman Islands from 1969 called for diversification of the economic base and the reduction in the vulnerability of the Cayman Islands to the global economy. That was in 1969; again in 1972, 1975, 1982, 1988 and the 1990 revision. We have always stated it. The document Vision 2008 has stated it. In 1986, the Hunte Report on Economic Diversification has claimed it as being an essential. However, no real achievements have been accomplished in broadening our economic base. Until we can achieve the broadening of the economic base, the vulnerability that we are experiencing now will continue.

A part of my debate will be dealing with recommendations. The first recommendation for ways of reviving the economy is directed at diversification. In *Vision 2008*, it was called a Business Development Council. In my contribution to the Budget Address and my campaign manifesto, I called it an Economic Campaign Council. It is imperative that we have a body of individuals who represent individuals from the Economics Unit, Finance and Administration Department, representatives from the Chamber of Commerce, representatives from the Agricultural Industrial Development Board, and all other relevant business associations.

This development council would be your core individuals who would spearhead activities aimed at broadening the economic base of the Cayman Islands. It is a body of individuals which would actively pursue economic initiatives. At the next session of the Legislative Assembly I intend to make this part of a motion. I read with interest several motions brought to this House which approved the formation of an Economic Advisory Board, sometimes called Economic Development Council, and to a point of even listing members. This body of individuals would travel to conferences such as offered in corporate relocation, and investment incentive conferences. They would be the body of individuals meeting with potential investors to ensure that the bureaucracy is as minimal as possible and who could answer all questions on immigration, planning and all the laws of the Cayman Islands, and including direct contact with government.

Mr. Speaker, this body has been experimented with, especially in the district which I represent through the Cayman Brac and Little Cayman Development Council, and has proven to be very worthwhile. This body of individuals would then take on responsibilities of assisting potential investors in seeing their venture come to reality. So often I hear and meet with business investors who claim they have problems getting adequate information and have difficulty understanding our regulations to see their project through to full completion.

In addition to the development of a Business Development Council, it is necessary for this country to further develop the Agricultural Industrial Development Board (AIDB), which participates in providing financial resources (venture capitals) to small businesses. To broaden our income base we need to have a resource where individuals can go with a prospectus, a business concept, projected finances, and a feasibility study and secure some finances. The AIDB offers such a programme. However, it needs to be expanded and a public relations' exercise is necessary to bring this about—to bring it to the light of individuals. This jointly between the Business Development Council and the AIDB would provide the entrepreneur with business advice from their experience.

I also encourage the Government to examine the Cayman Islands' Stock Exchange legislation to carry it to its full intention by including local trading. I recommend the Government to take progressive action to confirm that the regulatory body, whether it is the Monetary Authority or others, ensure that interest rates in this economy are determined on a competitive basis so that finances of capital projects, business ventures, residential constructions and apartments are done at the most competitive interest rate. I encourage the Government to guarantee that the regulatory regime is in place to secure the money held at the banks to aid confidence in the banking system.

Mr. Speaker, as stated earlier, and in my Throne Speech, I recommended that the country and the Government seek to reduce to 10 percent the import duty on building material as a stimulus measure for the construction industry in Grand Cayman. In Cayman Brac, we have proven this to be a measure that is effective at stimulating economic activity and has resulted in increased duty to Government. With a controlled example, I think, the Government can now move boldly and carry out a similar exercise in Grand Cayman. It will have to be for a defined period of time to get us through this trough of slow economic period where our Caymanians are hurting.

I have looked quite extensively at this proposal. I have consulted with various individuals in the construction industry—individuals pursuing development initiatives and contemplating investing in Cayman. I am convinced that such a measure would take the construction industry out of the trough. As stated earlier, the construction industry is a major player in our domestic economy. I am certain that if the construc-

tion industry recovers we will see domestic commerce booming and we will see a lesser impact on the global slow down in the Cayman Islands.

The question posed as to what can be done locally to prevent the slow period is answered in this contribution. We must also look at methods of stopping the leakages in our economy through effective, progressive immigration reform so that individuals who are participating in our economic growth have some degree of stability and security of tenure. They will then feel comfortable that every cent they earn they do not have to send overseas. They can invest and build their home locally; they can buy an apartment; they can invest into a small business venture. Without effective immigration reform this will not be achieved.

I also recommend that the Government revisit the issue of pension contribution accumulations and look at some acceptable level to require the pension contributions to be invested locally. There has to be some level that is acceptable. The Members of this Honourable House rejected the 50 percent but they chose not to amend it to 20 percent or 10 percent. They chose to reject the Motion. I urge the Government to revisit the pension fund requirement to be invested locally.

Our tax system is a very unique one and I have some recommendations on revising the methodology used to raise funds for the heavy demand of capital projects. I must first examine the shortfalls of our current tax system.

First, we must understand the difference between taxes and fees. Certain government revenues are simply to offset the provision of services. They are not taxes. They are fees, flat rate. Other taxes that are used or amounts of fees that are greater than that to provide services are considered taxes to fund public goods such as roads.

Mr. Speaker, our system of taxing is a consumption based tax. It is not an income tax. It is not a wealth tax. Consumption tax is one that does not fluctuate directly with income so, although economic activity will generate greater revenue, it is not necessarily directly proportional. There is a difference between the products demanded during economic development, and the level of revenue that is generated from increased economic activity as a result of those products. So, there will be a continual need on our current tax system to always impose new taxes during our economic growth. As we reach to direct stages there will be new taxes rather than the existing tax rate observing the growth through growth in economic activity.

It is for that reason our history is characterised by the introduction of several tax measures. Every time we move to a new stage on economic development we see new tax measures which, as I illustrated earlier, though necessary, calls for a slow down because they cause an inflationary effect. So, we must look for new creative ways of funding capital projects and I make it quite clear that I am not advocating changing

from consumption based tax. I am simply saying that we must look at, as I proposed in the Budget Address, a national lottery. I once more call for a national lottery in the Cayman Islands.

We must also look at funding our capital projects through the issuance of government bonds rather than borrowing and taxing. Government bonds are a lower source of funds.

**Hon. W. McKeeva Bush:** Mr. Speaker.

#### POINT OF ORDER

**The Speaker:** Are you rising on a point of order?

**Hon. W. McKeeva Bush:** Yes.

**The Speaker:** Let me hear your point of order.

**Hon. W. McKeeva Bush:** Mr. Speaker, the Member has traversed this ground over and over since yesterday and I feel it is repetitious—tedious at that.

**The Speaker:** I have been listening very carefully. There is a question on this point of order but I will have a statement to make before we adjourn this afternoon, and at 4.30 pm I shall do so at the interruption.

Please continue.

**Mr. Lyndon L. Martin:** Mr. Speaker, I was speaking about the issuance of government bonds the first time since I started my contribution to this Motion. I spoke about it during my budget address some months ago.

We must look at new ways of funding capital projects. The issuance of government bonds has been my recommendation from the time I came to this House and remains my recommendation. The issuance of government bonds offers several economic revitalisation characteristics.

It provides Government with a lower cost source of funds which then allows Government to operate more efficiently; thus the need for other taxes is reduced.

It provides local individuals the ability to purchase government bonds and increase their yield from their savings, which then increases their personal wealth and their ability to invest into the economy.

I hope that the Government considers and puts into place the mechanism necessary to facilitate the issuance, management and recording of government bonds in the Cayman Islands in the very near future.

Mr. Speaker, the running of a country like a business is so often remarked upon. When you have a section of that business which has additional capacity to reduce and is currently not producing at its maximum output, you then invest in that department. Bringing that analogy to the country, we have 100 square miles of land. There is some 14 square miles represented by Cayman Brac that is not properly and

fully utilised. A country which manages its macro-economics is managing its resources wisely.

As part of my recommendations of methods of reviving the Cayman Islands' economy I suggest that the Government revisit the report by Mr. Aftab Noorani on the economic revitalisation of Cayman Brac. Look at what has been proposed by him. Consult with the Economic Development Council of Cayman Brac and look at methods of ensuring that we are fully utilising all of the resources available to the fullest capacity.

Mr. Speaker, I note that I am at the hour of adjournment, I am not sure—

#### MOMENT OF INTERRUPTION—4.30 PM

**The Speaker:** I shall entertain a Motion for the adjournment of this Honourable House.

The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Thank you, Mr. Speaker.

I move that we complete debate on this Motion this afternoon.

**The Speaker:** We have reached the hour of adjournment. I have asked for a Motion for the adjournment of this Honourable House.

**Hon. W. McKeeva Bush:** Mr. Speaker, I said we are not adjourning, Sir, we are going to continue business this afternoon.

The House will have to decide that.

**The Speaker:** Our Standing Orders clearly state that you have the right to speak for four hours. Although I do not agree with it, that is what our Standing Order says, so you cannot force a person to finish prior to that time.

**Hon. W. McKeeva Bush:** Mr. Speaker, we will just continue until we finish debate on it [Private Member's Motion No. 18/01] this afternoon.

**The Speaker:** I shall put a question that the House do now adjourn. If that is not satisfactory then we will continue.

Those in favour of the House adjourning, please say, 'Aye'. Those wanting it to continue, say 'No'.

#### AYES AND NOES.

**Mr. Lyndon L. Martin:** Could we have a division, Mr. Speaker?

**The Speaker:** Certainly.

Madam Clerk, would you call a division?

**The Deputy Clerk:**

**DIVISION NO. 14/01****AYES: 4**

Mrs. J. Y. O'Connor-Connolly  
Mr. Lyndon L. Martin  
Mr. Gilbert A. McLean  
Mr. Anthony S. Eden

**NOES: 12**

Hon. James M. Ryan  
Hon. David F Ballantyne  
Hon. G. A. McCarthy  
Hon. D. Kurt Tibbetts  
Hon. W. McKeeva Bush  
Hon. Linford A. Pierson  
Hon. Edna M. Moyle  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. A. M. McLaughlin, Jr.  
Mr. V. Arden McLean  
Mr. Cline A. Glidden, Jr.

**ABSENT: 2**

Hon. Roy Bodden  
Dr. Frank S. McField

**The Speaker:** The Noes have it. The House will continue.

**ADJOURNMENT NEGATIVED BY MAJORITY.**

**The Speaker:** I shall use the moment of interruption to make a statement.

Honourable Members, I rise this afternoon as your duly Elected Presiding Officer or Speaker of this Legislative Assembly. Actions that have been taken here this afternoon are not in accordance with what I am charged with responsibility to do. I am extremely disappointed with the cross arguments and I want to make it abundantly clear that as long as I am an Elected Speaker of this House, I shall do everything in my power to preserve, defend and protect the rules of procedure.

I am now asking all Honourable Members to meet with me in the Committee Room at 10.00 am on Monday, at which time I shall lay out in detail questions that have been posed from the Floor this afternoon, and my ruling on them.

I feel, and I must say, that it is an injustice to go against Standing Orders. I can stay here as late as anyone else, but the gentleman is entitled to four hours.

I ask you all to attend the informal meeting in the Legislative Assembly at 10 am on Monday, 23 July 2001.

Debate continuing.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, I want to thank you for rising and addressing this issue. We are here not only to fulfil our own political agendas but we have to preserve the dignity of this Legislative Assembly. I agree that the behaviour here today has been exceedingly in poor taste.

Mr. Speaker, I am quite happy to continue with my contribution to this Motion which the people of the Cayman Islands, whom I represent because I was duly elected, have asked me to bring. It appeared that this country's Government was not taking note of the state of the economy and for that reason the Motion has been brought by the Second Elected Member for Bodden Town. Apparently, the country has great reason to be concerned because of the behaviour demonstrated here tonight. There seems to be flagrant disregard for a Motion of such importance.

Mr. Speaker, I have to admit that it has been difficult for me to keep the trend of my thoughts with the numerous interruptions. I do believe when I was speaking last, I was talking of my various recommendations and speaking on the greater investment into Cayman Brac. I also mentioned the consultation with the body of individuals in Cayman Brac who have collocated into a council to provide advice to the Government on ways of improving the economy.

Every motion brought to this House has been as a result of Elected Representatives feeling that they must do something to better their constituents, and should be respected in that accord.

I want to turn briefly to the Financial Services Industry (FSI). I want to compliment the negotiating team of the Cayman Islands' Government for successfully negotiating the removal of the Cayman Islands from the Financial Action Task Force's (FATF) blacklist—present and past negotiating teams, and especially the Honourable Minister of Health, who is a common denominator in both teams.

Mr. Speaker, I was extremely pleased when I heard in this House that the objective of the negotiating team was not simply to be removed from the blacklist. In fact, I think it was first articulated by the Second Elected Member from George Town who broadened the objective to being and remaining competitive in the Financial Services Industry. I think that is very important because to be removed from the blacklist without consideration of what you might have to give up to be removed was not in the health of this country. If being removed from the blacklist was essential for us to remain competitive in the Financial Services Industry then all efforts would be made. So, I think that change of approach was welcome.

I am not 100 percent convinced and I am quite eager to see the true economic benefit derived from being de-listed. I have to admit that seeing company registrations down 33 percent in the second half of this year concerns me. It also concerns me when I hear remarks saying we should be focusing primarily on the institutional investor and not the private millionaires around the world.

The private banking industry is estimated to represent some \$27,000 billion. One of the attracting features of the Cayman Islands as an international financial industry has been the full array of business opportunities offered in the Cayman Islands. The full ambit of financial services is provided in this jurisdiction. It is

what differentiates us from the other jurisdictions and has contributed to our world-class standard. I think there is no aspect of that industry we should give up. We must seek to adjust to the new environment in which we operate. We have made the changes. We have had differences in views as to what was necessary to bring about those changes.

Now that we have adapted and have been recognised by the de-listing exercise as being a legitimate first-class jurisdiction, it is now up to us to re-establish our position in the very competitive offshore Financial Services Industry. We must change the methodologies that we use to promote our industry to more real world, real time, methods. I am stunned when I surf the internet and look at the international media that I have seen so little publicity given to the fact that the Cayman Islands has been de-listed. There has been so little publicity given to the fact that we are still an alive and kicking financial jurisdiction. We still have a lot to offer albeit less than we had before but we are still a very competitive provider of international financial services.

Mr. Speaker, on this subject I want to state my opinion publicly and also to express it to the Honourable Third Official Member that the FATF issue was serious. It was an issue which threatened the industry that provides 30 percent of our gross domestic product. In no sense whatsoever should we be belittling the FATF as I have seen recently on an invitation to a party that uses the FATF logo. I personally believe that is wrong. I personally believe we should resist such temptations.

The FATF is an international body—

#### POINT OF ORDER

**Hon. George A. McCarthy:** Mr. Speaker, on a point of order.

**The Speaker:** Let me hear your point of order.

**Hon. George A. McCarthy:** While I respect the fact that individuals can hold different views on various matters, to suggest the appreciation party that has been planned for this afternoon, even with reference to the FATF logo is somehow not right. I would suggest that this Member does not attempt to misread the invitation that has been sent out to mean that the persons who have decided to host this party do not recognise the seriousness of the FATF issue.

Mr. Speaker, I have been a part of the negotiating team. The Honourable Minister for Health is a part of the negotiating team. We have Mr. Alden McLaughlin, who is the Second Elected Member for George Town, as a part of the negotiating team. We have persons assisting such as the Assistant Financial Secretary, Miss Drummond, who has worked very closely with the negotiating team.

To suggest this afternoon that—

**Mr. Lyndon L. Martin:** Mr. Speaker, is this a point of order, Sir?

**Hon. George A. McCarthy:** Yes, it is a point of order. Mr. Speaker, if the Member would allow me to—

**The Speaker:** Please continue.

**Hon. George A. McCarthy:** For the Second Elected Member for Cayman Brac and Little Cayman to suggest that the magnitude of what the FATF represents is not appreciated or understood is incorrect. I would suggest if that is currently the Member's view, as to how the FATF issue is seen, then he should revise his opinion of the persons and also the seriousness with which that matter is being treated by the negotiating team and the Cayman Islands' Government.

**The Speaker:** I have listened very carefully to all that has gone on here this afternoon. I would say to the Second Elected Member for Cayman Brac and Little Cayman, it is good to express your opinion but when it is on an international issue of this nature I would ask that you refrain from coming direct. That is a point of order.

The Second Elected Member for Cayman Brac and Little Cayman, please continue.

**Mr. Lyndon L. Martin:** Mr. Speaker, I will respect your ruling and adhere to your recommendation and respect the international sensitivity of the issue. As I said, I was stating my issue and I will refrain from addressing that issue any further.

I stated earlier and want to reiterate that I have the greatest respect for the entire negotiating team, the present and the past, and their achievement. I respect the team as a whole. I made special recognition of the Minister of Health, the Second Elected Member for George Town and the Honourable Financial Secretary, who was a common denominator on the two negotiating teams.

Mr. Speaker, I was in the process of illustrating the change that has occurred in our financial industry. That change can even be demonstrated through the various names we have used to refer to ourselves over the years. As the industry evolved we changed from a tax haven to offshore financial centre and then to international financial centre. It is a continually changing process and I am proud that our country has been able to attempt those changes throughout the years.

The new Financial Services Industry for the 21st century is one in which we will have to capitalise as one major differentiating characteristic over the other jurisdictions, the quality of the professionals that we have in the Cayman Islands. We have a pool of professionals, both in the private and public sector that puts us in a position whereby we can compete with any financial service provider jurisdiction. We can provide a level of professional services that is competitive

with world standards. That must be the factor on which we promote the industry but the key is effective promotion of this industry.

During this period of recovery there is reluctance now in business coming here. It is being felt by the providers so we need to go out and actively promote this industry once more. Promote it based on the quality of our regulatory regime and the quality of the professionals that make up the financial industry here in the Cayman Islands.

Mr. Speaker, I do believe it was timely when the Government took an initiative, in which I was involved, to carry its professionals around the world and showcase them to the global community, New York, London and Hong Kong, where conferences were held. Not only did we carry individuals to speak at such meetings but other private providers of service accompanied the Government to showcase the quality of the professionals we have in our industry. I do note it was not a very expensive undertaking because the participants generated revenue.

I believe it is time for the Cayman Islands, the fifth largest financial centre, to ensure that when we ask the banks, trust companies and company formation providers to pay extra fees they directly see the benefits of their fees.

The fifth largest financial centre of the world should have an international standard convention hall. We should have a facility in which these individuals, who have invested time, energy and money into building this financial industry, can host seminars and conferences of an international level. We should not be renting hotel conference halls as we should have our own centre. I know such an initiative is an expensive one but I also know that the financial service providers would eagerly participate in such a venture.

In looking at ways of reviving the economy I have always advocated the need for government to operate more efficiently. There is a direct relationship between government's efficiency and economic activity. I would like to make that relationship clear. Government extracts money from the economy through taxes and fees. It then utilises that money internally to fund the central government and the remaining sum is invested into capital projects, services and providers. If we are not operating government efficiently, it then means a large portion of the taxes removed from circulation is not directly re-invested into capital or infrastructural projects but used to simply fund an inefficient base. It is imperative that we minimise the cost operating government. So, when looking at methods of stimulating the economy and of ensuring sustainability in the economy, we must also look at the efficiency of government itself.

Mr. Speaker, I am cognizant of the fact that I also have the privilege of winding up this Motion. I would now offer the opportunity to any other Member of this Honourable House, who wishes to contribute to this Motion. In my wind-up I can encapsulate any suggestions or criticisms they may have had into one final

statement to ensure the country has been recognised. It will enable the Government to see the state of the economy and methods of reviving the Cayman Islands' economy.

Thank you, Mr. Speaker.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I rise to offer comments on Private Member's Motion No. 18/01 entitled 'Prevailing Economic Conditions of the Cayman Islands'. The Motion reads, "**BE IT RESOLVED THAT this Honourable House debates and takes note of the present state of the Cayman Islands' economy, taking into account the effect of Government's recent tax measures and the OECD initiatives, and consider possible stimulus measures that may be undertaken to revive the economy.**"

When the Second Elected Member from Cayman Brac introduced the Motion he made reference to the point that this Motion is to be regarded as having three subsections. Firstly, that this Honourable House debates and takes note of the present state of the Cayman Islands' economy. Secondly, that account is taken of the effect of the Government's recent tax measures and OECD initiatives. Thirdly, consider possible stimulus measures that may be undertaken to revive the economy.

Mr. Speaker, the Member has raised a lot of points and he has expounded quite a lot on various economic principles. Given the way the Motion has been worded, the best way to respond to the Motion is to hear what has been said and then formulate a response.

Members would have taken note that since the Second Elected Member for Cayman Brac and Little Cayman commenced his debate on the Motion yesterday we have had senior officers from the Economic Research and Development Unit present in the Legislative Assembly. The reason for their presence is to allow for the points of substance to be noted—for the transcript of views offered by the Honourable Mover to be looked at very carefully and to take into account the comments offered by other Members of this House to formulate a response, which will be provided by the Government by way of a statement. This is a Motion the Government takes very seriously and regards it as very timely and will be looking at the issues raised very carefully. It is not one that the Government intends to just set aside because given the state of affairs at this time, in terms of what is happening in the economy, it is very important that as much information be provided to the community to help Members form careful judgments in terms of current developments.

Mr. Speaker, if you will permit me to refer to the editorial of the *Caymanian Compass* (20th July 2001) entitled "Cayman's Economy". A part of the editorial reads: "**Some sectors of Cayman's economy may be feeling a pinch at the moment but this does not**



mean that Cayman's economy is imploding into a black hole."

It goes on further, "**Commentators on Cayman's economy should be careful in their use of words. An element of economic forecasting is psychology, rather than heavy number crunching. Surveys on 'consumer confidence' and on 'manufacturers' confidence' play a part in these forecasts. If manufacturers are going to invest and if consumers are going to buy, then the economy can look forward to growth. If, instead, money is going into the bank against expected hardships and downturns, then expressed expectations become self-fulfilling.**"

It is the last point I have quoted which I would like to focus on for a moment. "If, instead, money is going into the bank against expected hardships and downturns, then expressed expectations become self-fulfilling." We know that the economy of the Cayman Islands is closely allied to that of the United States. Honourable Members of this House would recall in the campaign of the present government of the U.S., one of the factors very much in the forefront was the tax relief package by the President of the U.S. In his various proposals, the view was taken, in summary, that the Government of the U.S. would provide tax relief to the value of about \$1.8 trillion over the next ten years. In order to justify the actions necessitating the tax reduction culminated into talking the U.S. economy into a recession. That is the psychological aspect of it.

If we examine very carefully the manufacturers who are producing computers, and we have seen layoffs by Compaq and some of the other manufacturers, there is apprehension on the part of the public as to given uncertainties. If they are made to feel that their breadbasket for tomorrow will be threatened, the natural thing to do is to preserve what exists today, and that means what exists within their bank accounts.

Quite recently it was said in the United States that while sales were sluggish, let us say, in the housing markets and with some of the high-priced items, note was made that in K-Mart and some of the other supermarkets, items such as household products and others were moving at a very rapid pace. These are items which consumers decided were necessary to hoard and to accumulate in abundance. The reason for this is that firstly the acquisition of such items does not really threaten their accumulated wealth base. This is a point we have to bear in mind.

I have made note that the Honourable Member has pointed out, and I will agree with him on this point, that, in order to carefully monitor what is taking place in the Cayman Islands, there is a need for us to have access to useful and accurate information. I will endorse the position he has taken in appealing to the community, as a whole, to provide such information to assist the Government.

Let me also mention, when we look back to the recent debate of the Budget Address it will confirm that the Government took the present state of the

economy very seriously. For example, when we look at the tax package and what has been projected to yield \$19.7 million through the end of the year (I do not have a copy of the schedule in front of me) you can see that it was set out to minimise the impact upon the local economy. We have seen where the cost of regulating our financial industry will increase over the next three years and the Government has met with the financial industry and worked out very carefully a plan whereby that cost will be absorbed by the industry itself.

Secondly, the effects of the recent tax measures and the OECD initiatives have been taken quite seriously, not only by this Government, but by the previous government. When the now Minister for Education was a Member of the Backbench, I think, he took the view, when it comes to matters such as these international initiatives which could have an unfavourable impact upon the economy of the Cayman Islands if not handled properly, all Members of the Legislative Assembly should band together. The government at that time (in 1998) together with the other Members of the Legislative Assembly was committed to that approach. So much so that the view was taken that the Cayman Islands—having given an advanced commitment to the OECD—would not be one of those countries that were subsequently put on a list by the OECD. At that time it was regarded as the right decision to have been taken.

Hindsight is always 20:20 but I was a part of that negotiating team and when I mentioned the names of persons earlier it was by oversight that I omitted to mention the Honourable Second Official Member. He could not be left out of the picture because when it comes to legal issues he has done a sterling job. He and I were in Malta last week, and I had to call him 'Battleship Ballantyne'. He led the debate on the legal issues in the information exchange agreement and he did this country proud. I was quite happy to be associated with him, so much so that when the Honourable Member was in Malta his health was somewhat at risk. He had to be running between the conference and the doctor's office getting a prescription.

So, when the view is taken that persons may not be taking these initiatives seriously and alluding to the fact that these are put up as symbolic gestures for a party, Mr. Speaker that is not the interpretation to be given to this.

Before the de-listing took place here, the Honourable Leader for Government Business and I (as members of the negotiating team) were in Washington DC. We visited the U.S. Treasury Department, Canadian Embassy, the Australian Embassy, the Japanese Embassy and the U.K. Embassy in Washington D.C. We also met with representatives of the French Government at the International Monetary Fund to make sure that everyone got the message very carefully as to what the Cayman Islands had done and what actions had been taken in order to address the issues raised by the international community and, in particu-

lar, the Financial Action Task Force. So much so, that when we look back at the FATF before the twenty-five criteria were developed, we were regarded to have been in compliance with the forty recommendations of the FATF and the nineteen recommendations of the Caribbean Financial Action Task Force (CFATF). It was not that a whole barrage of legislative action was taken to achieve that, but because of the fact that the Cayman Islands has always taken its international obligations quite seriously.

When we look at the impact that all these initiatives are having on our economy, it is not totally reasonable to make a comparison with just the year 2000. When we look at the year 1998, up to the end of June the amount of companies formed in the Cayman Islands was 4,462. For the year 1999 up through the end of June - 4,382 were formed; to the end of June 2000 - 7,073 formed; for the year 2001 up through the end of June, 4,743. Let us isolate the year 2000. In 1998 again, 4,462 were formed; in 1999, 4,382; and in 2001, 4,143.

We were made to understand that the reason why we have had such a high registration in the year 2000 was because, for the first time, Hong Kong decided to recognise Caymanian and Bermudan companies for a secondary listing. However, I do not have the specifics of that. As a result of that there was a rush by company service providers to register quite a number of companies in the Cayman Islands. What we have in front of us is not a decline. Yes, we are less than where we were by comparison in June 2000, but when we have a total of 4,743 companies registered up through the end of June 2001 this underscores the confidence that the international community has in the Cayman Islands' economy.

There is no point in playing ostrich and burying our heads in the sands. We know that the construction industry is down. We know that improvement needs to be effected and expectations are less than what one would anticipate in the tourism sector. The ups and downs that take place within economic cycles are cyclical and, ideally, we would like to be on a path of continuous growth. Events do occur within the international markets that oftentimes will culminate in a reduction of the normal growth-rate. We are a resilient people and we will come through this. We will continue to grow from strength to strength.

The Member spoke about marketing the Cayman Islands and I am in total agreement with him on this. We cannot talk about using past concepts such as focusing solely on confidentiality. Yes, privacy of transactions that take place in the Cayman Islands must be maintained. This is not something we are going to give up or put at risk but we are talking about privacy in regards to legitimate business. When it comes to zero tax, yes, that is important—we will have to market that. We will have to look at what really underpins our economy as a whole including the financial industry.

I will submit to you that there are very few places a person can go in this world today, where he or she can walk from East End to West Bay without having to fear being attacked along the highway. We have our elements of crime. We know of things taking place but, as a Caymanian, I can get up tonight and walk from my house to East End or West Bay. I can go to Cayman Brac and Little Cayman and do the same. I would be very foolhardy if I were to go to some other countries in the region and do the same.

At the end of the day we are dealing with human beings. This safety factor is what is important and this is why we have million dollar homes here in the Cayman Islands. This is why people feel the level of confidence that has been built up over the years. This is one place where white, black, Chinese and Indians can get along. We know that there are elements of prejudice but at the end of the day no one's life is threatened as a result of this.

I walk as a descendant of the Ashanti Tribe and I feel good. This is the country in which we live and we have to put our minds together. When we put our minds together and we attempt to derive solutions then we will be able to address the problems in front of us.

Mr. Speaker, I will use an analogy. Once a back there was an enterprising set of people who found themselves in Egypt. I want for Egypt to be regarded as a state of mind. The Pharaohs of the day felt threatened. A number of circumstances developed and these people found themselves on the other side of the Red Sea. Miriam took the symbol and decided to have a celebration. This is what we will be having tonight.

Mr. Speaker, we have just come through the Red Sea and we are now in the wilderness. We should not stop in the wilderness. The wilderness is intended to strengthen us and cause us to grow. In the wilderness there are snakes, vipers and scorpions such as Senators Levin and Morgenthal who will always be there wanting to bite. The most dangerous part, or the greatest threat in the wilderness, were the cynics—those who wanted to go back to Egypt knowing it was not the ideal place, and they had a fear of going into the Promised Land. At the end of the day, the people prevailed and entered the Promised Land. We will go through the wilderness and we will have our wilderness experiences. These are good for us but we will always enter the Promised Land if we have faith.

We know, and I know, things can be better. I know life operates on a cyclical basis. The wilderness experiences are good for us. It allows for us to pull our resources, sit, work through solutions and take a determined position as to the best way forward looking always to our God, the Sustainer and Provider of all things. He will take us into the Promised Land. God is not raising any brats. When the children got into the Promised Land, he said to them that he would only give to them wherever their feet went. So, whatever

stage we have reached, we have to continue to be enterprising.

Mr. Speaker, we are going to take the message, as to what we are about, into the international community. We are not going to allow our critics to do that for us because we have knowledge of what the Cayman Islands is about. We have to say thanks to those who have gone before us and we have to pave the way for those who are yet to come.

So, I am going to suggest that we pool our resources together—we are talking about our monetary and mental resources. Let us try and work at solutions. When we look at the economy as a whole there are some areas lagging behind, but let us see exactly what can be done. For example, the Honourable Leader of Government Business has spoken about a building programme in terms of office complexes for the Government that will create a stimulus for the construction industry. Now, that is a constructive suggestion.

I would not want to say that the Second Elected Member for Cayman Brac and Little Cayman has only been critical because that would not be fair. He has put forward a range of useful ideas but when we are looking at matters such as our financial industry and the international initiative, let us be very careful in terms of the information we share. For example, we know the same things that some of the offshore countries were saying to places like the Cayman Islands and others should be done.

When we were in Malta last week we were told that because we had given a commitment we should hold to that commitment and put ourselves in a position to share information after 31 December 2003 on criminal tax matters. We have no difficulties with that. We found out, while we were there, that some of the other advanced commitment jurisdictions have collapsed their criminal, civil and administrative tax matters into one. For Cayman, civil and administrative, in the letter of commitment we said we would be co-operating after 31 December 2005. For some of them, who have combined criminal, civil and administrative tax matters they, presumably, will be co-operating after 31 December 2005.

The Honourable Attorney General, the Executive Director of the Secretariat and the Assistant Financial Secretary and I pointed out to them at the conference that we were moving in a lock-step position. Cayman will not be the sacrificial lamp for the OECD or the international community. We are moving in line with everyone else. We are not going to pat ourselves on the back by running out there to be pioneers. We were made to understand when the commitment was given that this would be the same commitment right across the board, and that is the position we will be maintaining.

Again, I want to express gratitude to the Attorney General. He argued the point well and a single statement was put on the table, 'Yes', we will continue to look at the information exchange agreement. Not only

that, all the advanced commitment countries came together as one, but Cayman is not going to be moving until those member countries within the OECD arena decide they are going to step out—those that we regard as our competitors. We will all move together as one. This is the seriousness with which these international commitments are being looked at and are being taken.

At the end of the day I walked away from that meeting and when I looked at the agreement which we were asked to go there and talk about it, to see the lines that were running through, it is not going to be the end of it because we are still in the wilderness. If we sit down and do a bit of spying, and all the things that are necessary for our survival, with the help of God, we are going to come through strong, and this can only be achieved if we work together as one.

**The Speaker:** I do not know how long we are going but does any other Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I do wish, this being Friday evening, that I had the opportunity to go home as that is the normal thing one does at the end of a workday, but that is obviously not to be in this instance.

Mr. Speaker, I do not have any notes to read but I have a few things to say. This evening brings me full force back to times of living Hades in this Honourable Chamber, for me personally, being the only Member under attack by seventeen others. So much so (and perhaps it is because the Member now occupies that chair) . . . maybe that is the point of target or something. I used to sit there. With my throat bleeding I begged for the adjournment, as you did this evening, Mr. Speaker. I was told that the business of the House had to continue. At which point, Dr. Stephen A. Tomlinson (a Member for George Town) rose and in a most outraged and impassioned way demanded that the debate should cease because of plain humanity. However, I see faces change but some things do not change.

Mr. Speaker, I am certain you are right in your ruling of the Motion that it is proper to be before the House. The Motion asks that the House debate and take note of three things: the present state of Cayman's economy; the effect of Government's recent tax measures and the OECD initiatives. It also asks to consider possible stimulus measures, which to me means, if we have any ideas about what could stimulate the economy we should offer them to the House.

I note one thing the Honourable Third Official Member said, and that was, that the Government will be responding in writing to make a statement with regards to this Motion. Now, I would just bring to the attention of the House that this Motion says 'debated'. So, if a statement comes—I do not know how long that will be—this calls for a debate now.

I have been preaching the gospel for many years—over a decade—that we ought to stop patting

ourselves on the back as we have for decades about how great we are and all the things that we have. We are ahead of all our brothers and sisters of the Caribbean. We have all the money in the world. We even gave away \$1 million with no strings attached in a situation where, approximately nine months later, the British government spent £400 million to build an airport in the Falklands. I advocate that we ought to have gotten real a long time ago. I think boasting and talking about ourselves landed us in a fix with the FATF and the OECD and the rest.

Rather than talk about the banks and the trust companies that we have, which, according to the OECD, are just shelves and files in offices, we should be talking about a place where someone can invest his money and be sure that it is being handled by professionals, legal, financial and otherwise, and feel safe when the investor is doing that. We should talk about how stringent our rules are for making sure that bad money does not come here and if it comes we find it and get it out of here. I have a suggestion, straight away, for the Government of the day and those in the past as well, and that is: we should promote ourselves as the entity we should be which fosters our continuance in this business, rather than bring us to a point where we could lose that opportunity.

Mr. Speaker, I have quite a regard for the Honourable Third Official Member, and I liked what he said about us taking a changed position. We need to take that as seriously as we need to breathe. We need to, not just once or twice, but continually reply to our detractors and those who accuse us of wrongdoing constantly, rather than count the number of banks. This includes two, which I understand will be caught up in a merger or a buy-out everyone is denying or does not wish to talk about; that is, Barclays and CIBC.

I have always believed that it is not quantity that makes something good but the quality. I can go as far back as, I do not remember the year, but it was an occasion where various people from the private sector and government went on a swing around three or four countries. We reduced the cost of registering companies, which put us in line with some others who are competing with us. My argument then was that we were the better quality and persons wishing to be registered here should pay more. Well, I was proven right years later when the fees had to be adjusted again.

Mr. Speaker, I also agree with the Honourable Third Official Member when he quoted something from the newspaper which spoke about making statements, whereby, in effect, these things might come true. We have to be very careful with that and indeed that is why, I think, in February this year, in this same Legislative Assembly I said that the government of the day should stop talking about the past government. Stop saying that the country was broke, this and that, and get on with promoting it positively. So, the moment in time here has not caught me flatfooted.

The Cayman Islands' economy is in a serious slow down. If one wants to call it a recession or a drought it is up to him, but I do know that things have slowed down dramatically in the Cayman Islands. They have slowed down in the construction industry, tourism and the financial services, and there are various factors that have affected this. One thing I would like to note right at this point, which was made by the Honourable Third Official Member—the U.S. President said he was going to rebate and reduce taxes on the American people to start the economy. What did we do? We taxed the people to start the economy.

Mr. Speaker, we sure did not start it but I think we gave it a serious blow that stunned it considerably. There is data that proves the economy has slowed, and by taking \$27 million out of it means that money is not there to be spent by the people who are paying that amount over a period of time.

Various things affect the Cayman Islands' economy. The first one I see is greed from the top to the bottom in all sectors of this economy. Rather than sell a can of condensed milk for 35 cents, sell it for 90 cents. That is the general mentality.

Costs are affecting the economy of Cayman. I had an occasion on Tuesday to speak to a manager of one of the condominiums on Seven-Mile Beach. This person was telling me that the owners decided they were going to increase the charges on their accommodation for no other reason than because other owners were doing so and they were getting business, thus they were going to increase theirs too. The manager said that he told them, *'Let's leave ours, we are normally full. We are attracting people.'* The geniuses to whom the condominiums belonged to said: *'We are going to increase ours because we can have less people and still make the same amount of money or make more.'* That kind of mentality is what is driving the Cayman Islands, my country, into the ground.

Neither the present government, nor past ones, are saying to those people, *'Listen, this is the Cayman Islands, you can make money here but, by God, we are not going to allow you to be driven by greed to the point that you are going to affect the economy of the country and make it too expensive a place where people are going to stop coming to it.'*

Mr. Speaker, everything in Cayman is too expensive including the taxes that people pay. We have to look at the overall spectrum in this country if we are to ever make a difference now or in the future. It is not sufficient to wait until there is a crisis and everyone gets real excited and says, *'Let's do what we have always been doing—tax the people.'* The amazing thing is that taxes always seem to hit the little man on his eggs and milk rather than hitting some of the people who are milking the economy and paying little or nothing for the wonderful environment the Cayman Islands offers them to do their business.

The economy of the Cayman Islands is attached very closely to that of the United States. We know there are certain things which can be done and should

be done. We need to get about doing them. Taxing the people is not the way out. We have to devise means of sharing a small percentage out of the millions, and tens of millions of dollars, that are made by financial institutions in the Cayman Islands which can simply become but an additional fee of what they would normally pay. Now, everyone can sing a song but until a government, including this one, gets brave enough to deal with that instead of talking about it, it is not going to be any different and we are going to continue to tax the people who can ill afford to be taxed.

The recent tax measures have indeed affected the economy. It is bringing greater stress throughout the Islands, financially. Tourism is shrinking so there are fewer people coming and less money in circulation. I wonder if anyone noticed the number of homes being repossessed by the banks, or is it just me who sees just a couple of them, including land and cars. The other day, it would have done one's heart good to see the number of cars lined up along West Bay road, I think near Royal Palms. There must have been sixty of them with For Sale signs on them. That is one way perhaps the Government could go about getting some money too, although it is illegal to do that, I understand. If they charge \$10 a day for that it would be a good source of income.

Mr. Speaker, the OECD and the FATF are real. They are for real. They do not care whether we are a Christian society, as we claim to be. They do not care whether it is 39,000 of us and half are foreign. They do not care! They care about the fuel that runs the world economy—money. They have us not in friendly regard but I would say in hostile disregard because they say we are attracting away their money via their citizens who invest in the Cayman Islands. They call us all sorts of dirty names: 'Money laundering islands of the Caribbean'. They have imposed more cost on us via the requirements in law to pay dozens of people within our shores to safeguard and supposedly monitor their money. To report to them what colour underwear a person is wearing when they come to make a deposit or start an account! That is not parliamentary.

There is nothing else left that these laws and regulations now do not demand. It is no longer just a case of the people from these territories and countries who have to give all this information. Dare a Caymanian, who has Caymanian connection of 200 years, to go to buy a draft, or to transfer some money, or open an account to see all the recommendations and references that he will have to get to be able to do it. It would seem that persons who are just beginning to work for the first time would not be able to open accounts.

Mr. Speaker, we laugh about a lot of stuff when we should be serious and contemplative. We hear about this Financial Reporting Unit (FRU) and all of that stuff affecting this economy. We come in here and ask questions about it, and we hear that it really has no structure; it is here, there, or everywhere as

the case may be. We ask, 'Tell us exactly, what is the situation?' We get letters from the Governor, and the Commissioner of Police who tells us one thing. We hear all sorts of stories. What that is doing, I suggest, to the people who would invest money in this country is making them nervous. If all that the Cayman Islands can now offer us is an assurance that we are going to get reported on, why do not we just stay here, suffer and bleed in the U.S., or Canada, or France, or Germany or wherever.

I believe that it gives reassurance to any would-be investor if they know there is an animal called FRU, that is precisely what it is, which law it is in, its practice and procedure, how it is structured and accountable to someone, somewhere, sometime. That makes for good business. These are things we need to start dealing with. The fact that we still have other slews of legislation to pass, we had better start looking at that and figure out how it is affecting us.

Now, we can say that we are not doing this and that for OECD but up until now all I see is that we have done everything the OECD wants us to do and we are on the verge of doing the rest that we have not done. Have we done an audit to see what we have lost or will lose by complying, like Price Waterhouse did, to see how we were not complying? I do not know. I know there are persons bobbing around here every now and then, who pretend to be geniuses and they have all of that figured out. People, like me who ask questions like this are the most awful people in the world for they occupy high places in the structure of government. I am not speaking of the Honourable Financial Secretary or the Honourable Attorney General or the Honourable First Official Member, I wish to make that quite clear.

Mr. Speaker, we have real things to work out. It is like the meeting with the Governor this afternoon. He saw, like we saw, and it was put to him straightforwardly that when we look at one thing we need to check others because one thing in itself is not the be-all and the end-all; it is a chain reaction. It is the way life is. We try to fix this one and something else happens. So, you had better look at the whole scope and then come to a realistic conclusion.

If we sit around and believe that the United Kingdom will not assist the efforts of the OECD we are lost before we begin because the United Kingdom is one of those countries. That country has to sit straddled between taking care of Cayman, Montserrat, Turks and Caicos and others, and also take care of itself. Who is she going to take care of the most? Who elected Mr. Tony Blair? It was not I. I did not cast any votes for him. He has to answer to the British people just like we need to answer to the Caymanian people. So, who are they going to take care of first? Who does one believe she must look after first? We have to be fitted into her sphere of things, her agenda, and her obligations. We hear all the good stuff about the Bill of Rights, which keeps getting shot down in this place. We need to have that too. Not because we have so

many in here hollering that we have it, but she says we need it so we must have it.

Mr. Speaker, we need to look at the whole business of government and the business of our responsibility to ourselves very seriously. This Motion gives everyone the opportunity of airing their opinions on this particular matter. It is very clear irrespective of what others say. I say it is very clear.

The FATF to the best of my understanding is the child of the OECD and they do not joke. You are told that you will be put on a blacklist and that is exactly what happens. I guess we realised that we could not convince them, they are so good. We are so well-behaved and Christian-like, and so forth, and so on. Well, they showed us by indirectly saying: *'Listen, you are a bunch of clowns. I said that I want such and such done and if you do not do that I am going to put you where I can nail you internationally and cause you to lose business.'* Anyway, apparently we have gotten that part fixed but there are other things to be done. Let me say that I appreciate all, present and past, who have worked to bring us to a position where we, apparently, are now. So, my observations and statements are directed at no one personally because I do my best to keep myself focused on the bigger picture. I would go crazy if I got into all the pettiness that I see so often surrounding me.

Mr. Speaker, it is my distinct impression that the Second Elected Member for Cayman Brac did an exceptionally wide research on this Motion. I do not think there was any other area that he could possibly have spoken on. He covered all areas. When he winds up, I guess, he could say that I have said what I have said.

This is a grand opportunity and I am adding my thoughts to the matter. The fact that the Government of the day wishes to go on this Friday night to be finished, I wonder if there will be other speakers. If it goes further into the night, whether anyone will be prepared to stop or whether it will be like the UK Parliament where they are still debating at 3.00 in the mornings, I will say what I understood one former Director of Civil Aviation to say: *'The only thing that keeps me hanging on is to see what will happen next.'*

Mr. Speaker, as to stimulus measures I have a few ideas. If we can possibly accept that the way to stimulate an economy is not to tax it then we would talk about tax reduction. I say again, like I said at the time of the Budget, we need to reach the point of getting a flat tax on customs' duties. If it is 25 percent on this, or 20 percent on that, or 15 percent on that, or 10 percent, take the average and see if it gives you the same amount of revenue over a three-year period and come in with a flat tax. It makes life easy for everyone. Of course, we might want to keep a higher tax on the luxuries such as diamonds, et cetera, that no one really needs in order to live. So, I recommend a flat tax and I believe that will automatically reduce the cost on certain items particularly the consumables which we all need. For one thing, it gives a better opportunity for survival.

I think the country needs to move to a point where it works out a means of charging a percentage fee on the business that is done in the Cayman Islands. For example, I read the other day where one-quarter's assets, of monies here, was \$815 billion. That was the report of the Cayman Islands Monetary Authority. I think that, without any fuss to anyone, a quarter of 1 percent or a tenth of 1 percent, whatever, we need to get to a point where we put in place some kind of structure where we are benefiting just like all the other people who are making their millions here because of providing the vehicle for them to make their business.

Mr. Speaker, we have to get over the greed factor. We have to reduce the cost for services and goods. The supermarkets, the shops and everything needed to get to the point where they are prepared to take a margin of profit so that they can have a profit and they can replace their goods but it is not that extravagant. Certainly, the people who offer services, technical and the rest of it need to be realistic in their charges too.

As I have said we need to reduce taxes and not increase them. I do not know if anything can be done in this country we love so much unless Government is going to cut its expenditure. There is more serious wastage in this country than there has ever been and it needs to stop or it needs to be drastically reduced through whatever legal means necessary. We have to get away from the position where Government pays \$10 million to build a building and people in the private sector can build the same building for 50 percent less.

Mr. Speaker, we need to look at subsidies, which to my mind is public money that is given or paid into certain agencies of Government. Government subsidises a lot of things. Government subsidises people who need and those who do not need socially. We need to get to the point on things like that where government money pays out on the basis of need and not to satisfy greed.

We need, and it is very much in the news right now, our airline, Cayman Airways. Let me state up front that no one has convinced me, as yet, that that should become something we hear about of the past. We have to be very careful. We need to carefully examine its operations because of the amount of money we have put into it over the years. Is it justified? We have to determine that. Someone has to have the will to make a decision once and for all. Perhaps, this is the best time ever in our history to do so.

If there are things outstanding, like requirements of the Civil Aviation Authority, or of our maintenance, or anything, it ought to be fixed now once and for all. After that everyone moves on with a clean sheet. So, we need to look seriously at subsidies, which is all part of reducing the cost to Government. We have to reduce expenditure.

On the question of Cayman Airways we have to look at airfares when we talk about tourists coming to our destination. We have to reach a position where

the ridiculous situation of sometimes up to \$400, in what we call high season . . . It is a pity we cannot just have one season and charge per seat on the airline and let that be an attraction in itself for people to fly Cayman Airways. I understand we have a lot of accountants associated with it. What a pity we cannot do that? We need to reduce the costs of people coming here, reaching our Island. For sure, once they get here we need to stop killing them by the charges for accommodation. The prices of some of these accommodations would put them into something that I do not even know exists, 'ten-star category' elsewhere. People are not dumb. In travelling; people, in particular, are not dumb. They travel and they can compare Puerto Rico with Jamaica, Barbados and the Bahamas. They are not dumb. We might prove ourselves dumb by trying to break off into them with high prices but there is also something called the Internet. In other places, they can buy hotel rooms sitting in their room at home. We better get real smart, real soon.

Turning to food and beverages, we have ridiculous prices here and, for the religious among us, I am not advocating any drinking of beer, but I am using that as an illustration. Imagine an American buying a Budweiser beer which is their beer; they visit the supermarket and pay \$3.00 or \$3.84 for a six-pack while here we have the gall to look in their face and charge them \$5 for one can or bottle. We had better get real. Yes, CI\$5 which pushes it up to US\$6!

We better get over this business about '*You must tax this. It is sin tax. We do not want anyone to drink that awful brew.*' You know what? More people drink than those who do not. So, we had better look at some adjustments in that area too. Now, if someone wants to tax cigarettes I would say go ahead and do that, because I have lived that route, having been one who smoked four packs a day. Thank God I got over that. I quit cigars too. As much as I like the taste it makes my throat hurt. So, we need to make some adjustments in beverages and what we charge.

Some of the prices that we charge here on food are ridiculous. Take, for example, a hamburger. Of course, the first thing you hear is, '*The duties on them are so high*' and they are. In the amounts being bought relatively cheap in the United States, and brought here in volume, we do not have to charge so much for it.

Mr. Speaker, when it comes to the investment of foreign nationals, I do not buy the story that every person who comes here with \$100,000 we have to give them Caymanian status or permanent residence. I do not buy that story. The people who elected me and those I talk to in this country do not want that to happen. What I understand from them is, they believe the Cayman Islands are a good environment for them to come in. We welcome them to come to invest. We welcome them to make a profit. To take the money out of here as it is done every day of the week. No one is stopping them but we really do not want to give away what we call our nationality in that process. So, I

do not believe that immigration as I hear 'dinged and dinged' all the time is stopping investors. Which investors is it stopping? Who owns every condominium in Cayman? Who owns every hotel? Who owns everything? I do not buy that story. It does not make any sense.

Mr. Speaker, I know what can be frustrating to an investor. If they need some people on a work permit—and I emphasise the word 'need'—that should be done quickly where proven necessary. They should be able to get a reply. An application, for example, to the Planning Board should not take too long because maybe those persons, although they have money, have gone to borrow money and they have deadlines to meet and so on. It is all well and fine for people to sit on these boards and take all the time in the world they want. They do not have any money hanging on it to lose. I think some difference can be made there.

I want to go back to the point made by the Financial Secretary that one of our biggest problems is our international image. Not that we have, in truth, given it to ourselves, it has been given to us. We have to get the truth out there through all of us. If we do not do that we are going to continue to have a growing problem.

Mr. Speaker, at this time I have said all I wish to say on this. Other than to say I think it does not speak highly of us when we consider all that has gone on here prior this afternoon. I think what we are saying now could have been said on Monday.

I regret, Mr. Speaker, if you or any other Members were going over to the Brac tonight. I think it has pretty much been nailed for you.

Thank you very much.

**The Speaker:** The Motion is open for debate. Does any other Member wish to speak?

The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker, not for one minute would I want any Member to lose their opportunity to speak their mind. I have served a long time and I know my Standing Orders.

My objections this afternoon were on the basis of Erskine May, which I contend says that the Motion is not proper before the House. The decision to carry on this evening—

**The Speaker:** I would like to remind you, that responsibility is mine. I approved the Motion, therefore, the Motion is being debated. Regardless of what your opinion is, I approved the Motion.

**Hon. W. McKeeva Bush:** Mr. Speaker, it is a fact that you are the Speaker, but I have my opinion.

**The Speaker:** To set the matter straight maybe I should call your attention to Erskine May, 22nd Edition, page 441, which reads as follows: "**Debate may**

also take place on the motion 'To take note'. This formula enables the House to debate a matter without coming to any positive decision. The formula is regularly used on select committee reports. It is also appropriate for use by a Minister when he wishes to put down a neutral motion; a motion for papers would be inappropriate in this case . . . The 'take note' formula makes withdrawal of the motion unnecessary. The rules about motions for papers being short, unprovocative and untendentious . . ."

So, Erskine May, 22nd Edition, page 441 is why I approved the Motion.

Please continue with your debate Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The whole of Erskine May is there which talks about tendentious matters as well. This is not a place for me (unless I have a point of order) to have any disagreement with you or try to explain because this is not a motion for that.

The Motion talks about the House resolving and this is not what this section in Erskine May says. Anyway, the decision to carry on this evening was based on the fact that the Mover of the Motion told Members he would be away on Monday. So, certainly, this move could not be said to be taking away his right to speak. This was giving him an opportunity to speak.

Furthermore, I would not have it said that we were trying to stop you or any Member from going to Cayman Brac.

**The Speaker:** I would like to speak on that point too.

I am paid by the month and I can stay here until midnight or tomorrow at 2.00 pm, if necessary.

**Hon. W. McKeeva Bush:** Mr. Speaker, I wrote you a note saying that I realised that you might have wanted to go back to Cayman Brac but we have a Deputy Speaker, and that is what the Deputy Speaker is for—to take the Chair in the absence of the Speaker. I thought I would make those comments after the last speaker spoke.

There are no two ways about it, at present, there are various areas in our economy that gives me concern and, I should say, gives the Government concern. The downturn in activity is affecting far too many people adversely. I heard it said that we should not talk about what the last government did. I am sure that if those Members, who said that, were in this position they would be saying the same thing. The cold bare fact is the situation that the country finds itself in was not created in six to eight months.

I take this Motion, when I look at it to be like this: It is a direct Motion to lick this Government as hard as they could lick while trying to be friends with the Government saying: 'Well, we are not really hitting you; we are not asking for anything to be resolved; we just want you to take note.' Then lick us as hard as they could lick and blame us for everything that has hap-

pened. In truth, that is what has happened by both Members who spoke. Who else are they blaming but the present administration?

Mr. Speaker, I will not stop talking about the mess I found that the country is in. I certainly will not stop now. Maybe when we have turned around things we will have to stop saying, 'It was the previous government' but, as of now, the conditions in effect are wholly and solely the responsibility of the last government. My job and that of the new administration is to turn around some of these problems and I dare tell this country that we cannot do it in six months. There are hard decisions that need to be taken and we must have the political will to do it. I would daresay that both Members raised some of them. Some good things have been said concerning the causes of the effects of the downturn in the economy. Cost! Cost cannot be blamed on this Government except for the few dollars that were raised on certain items.

Mr. Speaker, let us really examine that. When the fees were put up by the last administration . . . and the truth about it is that I listened to both of them in the past on other speeches and they both said the same thing. We believe that while the Cayman Islands lost \$10 million to \$15 million in revenue, the people were not getting it correspondingly in the cost of living. I heard those Members say that before. I have said so and there is nothing to tell me otherwise.

The Government has a hard job and we have to do it. I believe that we have an administration capable of doing it. We are not going to get it done in six months. Does anyone believe that this administration can turn around the malaise with Cayman Airways in six months, as deep-rooted as some of the problems are? Now, we have a golden opportunity to make some changes and I believe that everyone wants those changes. As far as I am concerned, they will be made.

Mr. Speaker, the Cayman Islands have to change to be competitive and to be better prepared. It takes a change in attitude, in our whole environmental culture, the way that people were used to doing things. It is just not so anymore and we are going to have to be prepared to change or we will be left behind. We can blame it on OECD, or FATF, or Immigration. It is time for us to take note and for all of us in this House, who are well paid to stand up and say, 'Put politics aside, ladies and gentlemen of the Cayman Islands, citizens, dear friends, this is partly your problem as well as mine.' It is all ours. Attitudes need to be changed. That is not easy to turn around. Let us not point fingers at any individual, but it is our job to try to turn it around.

The cost in this country is high for those who live here on a daily basis much less for visitors. When it costs a family of four to come from Houston just about \$3,000, people will stand up and take note, when perhaps they can go to the Bahamas for \$1,600. The things that cost are the things that someone holds dear, and say: 'You cannot do away with it.' Airfare is



one of the biggest cost factors in this country and we have to realise it. Mr. Speaker, you are not going to find the same quality hotel cheaper in the Bahamas than here. You will go there and spend \$300 or \$400 for a night and you can also do that here. You can go spend \$5,000 in occupancy per night there. You can practically do the same in some sections here.

Mr. Speaker, I am for change. I hope I can be an agent for positive change. In the tourism sector there is a vast amount to be done and I have been trying to keep Members and the public up-to-date with what I found. That is what I am trying to do and what I think I can get accomplished in a few months' time. No marketing was done—I have said that. We came in and we tried to put a marketing plan in place for summer. The truth is, it will be of some help but it really will not be as effective because time has long past. There was none put in place! There was no marketing strategy and management policy.

I have to be away from next week Thursday to a middle-of-the-year annual meeting which is usually held by the Ministry. As I understand it, I have to go to Missouri. Why in the world did anyone book from last year, sign a contract which I cannot get out of, to carry me to Missouri . . . carry the whole management team from around the world to Missouri at 150 rooms? Now, I would rather it had been Little Cayman, where I could throw out my line on the dock at night after working in the day . . . and I would catch some fish too!

Mr. Speaker, these are the kinds of decisions that were made and are affecting us. That is just mildly. I have been bringing Members up-to-date by statements and it is not finished as yet. They know me to be a better politician than that. There is going to be more.

Tourism will turn around. It takes hard work. It is going to take the changes I spoke about in the Budget debate and the plans. To get it all done we have to re-examine the strategies of the department.

They paid for a man to come from Michigan to tell them what was wrong. He told them what was wrong and he put it to them in writing. They did not do anything! If I had that document from November I would not have said that it would take a year for me to start the strategy that I wanted. I got the document afterwards and I am going to bring back this man to update it. He is coming on the 14th or 16th of August 2001.

The management policy for tourism will begin before the year end. I expect to table it in February 2002. This is a five-year management and development policy. It takes time, and I can tell the Opposition, if that is what I have to call them. I do not think that I should because they are too friendly.

Mr. Speaker, when I get cursed and blamed, and the Government gets blamed for making changes we can see why changes have to be made, whether it be in strategy, personnel, or in spending.

One of the Members talked about public relations. We have been working. We have put in place a

Secretariat, which is under the Honourable Financial Secretary and his department, to examine and give interpretation to international initiatives so we would be in a position of knowing what is happening rather than always reacting after the fact. This will also give accurate account of the measures we are taking in the international arena, and the results of those measures. You cannot say that something positive is not being done. As much as people may think it is their own home and can change it, it just happens. Yes, sometimes in your home you can change things and it will happen quickly but sometimes it does not. Not in government; it takes time, and that is going to cost the Government in the region of \$1 million.

I believe the right thing was done and I support it; it will be effective. In fact, I think I can say, although it is not my responsibility but from what I see and hear, it is doing the job it was created to do. We can thank the Honourable Financial Secretary and we can tap ourselves on the shoulders a little bit too.

We are looking at various ways of effectively dealing with the matters affecting us but we cannot do it in a hodgepodge manner. We have set up the Fiscal Advisory Committee (FAC) and its Chairman is, Mr. Robert Bodden, or Mr. Bobby Bodden, as he is known. That is to realign our revenue base, to create the necessary stimulus for growth in our industries. It is not just looking at one area; it is looking at the whole matter. A wide cross-section of the business community sits as members.

Some of the things being suggested to help create revenue are, for example: looking at changing planning to allow for taller buildings on Seven Mile Beach; trying to get speedier approval; changing planning and building heights. We believe this will set off a real development of that area. One of the problems we have is, we do not have much beach, and I believe we are going to see a serious redevelopment of the older buildings and properties as people take advantage of what will give them more revenue for what they own.

There is the medium-term financial strategy, which prioritises Government expenditure and programmes, and keeps them in line with available resources. This is very closely linked with the recurrent expenditure.

Members talk about the Loan Bill and revenue that we have to raise from taxes while all of them still hold out their hands with a long list wanting this and the next thing. One of the biggest expenditures is emoluments, which works out to be some 55 percent of recurrent expenditure. To bring it in line would mean restructuring and I wonder whether the 'kind' Opposition is going to be prepared to support any such policy of bringing our recurrent expenditure in line with what is sustainable. When we all campaigned, every one of us meant well. We all talked about taking the hard decisions that we knew would come. This, is one of those hard decisions and I hope, when the time is right fit and proper, that they are all

going to stand up and say, 'We have to do this'. We are going to put politics aside and say we have to cut our cloth to suit our little pants.

Everyone has been talking about financial reform. We are busy creating the policy which would achieve good management and transparency we all talk about. People will be able to see and have information about what Government is getting for money spent. I think one of the last items the Member from Bodden Town spoke about was contracts. It takes reform and this is not something that happens easily.

The Minister for Education is busy working on his plans, which will enhance and educate our youth for years to come—changes that should have been made years ago. It will take guts and political will, and the support of this House to do it. Are they willing to do so?

The Minister of Community Development is moving forward all her areas, trying to restructure and make ends meet with what we have in planning the way forward.

When we all wanted a new hospital we knew it would cost. I said that from the day I set out, and I held that portfolio for one year. It is not new information that this cost is so high. From the previous administrations of 1984 to 1992, there were documents which said the expenditure was going to be high regardless, so it is not new. Mr. Speaker, he is busy. How can anyone say we are sitting back on our laurels and not making anyone know anything, when we are speaking and making statements to the House, to the Chamber of Commerce, to the Rotary Club, and to the media—the newspaper, radio and on television? No one can say that we are not addressing the problem. The truth is there are such deep-seated and hardcore problems which are not easy to deal with in a matter of a couple of months.

We said that the drive to spend \$20 million or \$25 million in a few weeks on road works with asphalt, as deep as I am tall, was too much and would affect us this year. That is not new. I said that in West Bay. Every night I said so and it is affecting us. It is not that we did not need new paved roads but it should have been more timely planned and implemented. They paid for road works and, although they are denying it, it is a fact. They paid for it and if they had not paid for it at that time they would have gotten them cheaper later on.

The paved road in West Bay, I told them not to do it because the Water Company had to go through and cut it up. *'Ah, ah, this is election time, baby, we have never had so much fun. Let us spend it. Let us tell them what a bad guy McKeever is at the same time and we will get back in.'* Oh, what tangled webs they weave when they first practised to deceive.

Mr. Speaker, the amount of time and energy that went into getting the port plans which I found and which they said were only going to cost like \$11 million. I know from just a review, not yet completed, that it would cost over \$20 million.

One little instance, Cayman Brac now has a good runway and deserves it too. We had to pay approximately \$300,000 because they were not able to get a guarantee. 'Go get it but we are not going to help.' They then had the temerity and the audacity to tell me I must not blame the last government. Well, who should I blame? I cannot blame those Elected Members now.

Mr. Speaker, do not say that. You can say that this Government must address these problems. By all that I have said, if I have not convinced Members that we are busy doing what we were elected to do then I am sorry I cannot make them understand that. The truth is that Members of this House, including the Backbench, are busy at work addressing community needs and attending to the functions of the community that need to be addressed daily. It takes time. People on the outside will criticise us. They have a job to do on the Backbench and I believe that we have a group on the Backbench that is capable, not to say that we do not disagree. I disagree with some of the things that have just been said by the Movers of this Motion but I believe we all want to get the same thing. I believe that we mean to get to the same thing but, as I said, the Opposition is a kind Opposition—beat you up a little bit and then hug you a little bit.

Well, if that is the way the House must operate to get things done, perhaps that is the best way to do it but I cannot allow them to say that this Government is not moving on all fronts, full speed ahead. The actions taken with Cayman Airways had to be done for safety factors alone. The truth is some of those things should have been addressed a long time ago and no one who really knows should say that is not so because the facts are there. If you do not address the problems when you see them, they can only get worse.

You know, when you get hit by a prickly pear, if you do not take it out right away it will fester and suck you. We had to take those decisions. I believe the Minister and I know and I can say this: he has had some sleepless nights in recent times since these matters arose, and you say he is not working? Mr. Speaker, you can talk about honeymoon periods, I do not think I had any—not in this Government. From day one we were taking licks right, left and centre.

So, Mr. Speaker, the Motion does not ask us to do anything but take note and the truth is we have been hard at work addressing these issues. The Financial Secretary, the Attorney General, the Chief Secretary and the Members in their departments have been at work some nights until 11.00 pm. I leave there probably, the latest, besides the Minister for Communication and Works, and the Financial Secretary. There is only so much we can do as humans with the mess that we have, all of us. Let me just say to you, we cannot move ahead any quicker.

You might disagree that we have put back the duty. I have always believed when we have funds and we get a restructuring that we should remove the items but at the same time put machinery in place to

ensure that it is passed on to the people who it is meant for. I have never believed in taking off without that kind of mechanism.

Mr. Speaker, as far as my Ministry is concerned, I have many, many miles to go before I sleep.

**The Speaker:** The Motion is open for debate. Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I wish to start by commenting on the situation which has arisen this evening and which has led to the House sitting late.

Mr. Speaker, I should say first that, like the Honourable Minister for Tourism, I, too, understood that the Second Elected Member for Cayman Brac would not be here on Monday hence my support of the Motion for the House to continue late. If that were not the case either, as I understand it, his Motion would have fallen away or the business of the House would have been deferred and delayed in his absence.

I am sorry, Sir, what transpired has caused you some distress and concern about the conduct of Honourable Members of this House.

**The Speaker:** If I could interrupt you for a moment.

I think that the Presiding Officer deserves to be appraised of what is going on in the House and I have never been appraised by most Members when they are going to be absent. Please continue.

**Mr. Alden M. McLaughlin, Jr.:** I agree, Sir.

Mr. Speaker, when I had sight of this Private Member's Motion No. 18/01, notwithstanding my rookie status in this Honourable Chamber, I wondered what that Motion proposed. It seeks a resolution of the House and, at the same time, proposes that the House debates and takes note of the present state of the Cayman Islands' economy.

My review, Sir, of the relevant section of Erskine May seems to indicate that the Motion, as framed, is a contradiction in terms because it seeks both a resolution and that the House do take note. Further, my reading of Erskine May seems to indicate that the process or a vehicle of a 'take note motion' is to be utilised only for unprovocative, uncontentious matters which, more importantly, will result in short debate. Added to that, when one considers the text of the Motion, it certainly appears to me that the effect of the Motion is to begin, again, a debate on the Budget and Throne Speech. Judging by the tenor, the content and the length of the debate of the Mover of the Motion, when he spoke, if I closed my eyes for a moment I thought I had been taken back to March of this year, indeed, when this Honourable House debated the Throne Speech and the Budget.

I, like other Honourable Members, am painfully aware that certain sectors of the economy are under

stress. I live it. I am one of four representatives in the most populous district of these Islands. Like other Honourable Members from the district of George Town, many of that populous regularly beat their way to the doors of either my house, or my MLA office, or indeed, this Honourable House to tell me, and other Members, their problems resulting from the slow down in the economy. So, the discussion of possible ways to stimulate the economy is not something that I would seek to discourage.

Nearly every Member of this Honourable House utilises almost lengthy exercises, the delivery of lengthy treatises on this economy and on the issues which this Motion now invites debate on: the recent tax matters, the OECD initiatives and possible stimulus measures to revive the economy. There was wide ranging extensive lengthy, and some may even say onerous debate, on these issues a mere few months ago.

Mr. Speaker, we all have a duty to act responsibly. If we insist that the Government of this country has to spend 90 percent of its time sitting in this Chamber talking about what needs to be done or listening to it, when do we expect them to get on with addressing those very issues? We were here from March until May, and we have been here since sometime in June. We have been here about a month. We will be back here again in September and again in November. At each meeting of this House so far we have debated the Budget or Throne Speech, and now, something which equates to it. We will have one again in November. We would have had three sets of debates on the Budget and Throne Speech in the course of this year.

Now, with the best will in the world, being as charitable as I possibly can, that is not the best use of parliamentary time. Members, I believe, can be forgiven if they become impatient with hearing the same rhetoric over and over again.

I have listened to what the Mover of the Motion had to say and to his able Seconder. I also listened to the words of the Honourable Minister for Tourism and I must confess, Mr. Speaker, that I did not hear one novel idea, one area which had not been traversed either by those Members or other Members of this House during the course of debates on either the Budget, Throne Speech, pension, statements or on questions given by the Honourable Ministers. It is the same thing over and over again. We are talking just to hear ourselves talk or perhaps we believe that somehow saying it over and over again we will impress those whom we represent.

The people of this country are sick and tired of hearing the talk. They want the Government to get on and do something. I believe the Government is doing their very best and that they are doing things. If we prevent them from doing those things because we insist that we have to sit here and be beaten up over and over again by the same tired rhetoric, we are doing this country a terrible disservice.

Mr. Speaker, I was—

**The Speaker:** We have to stop now to change the tape. I have to interrupt you for a few moments. You may be seated while there is a change of tape.

[Pause]

**The Speaker:** The Second Elected Member for George Town, please continue.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I was disappointed and quite frankly, appalled at a statement which the Second Elected Member for Cayman Brac made in his reference to the FATF delisting. I know because I looked across the Floor of this House and I understood because of my involvement in that process, how very stung the Honourable Second and Third Official Members must have been by the suggestion, implication or inference that somehow they and the Government or the negotiating team did not take this process seriously.

Sometimes I wonder if, in fact, there should not be some legislation which requires that when one has the right to free speech there are certain conditions attached to it which require responsibility, especially when we do so in the context of this Parliament over these microphones to the country.

I take this responsibility; it is a tremendous responsibility. There are fifteen of us elected to represent these Islands and I sometimes wonder if all Honourable Members fully appreciate what that means. There are times when all of us wish to make a point and become very, perhaps over enthusiastic in the attempt to make it. We need to learn to exercise restraint and judgment when we stand on the Floor of this House to exercise that very, very important right. I am not going to say any more about that Mr. Speaker.

I played a limited role in that exercise in the period I was there and from the side lines before I was there. I have some appreciation of the time and effort put in to get the Cayman Islands where it is by a large number of people but, in particular, by those two Honourable Official Members who were there from start to where we are now, with one Government and with another. I wish to record what I believe is the country's appreciation for their sterling efforts over that period and continuing.

Mr. Speaker, these are the times that try men's souls. There are onslaughts from almost every quarter and when people are in a situation or situations where they struggle to pay their bills it is inevitable that they are going to blame the Government, whoever that government is. No matter how much effort the Government is making; no matter how short a time the Government has had to address these things, Government must be responsible. We have to live with that. That is just the way it is. I believe that the country has got to come to understand that with the new Gov-

ernment, when they were elected, they were not handed a magic wand which they could point at every problem and immediately, because the last Government had been banished, everything would now be made right.

I encourage the Government to be as communicative as possible and to articulate what they are doing and why they are doing it, as often as possible. However, I do not believe that it is productive for us to insist that every meeting of this Honourable House will debate the Budget and Throne Speech all over again. That, Mr. Speaker, is a monumental waste of ours and the country's time. There is far too much to be done for us to be repeating ourselves, revisiting the same issues over and over and over again until other Members become tired, annoyed, disgruntled and have a situation such as has just transpired this afternoon. I do not believe that I can add more to this point and I shall sit down and pray that all other Members who speak will be as brief as I have been. Thank you, Sir.

**The Speaker:** The Motion is open for debate, does any other Member wish to speak?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I will not be here on Monday. I should hope that Members will, at some particular point, adjourn this Honourable House and continue this debate on Monday seeing that perhaps there are others who might want to make their position known and, of course, the Mover of the Motion will be given the opportunity to reply.

I do not think that what happened in this House today was all that severe and I must compliment you for being able to maintain a sturdy position in the Chair over all the debate. I feel a little tired too and I would prefer to be at home. So, the mere fact you do have the strength and the constitution to bear with us, speaks a lot about your mental and physical health. Sometimes just being tired can make us feel good.

Mr. Speaker, I believe that politics is an outdated ritual that if I could abolish it I certainly would. Although we can say that we should have patience with regards to the governments once they are elected, the government that is elected always leaves the silver bullet for its own undoing. That silver bullet is always developed on this side, in the Opposition, because government oppositions in criticising sitting governments are usually too casual about solutions. They make everything seem so simplistic and, at the end of the day, when they get the support of the people they receive it on this same simplistic level. It is hard after you have acquired that type of simplistic support to then try the process of educating people to let them understand that government and society is a much more complicated process.

We have heard Members here today, like we have heard them on many occasions, talking about government as if it is some kind of omnipotent institution. People who vote for government does not nec-

tion to all the issues that exist in society. So, why is it that we are going out there bringing all the issues and trying somehow to resolve them in here, as if we are the best qualified to not only collate those issues but to debate and resolve those issues?

Government has to get to the point and the quicker we, in the Cayman Islands get there the better off we will be. To the point where we begin to give back to the people the responsibility for what goes on in their community. The whole idea that politicians have the solutions is a false start to begin with. Therefore, to even attempt to suggest where we need to start, in regards to the present economic crisis, it might be a false assumption to believe somehow that Government could redress the situation.

We know that the Cayman Islands' is a very costly environment. We know that the cost in the Cayman Islands is partly the result of products not being produced in the Cayman Islands. They are produced elsewhere and the prices are determined elsewhere. They are imported to the Cayman Islands and then the Government puts a tax on these products at the port, and the merchants mark these products up in order that they might reach a profit.

In order to get the products here in the first place the same merchants have to go to the banks to borrow money. The capital they are borrowing in order to import these products is not Caymanian money. Therefore, the Caymanian economy does not dictate the terms of interest that is placed upon the money that we use to do business. It is very important for us to break it down for people so they can understand how business begins to move forward. 'I want to go into business but I do not have the capital because I have not had three or four generations of merchants in my family who have accumulated over a long period of time sufficient capital for me to go into business without borrowing. Therefore, I have to go to a bank, which is an institution that deals with surplus profits which have accumulated in other countries or jurisdictions over a long period'.

So, Mr. Speaker, the way in which wealth is first of all introduced to the Cayman Islands, is not necessarily something that we control to begin with. When the wealth is invested in our economy in the sense that goods are purchased abroad, brought to the Cayman Islands and then distributed for sale in the Cayman Islands, we as a people do not have much control. When growth occurs we have to bring in services in the form of skills and labour, and again, that is important. So, we are living in a society that would be more expensive than other jurisdictions.

Let us take the example of Mexico where you have an abundance of labour and attempts to accumulate capital, and to generate a national economy in terms of the manufacturing sector; the agricultural sector; the industrial sector; and the financial sector—all those sectors of the economy have been built up over a long period of time in order that they develop a national economy.

Calling for plans which will resemble plans in existence in countries that have national economies or striving to continue to develop national economies means developing countries. The Cayman Islands is not a developing country simply because we are not developing a national economy or a national economic strategy. If it were to focus on a national economic strategy it would become a developing country automatically. It is not into that particular phase of understanding of production, distribution and consumption. It allows international capital to come into the Cayman Islands and operate, in such a way, that at the end of the day we feel we have benefited along with the persons who have invested. That happens because there exists in the Cayman Islands a kind of laissez faire type of capitalism.

Now, if we are talking about plans which are structured in such a way that it would support those persons who are still in the age of nationalistic development of economies then we are talking about regulations. At the end of the day we are talking about a kind of economy that would not necessarily be compatible with an island this size, the population, the soil, the resources and all the other things we have.

Let us continue to move and stay away from that concept of a national economic strategy which is nationalistic in that particular sense and strives to somehow be motivated and dictated by economic factors within its geographical boundaries. A country which tries to manage, maintain and control the way in which the resources are distributed; doing only what its population can do

The way in which we have developed at the time when we entered the capitalistic reign of development, and the point of how we are dealing with financial capitalism is a result of the way we are. Mr. Speaker, we are at a different point. In fact, the resources brought to us are human resources. We are not necessarily the owners of those human resources but the latter operate within our jurisdictions to provide services to people outside our jurisdiction in the case of financial services. In the tourist industry the foreign labour operates within our jurisdiction to provide services to people who live outside our jurisdiction.

We have a kind of economy that does not necessarily lend itself to the same kind of analysis we would find in other jurisdictions. We cannot take an analysis that has been developed in another jurisdiction and transplant it to the Cayman Islands and expect that at the end of the day we will produce a very clear understanding of our particular problems. We need to be careful there.

There are areas I believe we can work towards in order to prevent ourselves as a Government assisting the private sector from going into the black hole. Obviously, if the private sector is having a difficult time in terms of reaping the types of profit they desire from investment, for Government to create burdens by way of taxation, this will create more difficult conditions there.

So, how can Government resist and avoid the pitfalls of having to develop more reliance upon taxes? Government can do that in a society like this by remaining small and impotent to a certain extent when it comes to the whole concept of state where the thoughts are: *'We are the government; we are the big guys. Big is better and the bigger government gets, the better it gets'*. If we can somehow stay away from that thought and make decisions when it comes to our government leaning enough so that it does not become oppressive to the people, this will prevent government always having to go back to the people to get fuel in order to give back, entice and coerce them somehow to vote it (government) back in.

This particular trend of trying to distribute resources to the population at a very rapid stage over, say, the last ten years, has been responsible for some of the pitfalls we find ourselves in today. What we did was to create an expectation that government could be responsible and provide people with things they could not extract from the economy themselves by virtue of being in the private sector. So, the subsidy had to come by government seeking to collect revenue in order to redistribute that revenue to people. Therefore, people would arrive at the standard of living within a very short period of time. In fact, this has caused part of the issues we are now dealing with. The hospital is one good example.

Mr. Speaker, where we are now is because there is a slow down. We see that the slow down means if government attempts to take any more resources from the private sector in order to channel it off in what would be non-productive social control type of activities it will stifle the productive part of the society. Government at the end of the day is a non-productive part of the society. It is a social control institution that is perhaps necessary for the good order of the society.

When government needs to pull more and more financial resources from the productive institutions in the society in order to feed its non-productive social control, what can happen at the end of the day is that those institutions can be smothered. Government, being benevolent, believes it is always justifying those particular activities, saying it is doing them in order to help because we know what the solution to all these problems should be but, of course, we do not know.

I think at the moment we need to continue to have the private sector, the Government with partnerships and the dialogues that we do have. I think it is probably more important for government to have dialogue with the private sector than for them to continuously be having dialogue with the Members of the Legislative Assembly with regards to these particular economic issues. I guess when the time comes for people in the opposition to form their government and their economic policies they will have their opportunity to implement these things. In the meantime, I believe, what needs to be done is to give this particular Government the possibility to get out of the type of hole they found themselves in when they took over. I am

not just talking about the financial hole. I am talking about the spending hole—that entire reliance upon spending money in order to get approval from people.

We need to get a little bit more involved in educating our people to go along with the type of changes which have to happen, not just in the institution of government but in terms of the expectations which the society has on government itself.

We have to get away from this idea that everything has to happen today and if it does not, then there is something wrong with the persons who are charged with allowing it to happen. I have said from the very beginning that I would become critical of this Government, when the time comes that I feel I have given them sufficient time to put their policies in place and to reap some of the possible benefits of their policies. My main challenge had been, at least, until I was elected, my criticism of the way in which the past government had operated the financial and social policies of the country.

We need to understand, as was said by the Second Elected Member from George Town that, we cannot dance around these issues over and over again without making any headway simply because it is our right to come into the Legislative Assembly to debate and to bring motions. I feel these debates will come back in November and I do not think it is too late a time to really rise to the occasion and provide the Government and the society with some type of critique for what has happened in that physical year, which was between March and November.

With regards to the additional taxes in terms of the import duties, everyone knows what my position is on that—it should never have happened. We cannot say that government taxation is responsible for what has occurred in the economy, as the Republicans are arguing, in America. The idea being to have less taxes or give people tax rebates, at this particular time, would help the American economy to move forward. That is not necessarily an argument that has yet proven to be correct.

My point with regards to taxation is simply this: we do not want to always be looking for new taxes as the solution to our problem. We should be looking for newer, better and cheaper ways of running our government. We should, if possible, be talking about the fact that if government has to spend \$10 million to build a building the private sector could build for \$5 million then we know it is not just a problem with one government but a problem with any government. So, the same problem the last government has, the present Government will have and the other government will have when it is made up of the opposition, again, because all governments seem to run into the same thing. They always need to spend more to achieve the same things that people could have achieved in the private sector for much less.

Experience should lead us to the point of trying to say that this Government should begin to say it is going to get rid of more of its economic roles, then allow

those roles that can be fulfilled in the market place to be performed by the private sector.

That brings us, of course, to the very big and controversial question of Cayman Airways that no one is going to speak against. Do you know why? Because it is all a part of maintaining what people consider are their expectations. If we believe that government does not have the capacity to build a building for \$5 million and the private sector can build it for \$10 million, tells us that Government needs more money to run an airline than the private sector would need. The same logic must apply unless it is only different in the airline business. Is it only different in the airline business?

What I see with regards to management is that when it is made up of persons who somehow feel they are not just answerable to their customers but to a nation and to politicians, then management has to achieve much more than what they are there to achieve.

I believe the Government has come looking for money with regards to taxes because the airline is costing money. Other things are taking money but the airline is certainly costing money, lots of money. This Government is going to come back to ask us about saving the airline. People want to save their national pride and, obviously, people have been told that their pride is in seeing and having a national airline rather than a Government. The airline does not have to come and force more and more taxes upon them. Which is going to give me greater freedom? Flying Cayman Airways or not paying taxes on my property? People will have to ask themselves these types of questions.

Let us not beat about the bush over petty economics. Let us get to the heart of the matter. If we believe that the private sector can build buildings cheaper than Government, why is it that the private sector would not be able to manage an airline better than Government? Let us think, in debating this Motion, if anything can be of benefit to us about what we are going to do with regards to Cayman Airways.

I believe from the time the airline was started I wrote an article for *The Voice* with Mary Lawrence and James Lawrence, entitled "The Pitfalls of Petty Nationalism." When Mr. Jim Bodden changed from the national airline of Costa Rica (LACSA) to create Cayman Airways we understood, from the entire debate around it, that national pride was one of the things that caused people to want to go into this experiment.

We have derived great benefits over the years from Cayman Airways. However, is it possible to think that perhaps we have come to the point where we will be better off without Cayman Airways being in the hands of the Cayman Islands' Government? Maybe I seem too radical to say that we do not need an airline. We do not need an airline to be managed by an institution that has proven all over the world that they cannot manage commercial enterprises. Whether or not it is in the Cayman Islands, Great Britain, or Germany,

wherever it is, nationalisation of industry has always proven to work counterproductively. So, if we do not want the Government to come in November to ask for more taxes then we know where we might have to make the decision. I have the feeling that it is going to come and what I am going to be asked is to say whether or not you, Mr. Speaker, and others should have the luxury of a jet to take off from Grand Cayman to Cayman Brac. Whether or not you will have to fly in a prop plane is one of the considerations.

This is not an economic consideration. This is a consideration that has to do with how benefits are distributed to citizens by government. In order for benefits to be distributed to citizens by government, revenue must be collected by government from some place in order to distribute those benefits. I am saying that if I have to decide whether or not to pay additional taxes in this country, I prefer to ask, first of all, if I were to privatise that airline—and not having to look for \$5 million to \$15 million per year for subsidy, not having to bail the airline out when in crisis—I would swallow my pride a little and say, 'Give the airline to the private persons to manage.'

The people who have mortgages and can ill-afford to pay the high interest on their mortgages will then have to turn around at some particular point and pay government every year additional fees on their property. You see what happens there, in order to maintain a benefit we have to collect resources and we end up collecting those resources from the people we say we are trying to distribute those benefits to at the end of the day.

So, government has to become a little bit more dynamic. Government has to shed some of its pride, arrogance and desire to focus attention on itself or on members of Government by having these elaborate portfolios. Cayman Airways will be the discussion because people are going to say, 'Hey, we want to shoot the airline down.' I have heard some Members in this Parliament who seem to have positions. My position is I am an independent Member of this Parliament because I know I do not share opinions and philosophies with a lot of people. It is about time that I get it through my head that we are not thinking the same way about so many things. I am going to be by myself and I am willing to be by myself with regards to this issue because I am not going to come in here and vote for any taxes to support any airlines to give anyone any special benefits.

I already said the time has come for government to show private sector investors that they should not fear taxes. If private sector investors know we are not going to be developing a government that is going to be depending more on some kind of taxation, people will be willing to invest. Of course, the immigration issue is important when we are talking about economics. There are some persons who want to treat it as if it is an ideological issue that can be treated differently from all these issues. The immigration issue is a very

important part of the investment strategy in this country.

If we are going to have a government that is not flexible with regards to the rights which people accumulate as a result of producing and investing then people will hold their money when times are difficult. Right now, certain people would feel secure in this country knowing they are not going to be pushed out of the job market tomorrow and they will have the same equal chance that I have, simply because they are foreigners. Maybe they would decide to take the \$50,000 they have saved over the last fifteen years and have packed off to their individual countries, bring it back here and invest in a house that would give our plumbers, electricians and small carpenters a job.

Of course, the question of immigration is an economic question in this country. If you are talking about how to revive your country and stimulate the economy of this country you cannot treat immigration as if it is something you can scorn.

Some people probably do not want to look at how I have outlined the economic development of this country. We are dealing with a geographical area and the importation of capital and the importation of human capital as well as physical capital that work together. Somehow we have come to a point where we resolve the exploitation or the use of human capital. It is just like a snake eating something and it has to wait until it digests before it can take on something else. We have come to a point with regards to the question of humans in our society.

Mr. Speaker, we do not want the Kirkconnell Supermarket to get any smaller. We do not want the volumes of people who are buying from the Kirkconnell's, Hurley Merren's and the Foster's to get any smaller, but just to maintain that. For them not to enter into economic crises as a result of not having enough people to buy from them means that we have to sustain a certain amount of immigration. We have to sustain a certain amount of population.

Mr. Speaker, there are a lot of us who do not understand that capitalism and its growth has to do with the growth of population. No society has succeeded in moving forward to an industrial type of capitalism without them having an increase in the population to increase volume. Whether or not that means going outside their own borders to seek their customers or improve their numbers in their country by immigration.

We need to understand that immigration will also result in certain types of social and cultural changes, and also in certain political relationships or linkages in our society. We have to evaluate some of the consequences of change but we know once we get involved with this type of economy there will be changes. There will be changes dictated by the need for profit relationships. We have to also take into account, social or profit relationships.

The way in which businesses manage profit relationships will bring other considerations into the policy besides the considerations brought by my naïve eth-

nic orientations or the ethnic orientations of another Caymanian. What is brought into the debate has to do with more than whether or not we can merely adjust; what is brought into the debate is a profit relationship. How is it possible to continue the profit relationship where people are encouraged to invest because they are making the kind of profits that make it desirable for them to invest?

There is no shortage of money in this country because we say that we have over \$600 billion on fixed deposits. The banks here have tons of access to money but do the opportunities exist to make the kind of profits people need to make for the investment to be desirable? One of the reasons why these opportunities do not exist is because of the size of the population. Can you really take another supermarket? Can you really take another office building? Can you really take another set of hotels? So, at the end of the day, you come to a point in your society, too, where you have to juggle a few things. Whereas in America they might try to juggle taxes, we in the Cayman Islands might need to juggle other factors.

I believe, and I hope, that the Government will come with this, that there are people who would invest. We have always looked to the big investors—they come to build hotels, condominiums and all those things. There are small investors, small people as well. Someone might decide tomorrow to build a house for \$250,000 or we have a hundred people who decide they are going to build homes in the Cayman Islands because this is where they are going to live. They are not going to rent apartments anymore; they are going to build homes. You will have a switch from the building of apartments to homes. Now, you would give some kind of security to these people—something that would allow them to believe that their jobs would be secure in the country. As long as they have some skills to sell they should be able to sell them and then start to invest if there were jobs.

**The Speaker:** May I interrupt you for just a moment?

Honourable Members, there comes a time when human conscience has to play a part. We have been here for a long time, and, as I can see it, we could be here longer than we have already been if Members speak the way they have been speaking.

I would like to know at this time because we have mothers who have children; we have civil servants who need to get along with their responsibilities. I need to know the Honourable Members who want to speak. Let us add up and see exactly how much longer we are talking about being here.

The Third Elected Member for George Town, how much longer do you anticipate speaking?

**Dr. Frank S. McField:** Mr. Speaker, like I said, I will not be here on Monday. At one particular point I did not want to speak but I think I will be finished in the next fifteen minutes. I will now round off a few points.



I, however, am of the opinion that there is no reason why there cannot be an adjournment. It might have been said but I do not believe it is the feeling of the House, if other Members are going to speak, that we stay here all night for this debate. I mean, we are not into that kind of sadism as yet. I hope not. So, we have no problem. Even I would stop right now.

**The Speaker:** I want to make it abundantly clear. I have no problem. I can stay here tonight and tomorrow too—continuously. I am canvassing Honourable Members to give me a conscious decision of how much time they will speak.

The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I too would like to make some contribution to this Motion because I believe it is a worthy Motion.

Personally I voted to continue so that the Mover could complete tonight. He was supposed to be leaving the Island on Monday and the Motion would have fallen away. Mr. Speaker, I believe he has indicated at this time that he will be here on Monday. I believe it is time that we adjourn this Honourable House as soon as the Third Elected Member for George Town has completed his contribution.

**The Speaker:** Unless I misunderstood the Motion I thought it said “until the Motion is completed.”

Honourable Minister for Community Development.

**Hon. Edna M. Moyle:** The Government has no problem in adjourning the House as soon as the Third Elected Member for George Town has completed his debate.

The reason for continuation is because the Mover of the Motion indicated he was leaving the Island and would not be back on Monday. Therefore, if he is not going to be here on Monday then the Motion would fall away.

So, if you are prepared to allow the Third Elected Member for George Town to complete then the Government would move the adjournment.

**The Speaker:** If it is the will of the House I am prepared to stay here all night.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, a motion was moved and approved by this House to take this Motion through to its completion. The motive stated for that, which I have to say I do distrust, was that it was in my interest.

I confirm to this House that I certainly will be here on Monday, but I would prefer that we complete this Motion here tonight in compliance with the Motion brought and approved by this Honourable House.

**Dr. Frank S. McField:** Mr. Speaker, we will move another Motion.

**The Speaker:** If I may say, I think, the suggestion made by the Honourable Minister for Community Development is a good one.

Let us move on. The Third Elected Member for George Town, complete your debate and then we will take a vote.

**Dr. Frank S. McField:** Mr. Speaker, thank you because I do not want to get involved in this kind of politics. I do not have any bone for it. Like I always tell everybody, I got here by myself, not just once but twice, and I do not have to deal with anything I do not want to deal with.

I am saying that the Government can do certain things to make sure they do not get any worse into this whole situation of expectations from the general public, and have to fill these expectations by taxing the general public. We need to avoid that particular syndrome in order that we do not find ourselves in a position we cannot get out of.

The other point, Mr. Speaker, is that I think the question of immigration is one the Government needs to pay some good attention to and come back to talk to us as soon as possible with regards to these issues. You know, I had a Private Member's Motion that I was bringing but I will be withdrawing it. I will be relying upon Government to talk to us about what can be done. I believe that it will help to improve the economy.

I believe that small people make money. All we have to do is to look at the amount of money transferred by the different wire transfer companies each month to see, in fact, that a lot of money being made in the country is being sent out of the country. The funny thing about it is that there are persons who believe: *‘Oh yes, they are taking the money out of the country.’* Whose money is it? The money is brought into the country as a way of giving people a reward for activities. So, the money is here to reward people for activities. If we find that people are sending money outside the country it is simply because people still have commitments outside the country. Whereas, if people had commitments inside this country the money would, of course, remain in this country.

One definite way of causing money that is circulated in the Cayman Islands to circulate beyond a particular point, would be where a foreign employee provides a service and is paid for the service. The money would actually mean that the foreign employer would then need a service and he would be able to pay for his service. So, continuing the circulation would be a much longer or wider type of circulation than where 60 percent of your workforce just gets the money and sends it out rather than needing a service within your particular country.

Now, many of the services that people need within our particular country are for those persons who

buy food and pay rent. In a lot of cases we would say that as long as people are saving, the total amount of money that they would have normally circulated, if they were people who were permanent residents of our society, would be more, rather than people who are on work permits. This is simply because those on work permits do not know whether they will have a job tomorrow or the next day.

So, what we need to do is to treat this immigration issue a little bit more seriously. If some of us have taken a hard line position on immigration then I believe that is what we need to have. They also need to know that if they are going to have this hard line position on immigration then they are not going to be able to be as dynamic as they should be with regards to finding some solutions to the Cayman economic ills.

Definitely, our people need to understand a little bit more about the economy and the exchange of goods and services. There can be no economy if there is no desire to exchange. The desire to exchange has to do with need. If you do not need anything from people and they do not need anything from you then there can be no trade, so it is based upon need. The mere fact that someone might not have something and you have something, or they have one thing and you have another thing, does not necessarily mean at the end of the day that you should stay apart. As a matter of fact, opposites attract in trade.

The fact that some persons are looking to sell their labour and we might be looking in certain cases to employ labour, does not necessarily mean that the people who are selling their labour should find themselves at more of a disadvantage. The fact that some people are looking for a place to invest some money and we might be looking for investors because we do not have the money to invest does not necessarily mean that the investor should be treated as someone who is a burden. We have to understand that in a capitalistic society there are a lot of things that need to work together in order to produce a vibrant economy.

Mr. Speaker, I thank you very much and I will let this particular point end my contribution to this debate.

**The Speaker:** I shall now entertain a Motion for the adjournment of this Honourable House. However, I would ask the Honourable Member moving the Motion to move the adjournment until the completion of the deliberations on the informal meeting which I have called for all Honourable Members at 10 am on Monday.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** On a point of clarification; if we have dealt with a substantive Motion moving the adjournment where the question was put and passed in the affirmative can we merely now proceed in moving an adjournment or should there be a motion of precision so we would not have two motions?

**The Speaker:** I am really not following you but the Elected Member for East End indicated that he wanted to speak. So, the Motion will continue debate on Monday.

## ADJOURNMENT

**Dr. Frank S. McField:** Mr. Speaker, I move a motion to adjourn this House at this particular time, if I am allowed to do so, with a seconder.

**Mr. Alden M. McLaughlin, Jr:** I second that, Mr. Speaker.

**The Speaker:** I would like it to be understood that the House is adjourning until the completion of the informal meeting called by the Presiding Officer for all Honourable Members, which will commence at 10 am on Monday.

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

**AYES.**

**The Speaker:** The Ayes have it. The House stands adjourned until the completion of the informal meeting on Monday on Monday, 23 July 2001, which will commence at 10 am.

**AT 8.07 PM THE HOUSE STOOD ADJOURNED UNTIL THE COMPLETION OF THE INFORMAL MEETING ON MONDAY, 23 JULY 2001.**



**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**23 JULY 2001**  
**2.30 PM**  
*Nineteenth Sitting*

*[Prayers read by the Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.]*

**The Speaker:** Please be seated. Proceedings are resumed.

Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Third Elected Member for George Town, the Honourable First Official Member responsible for Internal and External Affairs, who will be arriving later, and from the First Elected Member for Cayman Brac and Little Cayman.

I would also like to tender my apologies for the late start, but it was absolutely necessary to have an informal meeting on procedure.

I would ask for the suspension of Standing Order 14(2) in order for Private Members' Motions to be taken on a day other than Thursday.

**SUSPENSION OF STANDING ORDER 14(2)**

*[Moved by the Honourable Minister for Health and Information Technology]*

**QUESTION PUT. AGREED: STANDING ORDER 14(2) SUSPENDED TO ALLOW OTHER BUSINESS TO TAKE PRECEDENCE OVER GOVERNMENT BUSINESS.**

**Hon. Edna M. Moyle:** Mr. Speaker, I think you have somehow missed item 3, Statement by Honourable Ministers. I do not mean to interrupt you.

**The Speaker:** I beg your pardon. We will revert to item 3, Statement by Honourable Ministers/Members of Government.

Statement by the Honourable Minister responsible for the Ministry of Planning, Communications and Works

**STATEMENTS BY  
MINISTERS/MEMBERS OF  
THE GOVERNMENT**

**CAYMAN AIRWAYS LIMITED**

**Hon. D. Kurt Tibbetts:** Thank you.

Cayman Airways resumed operation of its Boeing 737-200 fleet as of midnight on Friday 20 July 2001 following just over a week of extensive reviews on all three aircraft as well as the airline's support operations. The independent investigation was carried out under the auspices of the Civil Aviation Authority (CAA), the regulatory body for all locally registered aircraft including the national flag carrier.

As Honourable Members of the Legislative Assembly will be aware, the Board of Directors of Cayman Airways temporarily suspended flight operations of the three 737-200s on 18 July, out of an abundance of caution to allow this thorough investigation to be conducted. On Friday evening last, the Director of Civil Aviation, Mr. Richard Smith, gave the all-clear that the CAA was totally satisfied the fleet could return to service with immediate effect.

The audit into the three Boeing 737-200s and supporting operations included all aircraft and engines, maintenance and engineering procedures and staffing, flight operations, company operation manuals, executive management, and the organisational structure of the airline. The aircraft engine manufacturer (Pratt & Whitney) were also brought in to carry out complete checks on each engine including a boroscoping procedure, which is technology used to test the internal workings of the engines and systems. The engines were further boroscoped again by another independent firm.

The head of the United Kingdom Civil Aviation Authority's Safety Division was also brought in to assist the local CAA with the investigation. The last few weeks have been a tremendous eye-opener for many of us involved with the national airline. I would like to publicly thank the Director of Civil Aviation and everyone involved in the review for their considerable efforts, co-operation, and to say that I believe, Cayman Airways is better off and will continue to be.

At this time I would like to announce that Mr. Michael Adam has agreed to assume the position of President and Chief Executive Officer (CEO) of Cayman Airways for an interim period and as such has full control of the day-to-day operations of the company. His responsibilities have been streamlined to allow him to concentrate solely on the duties of CEO.

The Board of Directors are now actively pursuing the recruitment of a permanent Chief Executive Officer. Other experienced individuals are also in control of key management positions such as Captain Kennedy Panton, Vice President of Flight Operations, and Captain Churchill Bodden, Director of Safety and Security. The maintenance and engineering department has also been restructured and has a new head veteran aircraft engineer, Mr. Fabian Whorms. An experienced Vice-President (VP) of marketing is also expected in post shortly.

This does not mean that the airline's troubles are over, Mr. Speaker, as the operating losses for Cayman Airways Limited (CAL) in the financial year 2000 are expected to be significant. While 2001 was actually performing better than forecasted, the recent necessity to sub-lease an aircraft and the repair and acquisition of new engines, will all have a negative effect on the year's financial position.

Honourable Members will be aware that one of the first actions taken by the new Government was the undertaking of a financial and business audit of Cayman Airways. This review was clearly needed and is being carried out by NCB Consulting Ltd., which is headed up by prominent certified public accountant and successful businessman, Mr. Naul Bodden.

This Interim Report from NCB has indicated that CAL could be restructured into a viable airline requiring little or no subsidy. The detailed development of the new business plan is now well underway and Executive Council will be provided with an update tomorrow on progress being made in that regard.

While there has always been both support and opposition for having our national airline, and this no doubt will always be the case, I believe that Cayman Airways should be given another chance, perhaps even if it is looked upon as a final chance to succeed. However, if the airline is to have a future, the organisational, operational and financial restructuring must now begin in earnest albeit in a very deliberate, sensible and cost-effective fashion. I believe Cayman Airways can be viable if it is allowed to be run as business. I also think that the employees must have a stake in its ownership structure. I also believe, personally, that privatisation should be looked at in the medium term.

In closing these brief remarks I would like to sincerely apologise to the travelling public for the inconvenience recent events have caused, and also to publicly thank the Board of Directors, Management, Flight Crew and the entire Staff of Cayman Airways for their dedication and effort during these last few very difficult weeks.

I would also like to take the opportunity to remind them all also of the tremendous work that lies ahead and to provide encouragement for us all to work together in harmony and as a team, to prove why everyone should be flying Cayman Airways. Thank you.

**The Speaker:** Other Business—Private Members'

Motions. Private Member's Motion No. 18/01 Prevailing Economic Conditions of the Cayman Islands, continuation of debate thereon. The Motion is open for debate. Does any other Member wish to speak? The Motion is open for debate. Does any other Member wish to speak? Last call, the Motion is open for debate. Does any other Member wish to speak?

The Honourable Second Official Member.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 18/01

#### PREVAILING ECONOMIC CONDITIONS OF THE CAYMAN ISLANDS

*(Continuation of debate thereon)*

**Hon. David F. Ballantyne:** Thank you.

I was to make just a few brief remarks in relation to the Organisation for Economic Co-operation and Development (OECD) initiative since I think it may be germane to the issue. That initiative was the subject in the case of the Cayman Islands of an advance commitment which resulted not only in the Cayman Islands not being listed, but in gaining a negotiating position on what information exchange standards should be. This, in my view, has enabled the interests of the Cayman Islands to be best represented in that forum. I would simply say that this represents two years' work in progress and is ongoing.

Associated with the OECD has been the Financial Action Task Force (FATF) issue on money laundering. Mention was made in the debate about aspects of the Cayman Islands anti money laundering regime, including the Financial Reporting Unit (FRU). I have come to the view that it is time to shed some light on the operation of the FRU. With the agreement of the officer in charge of the unit, I have asked and am putting forward an open day for Members of the Legislative Assembly (MLAs) within the FRU so that they may have the opportunity of seeing what happens within the unit, ask questions they may have and be allowed to ventilate any concerns they may have within an informal but informative context.

I cannot think why this should not be offered to Members of the Legislative Assembly, since the FATF Review Group of the Americas had the opportunity of reviewing the operations of the Financial Reporting Unit, and I believe, were better informed as a consequence. I think that where there is ignorance. . . and I use that not in a pejorative sense of what is going on, sometimes it is easy to assume that nothing is going on; certainly, there is an air of mystery which would be better dispelled, if possible. So, at a time mutually

convenient to Members I would propose for this to be organised.

On the FATF front, I do not need to emphasise that the recent de-listing was the result of about fifteen months' collective effort on the part of everyone, including Members of this House in which significant legislation was passed which had a direct bearing on the outcome since one of the main criticisms of the regime was that it was not mandatory.

I would say, too, that membership of the Egmont Group which is now in active operation, came just at the right time to combine with the laws that we passed, their implementation and visit by the review group. I believe, all these efforts persuaded the Financial Action Task Force that sufficient concrete steps had been taken and that the culture was maturing here. If there is a need for formalising arrangements further, let that be done, in my opinion, if the House is so satisfied and the Government puts it forward.

What I am saying is not in a sense of complacency, but rather relief that we are in this position. I suggest in relation to the Honourable Member's Motion that the Cayman Islands have achieved a platform which is on a level footing with international standards. I would suggest that on this platform the continued prosperity of the Cayman Islands is capable of being further built.

I accept that the United States position tends to influence the Cayman Islands. Within the OECD we are in quite good company. Among those represented there, the advanced commitment countries are Bermuda, the Isle of Man, Seychelles, Mauritius, San Marino, Malta, Cyprus, Netherlands Antilles, as well as the Cayman Islands.

In the OECD process, which is yet to come to any kind of conclusion requiring extensive consultation locally with the industry and within this House, the Cayman Islands are, I believe, well regarded. Not only are we involved in ensuring that legitimate banking privacy is respected, we are also involved in seeking to enable effective exchange of information, but in line with a defined commitment which has been made public. That commitment, in my view, is consistent with the position outlined by the U.S. Treasury Secretary in his recent release to the Senate Committee on anti money laundering. It is my view that we are acting in a way which is consistent with that position. Provided it is not more onerous than the commitment that has been given, it should in my view enable business to prosper.

Most importantly, on the OECD issue, the advanced commitment countries have set out their stall collectively which resulted at the last meeting the Financial Secretary and I, among others, attended in Malta. The collective position is that they will live up to their commitments and agree on how to exchange information on request, but on the basis that all OECD members do likewise to the same standard and on the same timetable. In the words that are

much used, we can all operate on a level playing field.

In my submission, in closing, there has not been nor will there be, a surrender of the essential interests of the Cayman Islands. No one, and Treasury Secretary O'Neill acknowledged this, may impugn the right of a country to operate a low direct tax regime. That, at the bottom line, although I am no tax or financial expert, seems to me to be at least part of the key to the success of the Cayman Islands. I suggest that there is now an opportunity to move forward when we are in control, and to move forward in a proactive and productive manner. Thank you.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you.

There is not a lot left to debate because of the amount that has been said on this Motion without repeating oneself. There are a few points I would like to bring to the attention of the Government.

We all recognise the economy is not what we would like it to be. Someone said we are not in a recession and I tend to agree with that. There is a slow-down but there is no so-called recession. Maybe it depends on who we talk to but, overall, I do not think there is a recession in the Cayman Islands.

Information tells me, because of having followed the country that this is one of the cycles we go through. In the early 1990s we went through the same situation here in the Cayman Islands. It appears that this is a little eight-year cycle we are hitting. I know the country is crying for something to stimulate the economy. I would like to point out that I, too, have tied the high cost of living in this country directly with the efficiency of the Government.

This Motion speaks to the recent tax measures. I believe the increase in tax is a direct result of new services of government and existing services needing to be serviced. I am not prepared to say we are totally inefficient, but I think it is time that the Government started looking at how efficiently the services are being run, thus reducing expenditure and the need for increased tax. I think that is rather simple, one follows the other. It does not always work out that way, and we have politicians building castles in the air. We also have to control that.

I will touch on another area. We talked about stimulating the economy in the context of construction. I believe we have used the construction industry as our measuring stick in this country for a very long time. The construction industry reflects the hotels and big office buildings in town. The question is who are the owners of these buildings? They are primarily owned by foreign investors. The crux of the matter is that we depend on construction to stimulate the economy, but on the other hand, we will not ease the restrictions on development. If we ease that, then the country cries that we are developing too fast. If there was ever a 'catch-22' situation, that is one.

I am no economist, but I am a realist. I look at life in a very logical manner. To get the construction industry up and going again, something the majority of our people depend upon, we have to ease some of the restrictions. We need to try to stop some of the special interest groups saying we cannot do this and should not do that.

I have always contended that since we are depending upon the foreign investment to build the infrastructure, and it appears that it will be a long time before we come to the point where Caymanians will pool their resources and start doing some of this infrastructural development, we are going to have to decide how much and how far, and how fast we allow the people to develop.

The other position which I took a very long time ago, is that while foreign investment is required to do the development, the maintenance of that development must remain in the hands of the Caymanian people. The day has come where we are feeling the crunch in the economy. The people who are out of jobs are the technical people, the vocational people. Why are they out of jobs? It is my submission that a lot of jobs are out there but they are being held by non-Caymanians because we continually allow these companies to be formed and do the maintenance on these buildings and Caymanians fall by the wayside. There has to be some control on it. We have to start controlling that.

If there is a large investment, other countries in the world attach certain conditions to it. For instance, in the construction of buildings I note that when an investment is proposed and approved other places in the Caribbean attach conditions to it stating certain numbers of the natives, citizens of that country, must be a part of that workforce. That is done to protect and assist the citizens of the country.

If we relieve some of those restrictions or define positions that special interest groups may have on these things to try and stimulate the economy, then, naturally, we must put in conditions whereby Caymanians have to be employed. They must be employed! We see the companies which are formed to do the maintenance. Caymanians can do the maintenance. This is all about diversifying our economy.

Why do Caymanians find jobs when construction is going on but they cannot after the infrastructure is in place? That is where the economy will stay on a level playing field. It will remain there to a greater extent than it is today. We are dependent upon construction.

It is my position that the Government or the country needs to start thinking about putting conditions of employment on any development in this country. It is not to run people away; we are just saying there must be a certain amount of people. Think about the service area of industry, such as work permits coming in for waiters and bartenders and others; we need to try to get our people into that field. What about painting, maintenance, changing of the faucets,

gardening and other related issues in this area? This is part of keeping our people in jobs and maintaining a lifestyle we would all love to enjoy. There is nothing demeaning in being a maintenance man.

How many buildings in this country have a full maintenance staff of Caymanians? This is where we have to correct to some extent to keep our people in jobs. It is not only about seeing a four or five storey building going up, it goes much further than that. This is the same mentality we have taken from a political perspective; we want the buildings but we never think about the recurrent expenditure. We want the development, but we do not think about how we should ensure that those buildings contribute to the economy in our country. We need to look much closer at that.

Some Members spoke on the immigration dilemma this country is faced with right now. I want to endorse some of that. Recently, we met with representatives from the Foreign and Commonwealth Office (FCO). It was made abundantly clear to me, and other Members of this Honourable House, that if Cayman does not do something about it, they will. They were very adamant that you cannot allow someone to live in your country for twenty or thirty years without some security of tenure.

Her Majesty's Government has already dictated to us on certain issues this country tried to rescind or wanted to refuse. As you well know it does not work that way. Whatever Her Majesty's Government says, we have to do. Well, my position with immigration is: let us pre-empt them and do something about it. I believe that is one way to stimulate the economy.

I know when I took my time away from this country, some ten years, every cent I made came to Cayman. I do not expect any different from any foreigner in this country. If we have kept them here for thirty years, they must have contributed something to this country and some must have some savings to build a little house to stimulate the economy. I hasten to add that I will not support anything that is going to disenfranchise one Caymanian. I want to make that abundantly clear.

Certainly, before Her Majesty's Government passes a resolution in Council that will require us to do things that the majority of Caymanians may not necessarily want done, it is time that the fifteen duly Elected Members of this House started moving. Let us not sit on our laurels as was done before on other issues allowing it to come down on the people of this country like a ton of bricks.

There should be no surprises. We were all in the same meeting. Some people say that there is nothing wrong in being the minority, as long as we are in charge. Sometimes that works, but not always. I believe that there can be some dialogue and some decision. This has been floating around for too long. For too long the Immigration Law has been amended in a piecemeal fashion and no one—not even me who can trace my family back four or five or six generations in

this country—knows what he is, except to get up and pound his chest and say, 'I am Caymanian'.'

We need to define what Caymanians are. The time has come for us to address it. For years we have been afraid to address it for fear we will upset the apple cart. The intent is not to upset the apple cart, it is to treat people with some equality and allow the Caymanians to pick from that apple cart also and not have to wait for the bottom where the apples are all crushed.

The other issue I would like to touch on is interest rates. I am encouraged to see that interest rates have come down. Of course, they say if America sneezes we catch a cold. Well, every time Greenspan goes to Capitol Hill and lowers the rate, we get a lower rate. Now that is unfortunate. No one, as of yet, can tell me why we have so many points above the prime lending rate. Many have tried to explain it, and I may not understand very well. I want to know what prime lending rate is. What is included in prime lending rate? Why is it that we have to add so many points to the prime rate? Why is that the benchmark, and what does it include? Does it include a profit margin? Everybody shies away from this.

Why is it that the people of this country can see the rest of the world get low interest rates? Is it because the cost of doing business in this country is so high we have to increase by so many points above the interest rate? I agree the cost to do business in this country is high, but we make plenty money too. There is much to be made out of the same money the people deposit because the interest rates on the deposits are extremely low. You might as well keep it where the old people keep it, under your bed! At least you will have it handy and you will not have to worry about anyone going bankrupt.

If we can get the answer to what prime lending rate really is we will understand why the interest rate is so much higher. We will also understand why the economy is partially down also.

I just want to touch on the OECD and FATF issues. I understand these two organisations are a threat to our economy; in general, to the world economy. Anyone outside those member states is a threat to that. It is about economic power and political will to impose upon everybody what they want. It is not what others want it is how they would like it to be, or how it must be. I know that the Government has negotiated well with these people, but I hasten to warn that they do not come to that negotiating table like Caymanians do. Caymanians go in good faith and with good intentions; these people do not do that. They go straight for the throat and we are very dependent upon the financial sector in this country to keep our economy buoyant.

I heard the Members speak about Malta where they tried to hold us to the advanced commitment; I encourage them. The Second and Third Official Members said they stood up and said, 'No!' I encour-

age them to continue to say 'no'. These people are out to destroy anyone who is small.

Mr. Speaker, do you really think that the OECD which makes up probably half of the world's population is going to make 40,000 people control their money? No! They are coming at us, and coming strong. The fact that we got off their blacklist makes me elated. I believe it is the beginning and much work is to be done. The time has come for us not to roll over because we cannot afford to roll over to the OECD and the FATF; they are all one and the same. The time has come for us to stand up and preserve Cayman's financial industry. I urge the negotiating team to stick by its guns. Right now, the economy will revive itself, hopefully. If we do not continue to have our financial industry as a result of OECD and FATF, we have lost the central piece of the jigsaw puzzle. I do believe that any Member would stand behind the negotiating team to preserve our financial industry. We may go down, but let us go down kicking.

I would like to congratulate the Mover and Secunder. I believe it is necessary these initiatives and motions like this, particularly when the economy is down, be brought to the forefront so that the public can understand what and how legislators see this economy and how it is hoped it will be revived.

I would also like to say that anything done in this Honourable House is directed to the Government. It is time we did our work here in an efficient manner so that we can get Government out of here and into their offices then we can really blame them if anything happens. Let them get back behind their desks and we get out into the community and deal with the constituency. When they come back, the more time they spend behind their desks the more blame can be laid squarely on their shoulders.

One Member touched on a lottery. If it is going to stimulate the economy and revenue for the country, why not, as long as it is earmarked for a specific thing. I will not support any lottery that goes into the general revenue. It must be earmarked for education or health or something where the people will benefit.

I hope and pray that my comments will be of some help to the Government and this country. My appeal to the country is to not just rely on government. We all play a role in whatever happens to this country, not just the fifteen legislators. We all have a responsibility as citizens of this country to stimulate our own lives which in turn will stimulate the country. I believe Caymanians are still resilient enough to come out and do what has to be done.

I look forward to the statement the Third Official Member said he would be making to this Honourable House.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, I listened to contributions of Honourable Members. My mind took me



back to some time ago when a very good friend of mine, whose political acumen I respect and rely upon, said it was a bad time to be going into government because the country was on the verge of going into economic doldrums. I had no doubt that his vision was accurate because everything he had told me before, politically, economically and socially to do with the Cayman Islands, was accurate and appropriate. So, I was one person who expected that we would have this kind of experience.

The Cayman Islands are what I call a frontier society. Just like the Klondike, the Yukon, California and the Gold Rush. The frontier draws a lot of people, some transient, some more permanent. They all come for a stake. To a certain extent, in a loosely regulated society, you are going to have certain strains.

The Cayman Islands have turned full face from where we were several years ago when our seamen went to sea on ships flying flags of convenience and repatriated their incomes here, to the point nowadays where many thousands come here seeking work and repatriate their incomes elsewhere. They buy drafts, put them in envelopes, and send them away. Should some consideration not be given to them leaving some of it here? Should we not tax that? It happens in other countries. I have lived in another jurisdiction; therefore, I am aware of what goes on. I know all about the non-resident tax, and when you are not a citizen all the things you have to pay and contribute to. Do you think you can just take your money and send it off just like that? These are some of the things we need to think about because the Cayman Islands cannot be a free-for-all. There is no such thing as a free lunch, and the advantages have to be first to the citizens of the country. The citizens of the country should be the last people to feel the pinch.

One of the things I realise about very successful countries—and for a long time the countries of the Orient benefited from this—they benefit from developing a national consciousness with regards to savings and there must be some way we can do the same. Caymanians, me included, are not very good savers. We have to understand that we will not be able to have financial and economic clout until we can get to the position where we can speak of income and savings in blocks. My advisor gave me some statistics that are frightening. The level of debt per person in this country is something that would make you cringe. Juxtaposed against the level of savings per capita, savings appear to be negligible.

What we are living in from the very beginning is a deficit kind of economy where the level of borrowings and loans triple or quadruple the amount of savings. So we have these strikes against us. When you consider that this is compounded by the fact we have people who are immigrants working here, and I do not have anything against them—they work, save their money and repatriate it. It makes the position even more sobering.

I have believed for many years we are paying for the mistake we made in our economic development. I said from the time I came in here we were measuring our progress on a faulty report card. At that time, income and wealth were measured in land. We sold and dispossessed ourselves of that to the point where I am frightened for the future if something is not done to address the lack of housing for certain elements of our society.

Now that the world has changed and we are moving to a knowledge-based economy, we are not getting ready for that either. We still operate in the traditional boundaries, so we have to move out of that. While speaking about the economy, it is not limited to the economy. We have to change our whole outlook; our whole philosophy; our whole education system; and our whole training system. We cannot cry over spilled milk. The land is gone. We have to retool, educate, and train our people to take advantage of the new methods of acquiring and retaining wealth. We have to prepare them for a knowledge-based economy. We have to get them into information technology and computerisation. We are not doing a tremendously wonderful job at that either. We are still hitched to the old stagecoach.

We have to face the facts about certain things. I contend that we need to take a serious look at this whole business of immigration and all these people who have been here for a long time contributing because they have money. Maybe we have to give them security of tenure, then they will feel better and let off some of the money they have, and the economy will be able to resuscitate itself.

I do not necessarily believe the Government should embark on deficit spending and budgeting. I believe we are not in a panic situation yet, and there are things we can do. We are a developing country and we have come so far by being conservative. Maybe we can liberalise a little. There are things we need to take in increments, and that is the way I say we should go. Rather than open up wholesale and get into a million things, we should take the incremental approach.

That is what the Government is minded to do; that is what the Government is aware of, and that is what the Government must do. I think in fairness, this particular political directorate realises that we came at a time when there were certain disadvantages. What should we have done? Should we have been cowards and say, *'We do not want the Government? We do not know what to do?'* No, we have to rise to the challenge.

Just as the position we find ourselves in did not appear suddenly but was the result of crumbling over a number of years. So, too, the solution will not come automatically. In all of the propositions, we have to bear in mind the delicacy of the society and the impact of anything we may propose.

I heard Members mention a national lottery. For years I said we should consider a national lottery. I

know the elements of opposition and I know what people would say, but it comes down to this: we cannot continue to tax the people in the traditional areas. One of these days it is all going to dry up.

Several years ago I gave an anecdote about my grandfather, his friend and an old cow who the man insisted should have a calf each year. One year the cow had a calf, and there was a drought and no grass. The calf died, the cow died and that was the end of that. We have to look at creating new ways—like a national lottery. For all the challenges we talk about, we have to talk about things like bonds as well.

I know the challenges involved because when the government floats a bond, the government must know that when those bonds are cashed in, it has the money plus the interest. These are things we have to think out. They are not beyond the scope of this Government, but it is that we have to take our time. One year has not passed yet. We have to read the compass. We have and we are ready to step off, but people should not be so naïve to expect that when we hit the ground we would immediately start running because the economy of the Cayman Islands is intricately intertwined with the world economy. Right now, President Bush in the U.S. is in a quandary because he is not doing well. There are layoffs; the stock market is more down than it is up. All of these things impact on our society, therefore, if society is not industrialised, we will never be able to solve the problems because it is an interdependent world, on our own.

It cannot be said that the Government has not been moving on all the areas in which we have been experiencing problems. We have been doing that, and doing it well. There are no overnight results to be had, there is no quick fix. The Government, and, by inference, the Legislative Assembly, will not be able to do it by themselves either. There must be a partnership between the public and private sectors. It is all right for the private sector to bawl but are they forthcoming in times of crisis and times of economic stringency? Do they understand? I do not see any delegations streaming in here with any ideas. I do not see them coming in here wanting to speak with legislators, bringing suggestions, volunteering to help. Where are they?

Arm chair generals! They sit on the sidelines in their living rooms and offices, complaining and bickering. Rome was not built in a day, nor was it built by Caesar alone. This is the time for them to come forward. We need help. I suppose, true to many people who inhabited the frontier society, when the economy does not suit them they pack their suitcase and take the next stagecoach out of town.

It is a two-way street. While it is true that many people need citizenship, we do not need fair weather citizens. If you are not going to work to build the country; if you are not going to put your shoulders to the wheel now, when we get it going again we will tell you *'ta-ta, we do not really need you'*. It is easy to stand on the sidelines and find fault and grumble when the

economy is down. How many people say: *'we have some money; we have an idea and we'd like to invest in a project.'* People talk about easing restrictions. Of course, Government can ease restrictions. However, always the advantage must be to them.

I do not see anyone coming up with any training programmes and schemes that would involve twenty or thirty people for employment. So, I have to stand in defence of the Government and say that things are being worked on, but it cannot be done overnight. It would be much better if the partnership was more than tokenism. I hope, at the end of the day, we can find means other than the traditional ones to raise revenue, to change the scope of what we have been treading upon, whether it is a lottery or a bond issue, something to ease the burden and the pain on the small man; on the taxpayer who is hit every year in the same areas.

I am brave and bold enough to take the Opposition. I say it is high time we begin to look seriously at areas like a national lottery to fund education; to fund scholarships; to defray some of the medical expenses we have; and to take care of some of the welfare issues we have. It is time we looked at that and at floating a bond issue, which we are looking at.

These are challenging times, but I feel good about the future. I know that we will turn this ship around. A young Government just needs a little opportunity. We will make everyone proud, including the nay sayers.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you.

It is good to see the Government's economists here taking notes, after all, this is a take note motion. One thing that seems to be lost in all of this is exactly what it is we talk about when we refer to the economy here in Cayman. I think sometimes it is easy to criticise and talk about stimulating as if it is as easy as taking an electric wire and just walking up to that magical economy, just sticking it on there and giving it some juice. A man has to know his limitations.

Our economy is built primarily on tourism and the financial industry. Tourists do not have to come to the Cayman Islands and neither does investors have to put money on deposit. They do not have to invest in mutual funds and have them registered here. We do not have to register their captive insurance companies here. We have to recognise our economy is one which is built upon a lot of variables well outside our control. When we compare ourselves to larger industrialised countries, we recognise that because they have the gambit, and a lot of local wealth behind their dollar. They can make certain changes and provide the stimulus their respective economies need.

What also complicates the matter even more in Cayman is the fact that we have built an economy so reliant on imported human capital as well. Not only

have we had to have the foreign capital come here, and it does not have to come here, but the human capital has to come here as well. I hear some Caymanians talk as if the Government Members are the biggest group of idiots just because we have one foreigner working here.

We have grown up to be a people who want it, but we do not want it. We want the high flying life. We want to be able to go to the U.S. and buy new cars, fly them in and go up there on our shopping sprees. At the same time we do not want to realise that if we import capital to the level where our local labour market cannot sufficiently service the jobs created, we will also have to import the labour.

What is of interest is certain people's notion by saying: *'oh, if foreigners here would spend all their money here.'* How could anyone who knows his history even insinuate such a thing? My father went to sea. He sent his money home. That is the same thing we are now experiencing.

In a short period of time we went from the ones who had to emigrate out of Cayman to being the ones watching people immigrate into Cayman. How can we then sit back and ask why all the expatriates who live here send their money overseas? They send it overseas because they come here for economic gain. They are going to send the money home to help pay the way for their families, just as our men did when they went to sea.

Another thing we have to acknowledge in our frail existence is the fact that our own dollar is tied to the U.S. dollar. We have to also recognise that it is backed by U.S. Treasury Bills. Sometimes when I hear people talk, and this comes from all spectrums of life, I would swear that Cayman is Brazil—the richest country by way of natural commodities in the world. We are not! A man has to know his limitations. If he does not, peril will become him.

We have heard much talk about the U.S. economy. Because of the nature of our economy in Cayman, as I outlined earlier, naturally whatever happens in major markets where we do a lot of business will have a spill-over effect into Cayman. I have a few articles that will help shed some light on exactly what is going on. I will then tie it in, with your indulgence, with the points I want to make.

**The Speaker:** Please go ahead.

**Mr. Rolston M. Anglin:** In the July 6 edition of *The New York Times*, reporters and economists discussed this famous tax cut that President George W. Bush has given. I quote: **"Whoops, no sooner had Mr. Bush signed that tax cut into law then those same officials began admitting the budget outlook wasn't that rosy after all. In fact, revenue is dropping like a stone. A suspicious man may wonder about the timing. Isn't it strange that the bad news on revenue came to light only after the tax cut had passed?"**

The article goes on to clearly demonstrate that even though the U.S. Government has gone about its tax cut, and while that will normally have benefits for places like Cayman, because they will naturally then embark upon tax planning that often involves setting up offshore trusts; investing in offshore mutual funds; investing in areas where they can shelter some of their wealth from their own government's tax regime, which is very much like the Republicans who are known as the rich man's government.. We also have to recognise the fact that all is not well in the United States. Even though they have had this tax cut, the perceived impact may be months from being recognised.

On 7 July, there was a discussion on jobs. I quote: **"The nation's employers cut 114,000 jobs in June, mostly in the manufacturing, but in other sectors as well, the Labor Department said yesterday, throwing cold water on recent reports suggesting the economy was beginning to recover. 'You cannot spin this report to make it sound positive. There is nothing positive about it,' said William Dudley, Director of Domestic Economic Research at Goldman Sachs & Company. 'You have to look at other information to be optimistic. This Report is very weak.'"**

We then see a report, **"Like many American consumers, Stephen St. George has suddenly gone from being a source of the economy's strength to a reason to fret about its future. After having bought his first home, purchased a new Sports' Utility Vehicle (SUV) and taking four weekend trips to California in the last year, Mr. St. George was laid off two weeks ago from his \$75,000 a year job on an online real estate company. Now he and his wife are considering selling their new truck, delaying some landscaping work on their home and trying to pay off credit card debt. 'We haven't made changes yet, but we will,' said St. George, who is 35 and lives in the mountains of north Phoenix. 'The idea is to spend a little more wisely and to be a little more frugal.'"**

This shows just how grave it is in the United States right now. Naturally, that could have been a potential tourist to the Cayman Islands. In those conditions, do we think he is going to come here? I think not.

We also see that even with the interest rates' cuts that have come about, that sought to lower the value of the U.S. dollar so that U.S. goods and services would be relatively cheap compared to their trading partners, therefore providing stimulus for their exports and be able to revive the economy and keep jobs going on that front, we also have bad news on that front. I quote: **"More than six months after the Federal Reserve (Fed) began battling the reverse of economic slowdown in the United States, economists and business executives say an unexpected rise in the value of the dollar is complicating the prospects of full rebound. Despite six**

interest rate cuts by the Fed this year, an effort that would typically be expected to weaken the dollar, the American currency has strengthened against the world's two other major currency, the Euro and the Japanese Yen. As a result, American products have become more expensive when sold abroad. At the same time economic growth appears to be decelerating in Europe and Japan is again flirting with recession. That weakness is dampening demand from abroad for American goods and services making it even harder for the domestic economy to emerge from the doldrums. 'The global slowdown that is becoming more visible in the economies of our trading partners and surprisingly strong dollar are going to drag on the recover,' said James Glassman, an economist at JP Morgan Chase New York."

One might then be wondering what is happening in regard to consumer spending. This is bad news again. I quote: "Consumers worried about their jobs in the face of layoffs were a bit tight-fisted in May, borrowing money at the slowest pace in the last 19 months. Consumer credit rose a seasonally adjusted \$6.5 billion in May, a 4.9 percent annual rate, the Federal Reserve reported today. That was a much smaller increase than the 9.5 billion rise in credit that many analysts had expected. The 4.9 percent growth rate was the slowest since the 4.7 percent growth rate of increase was registered in October 1999."

Tied to that would be retail sales. Just to give a flavour of what is happening in the U.S. economy on that front . . . "New evidence of a weak economy appeared yesterday in the latest reports on retail sales, inflation and consumer confidence, suggesting that a much anticipated upturn will not materialize until the fall, if then. Consumer spending, in particular, gave ground with retail sales growing more slowly in June than most forecasters had expected, the Commerce Department reported. Consumer confidence, on the other hand, rose slightly [which is good news] in the first two weeks of July. But among low-income households who told pollsters that they expected inflation to lose strength in the coming months giving their incomes more purchasing power. [Note the sector it came from, not the sector that is going to help the Cayman economy. That optimism comes from low-income households.] 'One crucial measure of inflation fell in June for the first time in over two years. These numbers suggest that we won't get a noticeable economic growth until the 4<sup>th</sup> quarter,' said Richard Burner, Chief Domestic Economist at Morgan Stanley Dean Witter. In his view a rebound after nearly a year of sluggish economic growth is put off until the 4<sup>th</sup> quarter and the economy will contract in the current quarter."

The final bit I need to tie in is wholesale inventories. I quote from 11 July 2001 edition of *The New*

*York Times*: "Sales at retailers fell in May and inventories rose more than at any time in the last six months, a sign that businesses may be reluctant to order more goods until the economy picks up. Wholesale inventories rose 0.2 percent, led by an increase in the stockpiles of drugs, food, and clothing, an increase of 0.1 percent in April, the Commerce Department reported today. Sales fell 0.1 percent, the third drop in the last four months. They pushed inventory to sales ratio a measure of the time goods remain unsold up to 1.32 months in May, the highest level since April 1999. As a result, wholesalers are struggling to keep stockpiles in line with sluggish demand. 'The report isn't good news for the economy because it suggests continued weak production as companies work off the inventory glut,' said Tom Rogers, Chief Economist at briefing.com in Boston. The May increase in inventory was the largest since the 0.4 percent increase in November."

We have upon our hands a world economic slowdown that is obviously being felt in the U.S. To think that the Cayman Islands will not go through economic slowdowns is that pie-in-the-sky attitude that says we have to grow—we will grow. After all, the tourists and investors have to come to Cayman to invest, irrespective of how difficult we can make it at times.

Let us look briefly at the Cayman economy. I have a few questions for those nay-sayers on the outside. Is the growth rate in work permits slowing? Are Caymanians being trained? Are Caymanians not being marginalised in the workforce?

I can remember a few years ago when there was a big push by Cayman to buy goods and services in Cayman. I have heard people so cynical it is amazing. The attitude in our community is cancerous. We have people who categorically ask the question of why they should buy in Cayman when they are being gouged. Why should I buy in Cayman when I can go to Miami, have a vacation, buy the same goods and services and still save money?

I also hear people ask why they should buy from some merchants in Cayman when all they want to do is pay low wages to expatriate workers; they do not want to train or hire Caymanians. They say they will not support them because all they want to do is hire expats and do nothing substantive for this community. They ask why, to make them rich? I have heard that question. Anyone in here who has not heard it has not been talking to enough people. At the end of the day, the last thing I am going to say on the 'Buy Cayman' initiative is that I wonder how many people in here and out there can honestly say that when they built their homes, if they built, that they bought everything here. I want them to answer the question: why? I want the retailers and wholesales in this country to take note; that is who needs to take note.

We can stand in here all we want and talk about government spurring the economy on but we have in

our midst, greed! I think it was the Second Elected Member for Bodden Town who spoke about this greed. You have to make \$1 million from each soda you sell. You have to make all the profit this year on the cars we sell. I recognise that Cayman is a high cost jurisdiction. No one is going to convince me we do not have greed in proportions that are unconscionable and that we do not have gouging in this country.

The people are not going to take it. There is a cheap alternative. I know for a fact that many people have arrangements with export and freight foreigners in Miami. All they have to do is pick up the phone, or go on the Internet, and they can get goods and services overseas. They feel cynicism against their own economy and their own environment, because they feel that the pricing is excessive. It is a reality because most of them do not make the type of money they would need to make to be able to buy all their goods and services in Cayman. This is just a fact of life.

What about our tourism product? What are our private sector partners really doing about this? I shop at Foster's Food Fair in the Strand. Many tourists come there because it is close to many condominiums. On two occasions I noted with my own two eyes Spanish-speaking cashiers bellowing to each other across cashier lines with the tourists standing there. I asked myself: *'what sort of impression could that possibly give any tourist?'*

I think back to when I was working in New York about how certain of my colleagues at PriceWaterhouseCoopers, who have relatively high levels of disposable income, tell me that they would not come back to Cayman for a vacation because they see it as not being a true Caribbean country; they see it as being a little America. If they wanted to visit a little American country, they would go to the Florida Keys. They say they do not experience anything Caymanian. How can you experience anything Caymanian when you go into the grocery stores and you do not get served by Caymanians; you go into the restaurants and do not get served by Caymanians?

I can name many other places. I can name places in government where the frontline staff are not Caymanian. I submit that when it comes to our tourism product, we can talk about all the broad-base plans we want to, which are critical, of course, but if the nuts and bolts do not make that visitor feel something positive that he can take with him from these Islands, why should they come?

I think it is incumbent upon the private sector to stop whining and complaining and talking about Caymanians will not do this, and Caymanians will not do that. Well, people will not do things when you marginalise them and say to them: *'Come and work hard for me. I am making a healthy profit, but I am not going to pay you anything' I am going to wave a magic wand over the expatriate's work permit because I know I can control him.'*

Mr. Speaker, this is why I could come to this House and support the minimum wage motion. It is high time we stopped the privateers out there; the profiteers in the private sector who will come in these doors and cry me down saying, *'Oh, Rolston M. Anglin don't know what he is talking about'*, and then cry poverty saying, *'Oh, we can't afford that; we can't absorb that.'* Well, Mr. Speaker, if they cannot afford to pay a person a decent wage for a hard day's work, it calls into question the existence of this Island. After all, if you cannot do that then your very existence should not be. If it takes us to bring in cheap labour to do our work in order to make the economy work, then we have fundamental problems that are beyond belief!

What to do? I contemplated some of this at length. I want to first talk about what already exists in Cayman that we can do differently which would have a dramatic effect, in my view, on the cost of government concerning taxation levels and the cost of living. Remember, cost of living is a delicate matter. Is it that the goods are expensive or that the wages are cheap, relatively speaking? Obviously, the two are intertwined. Obviously, cost of living is a relative thing. I submit that Cayman has an extremely high cost of living for the average citizen.

The size of the Civil Service is an issue which takes political will. After all, the Civil Service, as we know, joins ranks when it is threatened. They have a turf they feel they need to protect. I have yet to hear one civil servant say to me *'Here is an area that has glut that we can cut out.'* I have only heard about areas needing more people. It seems as if we are in a reality that is surreal; that we are not in the real world.

I agree with my colleagues, we need to cut the Civil Service; this is what most of us feel. The Civil Service says no, they need more workers. Either we have it right, or they have it right. I submit that we have it right! I am not afraid to talk about what we need to do for the benefit of the citizens. It is time those Civil Servants remembered they are civil servants. It is a privilege to be working for the people. It is a pity they do not have to run every four years to keep their jobs. I bet you would see a different mentality approach with more efficiency and productivity.

I will give an example of an interesting point which was brought up by the Honourable Minister responsible for Education, Human Resources and Culture. We are in the digital age, yet, when I just went and ordered a police record it is going to take a day to get back to me. The Honourable First Official Member responsible for Internal and External Affairs told us a couple of days ago that the system is not computerised; it is all manual!

If we are going to talk about the digital millennium and utilising it, why in the world cannot I log onto a web site, use my credit card, pay for my police record and have it e-mailed to me and I can then print it out? That does not take any magical technology. As a person who has grown up in the digital millennium,

and is part of it, I know this does not take rocket science. These are simple things. Not only must we cut the size of the Civil Service, but we must have true re-invention of government services.

I am not talking about putting Caymanians out of jobs. The private sector has a lot of work permits. I know there are those who will ask if I am going to take a person's work permit away. No! I am not saying that. These things have to be planned. We are the Government who control the Civil Service, under the direction of the Governor, of course, and we also control the Immigration Board. Why are we so backward to think that we cannot plan these things? Any civil servant who is displaced should be a planned and orderly decision. They should be transitioned into the private sector because the jobs are there. Work permits are coming up every day, every week. It is time we stopped pussyfooting around saying we do not need those foreigners. We need expatriate workers in this Island. However, it cannot be at the expense of any able-bodied Caymanian who wants to work.

Is it not timely to be standing here talking about these matters when Cayman Airways is going through the difficulties it currently is? It is known, and this is not unique to Cayman, that governments are the most inefficient bodies there are. They are not for profit and they do not have shareholders to answer to about the bottom line.

I have heard mention that Cayman Airways can be profitable. I will say it now, and I will say it again when the opportunity comes, that if this is the feeling; if this is what the research bears out, well then, we need to find a consortium of private sector individuals who are willing to put their money where their mouths are and are willing to take on the challenge of running the airline, making it profitable. I am confident that with the current political directorate we have, we could run Cayman Airways as close as possible to being a business airline, in regard to government owning it still. I believe that! I am confident of that! What about four years from now? What about eight years from now? What about twelve years from now? I do not care what system we set up. As long as Cayman Airways is tied to the Cayman Islands Government, there is going to be a government which is going to exercise the type of mismanagement that has plagued that airline all these years in the future. That is not the legacy Rolston M. Anglin is willing to leave behind.

If the airline can truly be profitable, then let the private sector run it. What about the losses we have accumulated over the years? They are there. If we as a government could get a private sector individual to take over that airline, and from now to eternity; from now until the Lord returns, if we get one dollar back we would have done something that would qualify each and every one of us to be a national hero, in my estimate. The private sector must be the body charged with Cayman Airways.

If we construct buildings and do things in the public sector in government that are two and three times as costly or inefficient than the private sector, well, airline management, the fiercest industry there is out there would be the other costly and inefficient one. We cannot sit here and say government is traditionally inefficient, but with the airline business industry we will be the pros, the best airline managers there are. That just does not add up.

Northward Prison is a strain on the Government, but all so necessary. Why do we only utilise the prisoners for community based projects? Why do we say that the lower risk prisoners are so low a risk that they can come into the community, build homes for poor people, but cannot do anything else? It is a worthy thing that they do, and I think it should be encouraged and increased. It certainly tells me by reasonable deduction that, if the prisoners can be trusted to build a home for a poor individual, they can certainly be put to work to rake our public beaches as I see the Department of Environmental Health doing. I also see non-Caymanians too because I cross them when I am walking in the morning. I see 200 to 300 feet of beach with eighteen men. This is ridiculous!

Why is it that they cannot help to build the schools? Why do we have to have a Public Works' Department that is so large? This brings me to rehabilitation. Why do we expect to have prisoners sit in Northward Prison? A lot of them do not take any classes, or do not have any work to do. They eat, sleep, listen to music, talk on the phone—phone cards are the biggest money making and the most important thing up there—you can buy anything at Northward Prison with a phone card, I am told.

Why do we expect prisoners to live that lifestyle and all of a sudden they are going to come out and adjust? If Northward Prison does not reflect the common norms of society, the rate of recidivism will never go down in this country. Every prisoner should have to get up, just like I do, eat breakfast, take a shower, go to work, go home in the evening; that should be their routine. They should be practising in Northward Prison what they are going to be expected to do when coming back into society. Also they must be building a skill.

Why is it that we cannot have a prison based projects industry? Mind you, the prison was burned down, so this is going to take some time. The thought has to be to have prison based industry. Why can we not train our Caymanians up there to be auto repairmen and body men? Just about every garage I go to is filled with non-Caymanians, mainly Jamaicans. I have nothing against that. However, I have something against it when I know we have young men sitting at Northward Prison doing nothing. They should be trained and have the opportunity to have the public take their cars there to be repaired.

These things will only be done with the lowest risk level of prisoner. The prisoners who are evaluated and can do this the following things would hap-

pen. Firstly, they would be able to charge a reasonable price for the work; and being paid they can do a couple of things with that money. The first thing is that the money should be paid to Government for their upkeep while at Northward. Secondly, with what is left over, they should be made to pay to help support their families. If anything is left, it is put into a bank account for them when they come out.

At the end of the day, we have just gotten here. I recognise that. Having great ideas and getting them implemented are two different things. We have to look at core areas in this economy and within the cost structure of Government and see where we can save money.

Society's expectation is for government to give away so much, it is unreal. It is unreal! Let me just say for all those people out there who think the money Government gives away is free, let me tell you it is not, you are paying for it with taxes! Obviously, there will always be a need in every society for government to give a certain amount of money away. That has to be for the exceptional cases such as indigents and people who cannot support themselves and for those who have fallen sick. We have not got the infrastructure in place as far as workman's compensation to allow the workers who are permanently impaired to survive.

We cannot simply keep going down the same beaten path and expect to tell the people we can turn the country around if we practise the same things that governments in the past—particularly the last government which we deposed—practised.

I agree completely with my colleague, the Elected Member for East End, when he talks about the fact that construction is an area that needs to be stimulated. I say that very guardedly and with great caution. It has come to my attention that even though we have had a downturn, there has not been a significant reduction in the work permits of foreigners in the construction industry in Cayman. Now that is a funny state of affairs.

We have a downturn, yet the foreign workers who are here are not diminishing in number. These are the same profiteers who want to sit back and criticise the Government and get innocent people on their side. I tell all Caymanians, anybody you hear criticising the Government and talking about the economy not turning around, look at their motives searching carefully. Stop being led astray! We are being led astray by our own people!

I am sick and tired of hearing everything in Cayman being blamed on the Government and foreigners. I tell you, if we did not have a government, and if we did not have foreigners, everybody in Cayman would be happy! What a world we would have!

I have been told that the number of construction companies is on the rise. Since this is a take note motion, I want the Government to take note that my information, which I hope they know, is that one of the biggest businesses in the construction industry is the

selling of work permits. When someone is brought in under the guise of a work permit, they go to work and give you the money to pay for their permit and pay for the trade and business licence for the company you opened with them!

It is time for the low life corruption by our own Caymanian people to stop. It is also time to stop blaming the Government and expatriates for everything. Step up and be responsible! I am sick and tired of it, Mr. Speaker. I am 28 years old and I hear people talking to me about the problems they created. It is time Caymanians took responsibility. We want everything in the world, but we do not want to do anything. We do not want to be any part of it.

The 15 of us Members are supposed to turn the economy around. Any one who is out there waiting for us to turn the economy around, do not hold your breath! It takes the private sector as well as government incentives. Yes, the Government can do certain things, I agree. Government is not the be-all and end-all. We need a moratorium on construction licences and since it is so slow, we need it today.

From what I understand, it is the same issue with watersport operators. As my colleague, Captain Eugene Ebanks said, *'Once you bring a foreigner in here, put swimming trunks on him . . . all of a sudden he is a master of the North Sound!'*

[Laughter]

**Mr. Rolston M. Anglin:** He probably has not tippy-toed in salt water in his life!

As for the cost of capital, it is time that the banks in this country stopped the chicanery they have played year after year. I will answer the question which the Member for East End asked: *'What does the U.S. prime lending rate have to do with mortgage rates in Cayman?'* Absolutely nothing!

**A Member:** True!

**Mr. Rolston M. Anglin:** I am going to bring to this House information showing that in the United States itself the thirty-year fixed mortgage rate is lower than the prime rate that we use as our base. You do not have to be a rocket scientist and you do not have to have a PhD in economics to know that what is happening in Cayman does not make sense. How is it that the prime lending rate can be above the thirty-year fixed mortgage rate in the U.S.?

#### MOMENT OF INTERRUPTION—4.30 PM

**The Speaker:** If I may interrupt you. We have reached the hour of interruption. Will you be finished within the next five or ten minutes? Perhaps the Government will wish to let you continue.

**Mr. Rolston M. Anglin:** I will be finished in five to ten minutes sir.

**The Speaker:** Is it the wish that we continue?  
Please continue.

**Mr. Rolston M. Anglin:** It is high time the mortgage rate in this country be pegged to a more appropriate base. In other words, mortgages should be tied to the thirty-year fixed mortgage rate and let us just say you inflate it 20 percent, after all, that is the difference between the C.I. and U.S. dollar. You could take personal and business loans and tie them to the averages there. These things are not difficult to come by for anyone who wants to find out what they are because you can go to 'interestrate.com'. They are all there.

I know that the cost of money for banks in this country is not the U.S. prime lending rate. That is not what they pay for the funds they hold. They do not need to try to come and fool this Legislative Assembly or the public to believe that. The ride has gone on too long. How does that tie into the cost of living? When Foster's, Kirk's or Hurley's have to go and utilise those same banks for their lines of credit and business loans, they are naturally going to pass on those same costs to us.

We all need a car; we have to borrow money and naturally, we get it at these exorbitant rates. If it is necessary to build a house we are charged these same exorbitant rates. Cost of money, interest rates, is one of the most expensive components in this island. It must stopped!

I do not think I have left much off of my laundry list! The Honourable Ministers responsible for Cable and Wireless (C&W) and Caribbean Utilities Company (CUC), I must add, are doing a lot more than has ever been done in regard to making sure the people in these Islands receive fair pricing. I am not one who believes in jumping up with a wish list and not giving credit where credit is due. The Government is doing a good job in that area. Again, I ask the public to have patience. Rome was not built in one day.

As a member of the Telecommunications' Advisory Committee, if C&W does not come up with a good proposal, I am going to recommend to the Government to open the telecommunications' industry to competition. It is high time taking advantage of Cayman ended. I am not saying that people should not make a profit. The risk of going into business must be rewarded, otherwise people will not do it. It is high time for the gouging to end.

I would like to end by quickly addressing a matter that has been raised by numerous speakers. No one seemed to mention the dynamics of the environment we are in; that is regarding a national lottery.

There are many churches that do not believe in gambling. We know that. It is high time for double standards in this Island to end. Either we are not going to have any of these raffles which I see going on, giving away cars and money; either we are going

to stop this illegal gambling network that is creating incredible wealth for a small number of individuals, or we are going to stop being hypocrites and allow the Government to have raffles for a cause—for education! If we can have a raffle for the Little League, why is it we cannot have a raffle for education or for a cause that is greatly needed in this society?

That was the basis on which Florida started its lottery. Florida refused to have out and out gambling in the state when this issue first came up. The only reason they instituted it is was because half the proceeds go to education. The only part of the lottery, the commonly accepted term; I am sure the legislators would have loved to have called it something else, was used to utilise the system which existed. People wanted to be involved in such an activity and they said: *'Okay, if you want that, then the money raised has to go to a worthy cause.'*

I can honestly say that if we can have raffles in this Island, we should be able to have a raffle for education or some other cause as the Government may see fit. Call it what you want. If you want to call it a lottery, call it a lottery. It is one or the other. Enough of these double standards. I am sick and tired of the hypocrisy that germinates within this society. We all want to skin up and talk like that is the type of people we are.

I would just like to say I decided to take this particular Motion and show, without even talking about any new tax that government, along with the private sector might bring in, that could make significant inroads in bringing down the cost of living and in making Cayman a place where you can do business and live in.

I thank you, Mr. Speaker.

**The Speaker:** I will entertain a motion for the adjournment.

## ADJOURNMENT

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Wednesday, 25 July 2001.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday, 25 July 2001. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.39 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 25 JULY 2001.**





**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**25 JULY 2001**  
**11.01 AM**  
*Twentieth Sitting*

*[Prayers read by The First Elected Member for Cayman Brac and Little Cayman]*

**The Speaker:** Please be seated. Proceedings are resumed.

Item number 2 on today's Order Paper, Administration of Oaths or Affirmations. Oath of Allegiance to be administered to Mr. A. Joel Walton, JP to be the Honourable Temporary Acting Third Official Member.

Mr. Walton, would you come forward to the Clerk's table?

Would all Members please stand?

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

OATH OF ALLEGIANCE  
*by Mr. A. Joel Walton*

**Mr. A. Joel Walton:** I, A. Joel Walton, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, so help me God.

**Mr. Speaker:** Mr. Walton, on behalf of all Honourable Members I welcome you to the House for the time of your service here. Please take your seat as the Honourable Temporary Acting Third Official Member.

Please be seated.

Item 3 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies from the Honourable Third Official Member, the Honourable Minister for Health and Information Technology who is off the island, and from the Second Elected Member for Cayman Brac and Little Cayman who is off the island.

Item 4 on the Order Paper is Questions to Honourable Ministers/Members. Question 88 is standing in the name of the Second Elected Member for West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 88**  
*(Withdrawn)*

**No. 88: Mr. Rolston M. Anglin** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration what is the legal procedure for a parent wishing to evict adult children (i.e., non-dependent) from their homes.

**Mr. Rolston M. Anglin:** Mr. Speaker, I beg to withdraw question 88 standing in my name.

**The Speaker:** Do you have a seconder?  
The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I second that.

**The Speaker:** The question is that question 88 be withdrawn. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 88 WITHDRAWN.**

**The Speaker:** Question 89, standing in the name of the Elected Member for East End.

**QUESTION NO. 89**  
*(Withdrawn)*

**No. 89: Mr. V. Arden McLean** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs whether contracts attracting Contracted Officers Supplement have been renewed in the last two months and, if so, how many and the dates the renewals were effected.

**Mr. V. Arden McLean:** I beg to withdraw question 89 standing in my name.

**The Speaker:** Do you have a seconder?  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I second that, Mr. Speaker.

**The Speaker:** The question is that question 89 be withdrawn. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 89 WITHDRAWN.**

**The Speaker:** Question 90 standing in the name of the Second Elected Member for George Town.

**QUESTION 90**  
(Withdrawn)

**No. 90: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Second Official Member responsible for the Portfolio of Internal and External Affairs does Government intend to give effect to the resolutions made by Standing Finance Committee at its last meeting which recommended the discontinuance of the payment of Contracted Officers Supplement and Inducement Allowances with respect to new or renewed contracts of employment with the Cayman Islands' Government.

**Mr. Alden M. McLaughlin, Jr.:** I beg to withdraw question 90 standing in my name.

**The Speaker:** Do you have a seconder?  
The Third Elected Member for George Town.

**Dr. Frank S. McField:** I second that.

**The Speaker:** The question is that question 90 be withdrawn. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 90 WITHDRAWN.**

**The Speaker:** Moving on to Question number 91 standing in the name of the Second Elected Member for Bodden Town.

**QUESTION NO. 91**

**No. 91: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works why is there a continuing review of the central wetlands in light of the decision of this Honourable House concerning this matter as a result of Private Member's Motion No. 15/00.

**The Speaker:** The Honourable Minister responsible for the Ministry of Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** It would appear that the question raised by the Honourable Member deals with the second part of the Motion only, namely: "... that those parcels of land within the Central Wetlands, not for sale, remain as zoned under the Development Plan 1997."

The zoning of the parcels in the Central Wetlands has not been changed as the Development Plan 1997 is still in force. The zoning will not change and, in fact, cannot change until such time as a proposal to do so is considered and approved by the Legislative Assembly.

Part of the work being done by the Wetlands Committee reviewing the proposed Environmental Overlay Zones, has included contacting affected landowners to determine whether their parcels are "for sale". The Committee is still in the process of gathering this information and other information in its review of the proposed Environmental Overlay Zones.

The proposed Environmental Overlay Zones would affect areas island-wide although the concentration is in the Central Mangrove Wetlands. The committee has been investigating how to balance landowners' rights with the need for environmental protection. They are expected to complete this review and make their recommendations to the Central Planning Authority by the end of July 2001.

The proposed Environmental Overlay Zones, their public review and the subsequent formation of the Wetlands Committee are all part of the work carried out under the Executive Council directive that was issued when the Development Plan 1997 was passed, namely: "**Three new zones (Environmentally Sensitive, Environmentally Protected and Neighbourhood Tourism) recommended by one of the Development Plan Tribunals and the road reserves were not published in the 1994 Draft Plan and the public had no opportunity to make objections and representations on the said three zones in accordance with Section 8 of the Development and Planning Law (1995 Revision). The Executive Council intends, under the provision of the Law, to require the Authority to carry out a fresh survey of the said three zones and the road reserves.**" [The Development Plan 1997, Section 1.1, paragraph 2]

The 1999 proposed amendments to the Development Plan 1997 which included the proposed Environmental Overlay Zones were part of this survey that is being carried out under this Executive Council directive. The review of the proposed Environmental Overlay Zones by the Wetlands Committee is a continuation of this survey as are the pending Appeals Tribunal (Development Plan) reports on the proposed road corridors and the Neighbourhood Tourism zone.

**SUPPLEMENTARIES**

**The Speaker:** Supplementaries. The Second Elected Member for Bodden Town may I interrupt you for just one moment? Would you move a motion for the suspension of Standing Order 23(7) and (8) in order that Question Time can continue.

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

*[Moved by the Second Elected Member for Bodden Town and seconded by the Fourth Elected Member for West Bay]*

**QUESTION PUT. AGREED: STANDING ORDER 23(7) & (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** The Second Elected Member for Bodden Town, I apologise for the interruption.

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker.

Could the Minister say why persons who have stated they do not wish to sell their land or see any changes in their ownership—they simply want it to remain as it is, unaffected—have also been requested to state whether or not they wish to sell their land in this process of review?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if I understand the Member correctly he is referring to a questionnaire that may have been sent out to the various landowners.

The exercise was not an effort to duplicate but simply one that because it extended beyond the central wetlands, the whole thing was done to gather all the information into one central pool to have the statistics of what each individual landowner had as a decision. That was the whole exercise.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Would the Minister say what the terms of reference were for this committee? If he does not have it with him, could he provide it at some stage?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I do not have the specific terms of reference at this point in time but in the substantive answer I referred to Executive Council who issued a directive after the Development Plan 1997 was passed, where it speaks to the three new zones and the fact that in 1994 they were not

published in the draft. The Wetlands Committee which is now operating is simply carrying out this exercise that the directive called for in 1997.

So, while I might not have the terms of reference stated, they would simply be encompassed in the 1997 directive and I am certain it does not extend beyond that.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In the substantive answer the Minister stated that the three zones, Environmentally Sensitive, Environmentally Protected and Neighbourhood Tourism were recommended by one of the Development Plan Tribunals but it was not published in the 1994 draft. Could the Minister say why this was not done and why do they exist as such?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I have to extend my deepest apology to the Member but I have no idea. I am absolutely certain there would be no documentation to discover why it was done. All I can say is that when the plan was passed in 1997, Executive Council issued this directive based on the fact that was not done. My reading tells me that the exercise was to allow people to raise objections or observations as they did not have the opportunity to do so in 1994.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I take the point made by the Minister.

I would like to enquire if, once this process is completed, will it take note and be cognisant of the findings? Also, are these findings such that will make it clear which zones the public is interested in seeing done? If, out of those findings, the public says no, will that then be allowed?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, let me try to explain.

It must be clearly understood that the Wetlands Committee that exists now is not the same Central Wetlands Committee which existed prior to this. Just so that Members will have it clear. It is not the same thing. The job is different. The scope has widened and what was concentrated on in the Central Wetlands area of that original committee is just a part of the exercise of the committee that exists at present.

What is going to happen is that, based on all the findings of the information gathering exercise to be

completed in July, recommendations will be made to the Central Planning Authority. The Central Planning Authority will look at the information which is gathered and that will then form part and parcel of the ongoing review that is taking place now of the 1997 Development Plan.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, in the substantive answer, there is mention of land for sale and not for sale. I wonder if the Minister could explain to this Honourable House how does land for sale or not for sale factor into rezoning a particular area, and how would that work?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Perhaps I am taking a small risk here. When the question was asked in that questionnaire, about land for sale or not for sale, I am not sure that related directly to any rezoning.

I think that question relates to the same Private Member's Motion which was mentioned. That is where the Environmental Protection Fund is supposed to be set up with a view to purchasing those lands that are for sale. So, the exercise of identifying what properties are for sale is simply to have funds available to see whether Government can purchase those parcels. They will not be part and parcel of any other considerations. I think that is the best understanding I have at present.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Is the Minister telling us that if all the wetlands are for sale the Government is going to buy them?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, certainly not.

In fact, I am absolutely certain that the Member would realise that would never happen. We all know there are many individuals who own such parcels of land and have no intention or desire to sell. Many of them wish to just retain it as part of family estate for it to continue on. Some of them wish to have the ability to develop like other people have developed.

Therefore, there are various reasons for either wanting to dispose of or hold on to these parcels. What I think has been the exercise is to identify those who may be. I do have some information from the actual survey, which tells the numbers of people who wish to dispose and those who do not. So when those are identified, once funds are available and the Motion that was passed is acted upon, Government may, through the proper channels, enter into negotiations

to purchase those parcels of land. This is certainly not with a view for Government to purchase all of the wetlands, as I am absolutely certain that not everyone who owns would want to handle it in that manner.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I thought the opposition to environmentally sensitive and protective zones was because the landowners were objecting to re-zoning as they could not proceed with development.

Now, Mr. Speaker, if there are certain people inside there how would they get access to that? How would we get inside the zoning if someone wants to develop their property? The 'for sale' and 'not for sale' situation confuses me.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I think I understand the objections the Member is speaking to but what I do not think should be pre-empted is that certain decisions have been made. No decisions have been made. This committee is only an information-gathering committee.

I appreciate the mere fact that questions are being asked and these proposals were made, quite a while back, I may add, it has cost much consternation among the landowners. There is no intention not to respect the rights of these landowners. As I mentioned before, the exercise is to try to balance the environmental issues along with those rights. This committee is simply on an information-gathering exercise and it will report back to the Central Planning Authority by the end of this month is my understanding. After that the Central Planning Authority will then consider the recommendations that are made by this committee based on its findings via the information that it gathers.

The process is one which simply puts all that information, via the recommendation from the Central Planning Authority, into the big pool of the ongoing review of the 1999 Development Plan.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Does the Member perceive any conflict where someone might say that they wish to sell and another might not and the parcels might be adjoining each other? One zone says, 'Sensitive' and the next one says, 'I want to develop'. Does the Member perceive any conflicts that might come as a result of this? Has any thought been given to just leaving the land in the state it is in now without these particular zonings and if each person wishes to develop have the Planning Board look at it on its own merits and its own rights?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I cannot say whether any thought has been given to simply leaving the land and the zoning as it is and allowing individuals at whatever opportune time to make an application for any development.

At present, we are waiting until all the information is gathered. I hear what the Member is saying and if it is simply to air it, I have no problem in passing it on as a thought. Where the exercise is now, is an ongoing process called for by Law and everyone has the right to participate in airing his or her views. It is not a decision-making process—I want to make it absolutely clear—which does not allow for everyone to be able to participate in that at some point in the game.

Also, to make it very clear, no decision will be made unless the final decision with regards to any and all of the effort that is going on with the review is made in this Parliament. It is not something that the Ministry, or the Planning Department, or the Central Planning Authority, or Executive Council will decide. It is going to be a situation where the recommendations are going to flow through the channels and the final decision will be made here.

The first question the Member asked is if I perceive any conflict. I want to say to the Member that I believe there will be many. In fact I am pretty certain there will be conflicts. There are always conflicts when it is a question of the environment and individual landowners' rights. I want to say very clearly that there is no intention from the Ministry's part or from Government's part, for that matter, not to allow the rights of individuals to be respected. That is certainly not the intention.

I do not know what has gone on in the past. In the few months that I have been there I have seen enough conflicts about Government with land to write forty books! I suspect it is not all over yet but I believe the best way to deal with it is to sit down and go through all the pros and cons and try to come to a balance so that everyone can live with the decision. That is the whole intention. Just to make it absolutely clear.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Minister can tell us—after the Committee's recommendations have been made to the Central Planning Authority—when does he expect the recommendations will be brought to this Honourable House?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, as I said, the area we are speaking about is only part and parcel of

the whole process. The Wetlands' Committee exercise is anticipated to be completed by the end of July, which gives a reasonable time for deliberations by the Central Planning Authority to make the recommendations based on their findings. As everyone knows the Director of Planning and his staff are going out into the districts holding meetings. I think the whole exercise of conducting the review is anticipated to be completed sometime in the latter part of 2002.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Mr. Speaker, I wonder if the Minister could say if an owner wanted to develop a piece of property located within an environmentally sensitive zone but could not develop it because of the zoning, would there be any compensation?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I want to make sure that I understand what the Member is asking.

I think the Member is asking a question that might occur in the future. If a decision is made, whereby a parcel of land owned by an individual is given a different zoning, which prevents him from developing that property, as he would have been able to prior to that decision, would there be any compensation?

Mr. Speaker, I would have to stick my neck out to say, certainly, that has to be the case if that were to occur. Now, this brings back the point as to people willing to dispose of their properties and those who do not. It is going to be a real difficult call. I can see that happening in instances like what the Member has questioned. I think all of that will have to be borne in mind very seriously before any decisions are made.

So the balance has to be one that is clearly defined and everyone has to participate in the decision. Notwithstanding the national desire to protect the environment, one must bear in mind the rights of individuals—they simply cannot be thrown aside.

If what the Member is referring to were to happen, then certainly that would have to be borne in mind prior to any decision being made. The whole process would allow for this entire Legislative Assembly to realise that if a decision like that is made all of those things will have to be borne in mind. You cannot just move blindly and decide that you are going to satisfy the situation one way and end up with another war in another manner.

I know in this business, so to speak, of government it is almost impossible for any decision to be made without having someone displeased. It is just the nature of the beast. What has to happen in the process is that all the factors have to be weighed and the decision that is made has to be of benefit to more. In the process whenever there is any fallout, one has

to bear that in mind to see how best you can mitigate those circumstances to get the most satisfactory situation. I think that is the best formula we can apply.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Could the Minister say how many persons at this stage have indicated they wish to sell their land? Also, are there any funds and how much?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I do not have the benefit of the completed report. If the Member would be satisfied I could simply take a sampling to show him the kind of response that we are getting thus far.

PRELIMINARY REPORT. Over 150 surveys mailed out and 34 responses received.

First question. Respondents were asked to indicate their concerns with the proposed Environmental Overlay Zones and to indicate how strongly they felt about each concerned by using multi-check marks on the questionnaire.

Twenty three people indicated they were concerned that the value of their land would decrease if environmental limitations were placed on its use. Twenty four people indicated that they wanted the right to develop their land as they see fit. Six indicated they wish to preserve their property in its natural state so that they could pass it on to their descendants. Seven indicated they would like to see the existing mangrove buffer zoning on their property reduced to 300 feet. Two indicated they were satisfied with the proposed Overlay Zones and would be willing to abide by them.

Second question: Landowners were then asked if after careful study it was determined that the preservation of their particular parcel was crucial to the future of Cayman's environment, which of the following alternatives might be acceptable. Four indicated that it might be acceptable to keep their land but have the development restricted by new zoning requirements. Thirteen people indicated that keeping their land and having more density allowed on the less sensitive areas, in return for not developing the sensitive areas might be acceptable. Five indicated that selling the development rights for their land to another person or transferring them to another parcel then keeping their land in its natural state but not being able to develop it might be acceptable. 13 people indicated that selling their land at fair market value to Government or the National Trust might be acceptable.

Zero indicated they would be willing to donate their land to the Government or the National Trust.

That is just a sampling of some of the results that have come about from the questionnaire. So while one may think, at a glance, there is some pressure being put by the questionnaire that is not the intention. I have just indicated from some of the sampling responses it gives us a better idea of what we can separate, what is easy to deal with and what is more difficult to deal with so that we can get a better picture of the whole thing. That is really the whole exercise that is being conducted at this time.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I had asked if there were any funds and how much?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am not 100 percent sure but let me explain as clearly as I can. The Motion that was accepted, Private Member's Motion 15/00 called for the Environmental Protection Fund.

If you give me a minute, I will quote it directly. The first resolve section reads: "**BE IT NOW THEREFORE RESOLVED THAT the Government immediately bring legislation to set up the Environmental Protection Fund as an interest bearing fund under the authority of the Financial Secretary and that monies from this Fund be used to purchase properties that are for sale within the proposed Environmentally Protected and Environmentally Sensitive areas (now known as the Central Wetlands) and any other area agreed by Finance Committee and for protecting and preserving the environment of the Islands.**"

That is, the auspices under which the fund should be set up. The fact is what the Motion called for has not been done. The question that was asked prodded everyone along who had forgotten about it and it is now being dealt with. I think, in excess of \$5 million is in that fund.

I would expect what has to be done via legislation will be done with as much speed as can be expected. The Financial Secretary is now quite aware of it and certainly has that as part and parcel of the things that he has to take care of. Once that is done then, as the Motion called for (although governments have changed, so to speak), there is no intention to change from that position.

I personally believe that is a sensible position and at least, we will know that the fund created is being put to some use that will serve us well for generations to come.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Just to say, the main concern of landowners in that area is that they may be given the same opportunity as that which occurred on the western peninsular of the island where they have the democratic right to develop their land as they see fit. With the knowledge the present Minister has and who inherited this situation, I wonder if the Minister would comment.

I recall the phrase New York Mets Coach, Yogi Berra used, 'It seems like déjà vu all over again.' I remember over thirty years ago, when the cadastral system was going on, after they crossed the Spotts/Newlands area. The Government decided they would claim half of the swampland after crossing Spotts/Newlands area. This did not happen on the western part of the island. The Minister does not have to comment because it would be his opinion. I am just wondering if this is another way of going around this again.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I really want to make sure I understand.

Is the Member asking whether or not there may be any intentions of the Government to go through this exercise with a view to making any consequent claims to any parcels that are not registered as Crown land?

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Yes, Mr. Speaker.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I do not know how long I will be here but I am going to answer on behalf of every agency of Government today and categorically deny any thought of that nature.

I can assure anyone that, with knowledge, I would never participate in such an exercise. I am absolutely certain that if by some small chance there may be anyone else who may have that in their mind, which I doubt very much, I do not believe it will be long before that will go away too.

**The Speaker:** Are there any further supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Following on that supplementary question I wonder if the Minister could say if these Environmentally Sensitive and Environmentally Protected areas will also apply to the western peninsular?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I do not have the maps with me but the exercise is island-wide. It is not limited to what is termed as the Central Wetlands. If one took the time to peruse the maps, one would see that the areas are not identified via district or location but simply by the natural state of the land.

**The Speaker:** Are there any further supplementaries?

There appear to be no further supplementaries. That concludes Question Time for this sitting.

Moving on to item number 5 on today's Order Paper, Statements by Honourable Ministers/Members of Government. A statement by the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

## STATEMENTS BY MINISTERS/MEMBERS OF THE GOVERNMENT

### IMPORTATION OF AGGREGATE INTO THE CAYMAN ISLANDS

**Hon. W. McKeever Bush:** I wish to make a statement this morning concerning the importation of aggregate into the Cayman Islands.

Mr. Speaker, Members of this Honourable House have expressed concern with respect to the importation of aggregate through the North Sound due to the potential risk this presents to the North Sound's fragile marine environment.

I am pleased to report that, in response to these concerns, the Port Authority at its meeting on 11<sup>th</sup> July 2001 approved the importation of aggregate over the George Town Port at a cost of \$2.00 per ton. The implementation of this decision and the associated fee will require an amendment to the Port Regulations (1999 Revision).

As a result of this decision by the Port Authority, the Senior Legislative Counsel was asked to draft amending legislation which she has done. The amendment regulations were considered at yesterday's Executive Council meeting and approved. The Port (Amendment) Regulations 2001 will be published in the Gazette in the very near future.

Mr. Speaker, in addition to the implementation of the \$2.00 per ton fee for aggregate, the amendment regulations require the importers of aggregate to unload their cargo between the hours of 7 pm and 7 am at the George Town dock unless the Port Director has given authorisation to unload at another location. It follows that in the very near future, all aggregate imported into the Cayman Islands will be brought over to the George Town dock unless there are exceptional circumstances which would justify it being unloaded at a different location. Thank you.



**Mr. V. Arden McLean:** Mr. Speaker, I wonder if it is possible to ask the Minister of Tourism one specific question on this statement.

**The Speaker:** Yes, I will recognise you. The Elected Member for East End, a short question.

## SHORT QUESTIONS

*Standing Order 30(2)*

**Mr. V. Arden McLean:** Thank you.

In his statement, I did not hear the Minister say anything about duties on the aggregate. That was also a concern of this Honourable House. I wonder if the Minister can say if duties have been reviewed on the imported aggregate also.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The aspect of duty comes under the Financial Secretary. All duty is Cost, Insurance and Freight (CIF), so I believe that this would come in the very near future. I feel that the duty on aggregate should be the 20 percent CIF and I believe that the Government intends to have that done soon.

**The Speaker:** No further questions?

Is it the wish of the House to take the morning break before going on to other business?

We shall suspend for 15 minutes.

## PROCEEDINGS SUSPENDED AT 11.48 AM

## PROCEEDINGS RESUMED AT 12.12 PM

**The Speaker:** Please be seated.

I would ask for the suspension of Standing Order 14(2) in order for Private Members' Motions to be taken on a day other than Thursday.

## SUSPENSION OF STANDING ORDER 14(2)

*[Moved by the Elected Member for East End and seconded by the Second Elected Member for George Town]*

**QUESTION PUT. AGREED: STANDING ORDER 14(2) SUSPENDED TO ALLOW OTHER BUSINESS TO TAKE PRECEDENCE OVER GOVERNMENT BUSINESS.**

## OTHER BUSINESS

## PRIVATE MEMBERS' MOTIONS

### PRIVATE MEMBER'S MOTION NO. 18/01

## PREVAILING ECONOMIC CONDITIONS OF THE CAYMAN ISLANDS

*(Continuation of debate thereon)*

**The Speaker:** Other Business, Private Members' Motions. Private Member's Motion No. 18/01, Prevailing Economic Conditions of the Cayman Islands, continuation of debate thereon.

Does any other Member wish to speak? (Pause)  
Does any other Member wish to speak? (Pause)  
Last call, does any other Member wish to speak? (Pause)

The Mover of the Motion is absent, he therefore waives his right of reply.

**"BE IT RESOLVED THAT this Honourable House debates and takes note of the present state of the Cayman Islands' economy, taking into account the effect of Government's recent tax measures and the OECD initiatives, and consider possible stimulus measures that may be undertaken to revive the economy."**

The House has debated at length and taken note of the Motion. Accordingly, there is no motion to be moved.

Item 7, Government Business, Bills. First Readings.

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

#### THE MONETARY AUTHORITY (AMENDMENT) (FEES) BILL, 2001

**The Clerk:** The Monetary Authority (Amendment) (Fees) Bill, 2001.

**The Speaker:** The Bill has been read a first time and is set down for Second Reading.

#### THE PUBLIC HEALTH (AMENDMENT) BILL, 2001

**The Clerk:** The Public Health (Amendment) Bill, 2001.

**The Speaker:** The Bill has been read a first time and is set down for a second reading.

#### THE COURT OF APPEAL (AMENDMENT) (PROSECUTION APPEALS) BILL, 2001

*Withdrawn*

**The Clerk:** The Court of Appeal (Amendment) (Prosecution Appeals) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** If this is the appropriate point, I beg to move that The Court of Appeal (Amendment) (Prosecution Appeals) Bill, 2001 be withdrawn. This is with a view to presenting a Bill at a later meeting containing an alternative provision, which is likely to be consisting of an Attorney General's reference rather than the Bill as presently framed.

**The Speaker:** So you have moved a motion that it be withdrawn?

**Hon. David F. Ballantyne:** I have, Mr. Speaker, if that is competent at this juncture. Thank you.

**The Speaker:** The Motion has been moved that The Court of Appeal (Amendment) (Prosecution Appeals) Bill 2001 be withdrawn. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COURT OF APPEAL (AMENDMENT) (PROSECUTION APPEALS) BILL, 2001 WITHDRAWN.**

**The Speaker:** Second Readings.

## SECOND READINGS

### THE MONETARY AUTHORITY (AMENDMENT) (FEES) BILL, 2001

**The Clerk:** The Monetary Authority (Amendment) (Fees) Bill, 2001.

**The Speaker:** The Honourable Temporary Third Official Member.

**Hon. A. Joel Walton:** I rise to move the Second Reading of a Bill entitled The Monetary Authority (Amendment) (Fees) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. A. Joel Walton:** Just a couple of brief comments on the Bill.

The Bill amends the Monetary Authority Law (2001R) to empower the Monetary Authority to charge fees for certain services provided by the Authority.

Clause 2 amends section 40 of the Law to provide that the Governor may make regulations providing for such matters as may be contemplated by or necessary for giving full effect to the Law and for its administration, including the charging of fees for any

administrative service provided by the Authority to a licensee or to members of the public upon request.

Clause 3 of the Bill provides a new Schedule 2 which sets out the fees for a letter confirming registration or licensed status of company, et cetera and status of regulatory filings. The fee being proposed is \$200 for that service.

The second fee: a fee for the approval by the Authority of the appointment of a new director of a licensee, also \$200. The fee for voluntary surrender of a licence or registration certificate to the Authority, a fee of \$200. That, Sir, is the substance of this Bill.

**The Speaker:** A Bill entitled The Monetary Authority (Amendment) (Fees) Bill, 2001 has been duly moved. The Bill is open for debate. Does any Member wish to speak? (Pause)

If not, does the Mover wish to exercise his right of reply?

**Hon. A. Joel Walton:** Just to say thanks to the Members for their support.

**The Speaker:** The question is that a Bill entitled The Monetary Authority (Amendment) (Fees) Bill, 2001 be given a second reading. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MONETARY AUTHORITY (AMENDMENT) (FEES) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Reading.

### THE PUBLIC HEALTH (AMENDMENT) BILL, 2001

**The Clerk:** The Public Health (Amendment) Bill, 2001.

**The Speaker:** The Honourable Temporary Third Official Member.

**Hon. A. Joel Walton:** I beg to move the Second Reading of a Bill entitled The Public Health (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it Honourable Temporary Third Official Member?

**Hon. A. Joel Walton:** I will just read a couple of explanations from the Memorandum of Objects and Reasons.

**"This Bill amends the Public Health Law (1996R) to make further provision in respect of the charging of fees under the principal Law."**

**“Clauses 2, 3, and 5, enable the Governor in Council to prescribe fees for miscellaneous services provided under the principal Law, including services relating to rodent control and cemeteries.”**

**“Clause 4 enables the charging and collection of a special waste handling fee in respect of the importation of motor vehicles, lead-acid batteries and motor vehicle tyres.”**

Members will recall the discussion we had over several months about the need to make some special provision for disposal of those special wastes. The fee being proposed for handling special waste is actually under four categories. I will just run through them quickly.

Under **“Part 4 (a): A special waste handling fee of two hundred and fifty dollars in respect of any motor vehicle (other than a motor cycle) imported into the Islands.”** In effect, we would pay that fee for disposal of the vehicle when it comes time to do that.

**“(b) A special waste handling fee of seventy five dollars in respect of any motor cycle imported into the island; a special waste handling fee of five dollars in respect of any lead-acid battery imported into the Islands;**

**“(d) A special waste handling fee of two dollars in respect of any motor vehicle tyre imported into the Islands.”**

The attempt is to try to create a much more equitable way of dealing with these special wastes since they do take special handling because of the impact on the environment brought about by their breakdown.

Clause 5 is like a validation clause. It relates to a number of various fees incurred but not specifically defined in the existing Public Health Law. This clause seeks to validate those fees.

Thank you.

**The Speaker:** The Floor is open for debate. Does any Member wish to speak?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you.

In reviewing the outlined fee structure, I have just two brief comments. First, I wondered why some of these fees appeared to be so low. For example, the handling of a battery is \$5.00. Hopefully the Member can clarify these fees. I wondered if that is reflective of the cost that Government will incur. Let us just go through all of them.

Part A, \$200 for the handling of a motor vehicle seems exceptionally low; handling fee of \$75 for a motorcycle seems low; \$5 for a battery; \$2 for a tyre. We have all talked about Government charging appropriate fees for the services it provides to the public of this country because when we do not do that we then have to tax people in other areas to make up for the shortfall.

It is my humble submission that whenever we seek to charge any fees, we should seek to charge the consumer, the public, what it costs the Government so that people will not have to incur taxes in other areas and wonder why.

In regard to these structured fees, I wonder if they are for vehicles that are delivered to particular sites, or will Government also be responsible for having to go around picking up these vehicles? I wondered what the logic was for the fees in regard to the cost incurred by Government. I feel that these fees—any fee Government charges—should be the cost so that the public does not have an unrealistic expectation that this is the fee for the service and that is it. This is what we have done over the years.

We subsidise certain areas and people do not realise why they are being taxed in other areas. At the end of the day, Government cannot provide services for free. Government has to tax the public in order to raise the funds to provide the service. Those are my few comments.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** This is a way of Government trying to raise revenue or cause persons to pay for services that Government provides. Whether or not Government has been scientific in arriving at the fees quoted in this Bill is a question they need to answer.

If Government is saying it will cost \$250 to remove a vehicle once it has served its time on the road, it would be interesting to note if Government has taken into consideration what particular procedures will go into effect in terms of collecting that abandoned vehicle.

I am sure that a lot of people do not just leave their cars to be on the road where they have to be picked up by the Department of Environmental Health. If we are going to dispose of our old vehicles, whether or not this fee will cover the cost has been a question raised by my colleague, the Second Elected Member for West Bay. He is arguing that Government needs to become more aware of the cost that it will incur to deliver a specific service and it needs to charge the consumer accordingly.

I guess that at some particular time we will want to restructure our entire system in such a way as to allow that to make sense, not just to Government, but to the consumer as well. My colleague, the Second Elected Member for West Bay, is looking at it from the perspective of Government. It should make sense from the perspective of Government, but I look at it from the perspective of the consumer and say that it must also make sense to the consumer. There must be logic to it.

If as a consumer, I will be required to pay fees according to the value of the services that I receive from the Government, then Government should be like any other corporation in that it should not be able

to tax me—because I am paying for my services from Government. Therefore, what gives them any right to tax me if I am paying Government for whatever services I receive?

If I pay Caribbean Utilities (CUC) for the services I receive, according to the value of those services, then CUC does not turn around and tax me. So, if we are going to talk about Government being more scientific and arriving at the exact cost of services and charging the consumer the fees for those services, then Government cannot turn around and have an additional tax structure.

Whether or not we want to call it “consumption tax” or “fees for services received” the consumer at this point will regard this Bill as creating additional penalties for the consumption or the use of automobiles and parts that go along with those vehicles. It will cause prices to increase in these areas.

I am quite sure the Second Elected Member for West Bay is very aware that to add to these fees, whether or not a true representation of the value of service Government will be offering, to add at this time \$250 in respect of any motor vehicle imported into these Islands and to have a special waste handling fee of \$2 in respect of any motor vehicle tyre imported into these Islands will also raise the cost of tyres. It will raise the price of batteries as well because the persons who import the vehicles, tyres and batteries will not sell them for less as a result of Government increasing its fees.

Government is making a very important consideration at this point, but Government has not come to tell us how it is going to work out a fair relationship between consumer and supplier and itself. This is in order that the consumer is not the one that feels disadvantaged simply because the consumer is least able to react against these impositions when they come. There is very little consultation with the consumer as to what he can afford at a particular time.

Those of us who are cognizant of the economic climate in this country should be very aware, especially when dealing with the importation of vehicles, tyres and batteries that are going to be used by repair companies. They are going to work this additional cost into the price of the service they are now going to deliver. We have seen it with little things like the increase of gasoline and how that trickled down to the consumer and Government is not willing to do anything to manage the increase in prices in our community.

I heard some of the comments made by the Second Elected Member for West Bay on the economic condition of the country. He was making the case that more taxes caused the prices to go up, but taxes are what people call all the things that Government does. It is hard for the normal citizen to separate this as being a charge for a service, a fee and not a tax. The general population is going to see this as a tax, not a fee. So there is an educational process that Government could get involved with in trying to ex-

plain better to our population what is meant by “tax” and what is meant by “fee.”

I do not believe this is a good Bill at this time. This is a time that Government has it hard, but Government also has to realise that the general population has it hard too and will most likely be having it a little rougher before the year is completed. We are at the mid-part of our year. That means a lot of people are getting ready for the festive season. A few dollars mean a lot to people who are indebted in a lot of instances.

This fee is only a disguise tax. I do believe that the Second Elected Member for West Bay is very aware of the fact that his constituents will see this as a tax. I hope the day will come when Government will be able to distinguish much better between a fee and a tax and that this will be understood by the wider population.

At this moment, I feel obligated to treat this as a tax because of the time at which it comes. I believe Government has done its homework to look more scientifically at the cost of getting rid of the waste created by imported vehicles and parts and Government knows it costs more. There are certain people who allow their vehicles on the road and Government has to send out the Environmental Health people to put stickers on them, claim them and take them to the dump. There are also persons who are a little bit more careful of how they dispose of their used vehicles. These people are going to also have to bear the extra cost in this situation because the tax is not discriminating between those persons that have proven responsible and those who have not.

The Government is getting its 20 percent or whatever, because some cars attract a higher import duty. If Government is dissatisfied with the amount of money it is getting, then the Government needs to say so. Government then needs to revise its import duty structure to cover these additional costs. Government will then get rid of these things and not come up with a separate Bill that seems to have nothing to do with taxation, but is all about an additional tax. It is a penalty or cost to the consumer which goes directly to the Government. It is, therefore, at this time, because of the way in which our Government is structured, and the way in which we understand the fees, versus taxes, or duties, or revenue, or enhancement measures, or whatever we want to call it. The money raised goes to offset the cost of services being provided to the community.

I believe this is a tax. As a result, I have said I would not support any taxes. I want Government to become disciplined in terms of learning how to live within its means and in terms of learning how we cannot please everybody by distributing benefits to everybody while, at the same time, putting the taxes basically on the consumer and on the persons who can least afford it. This is but another attempt by Government to raise money—or to raise taxes.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

I had not intended to speak to this Bill. I thought the provisions of it were innocuous and not lending themselves to controversy. After having heard the contribution by the Third Elected Member for George Town, I think I should say something.

From the time I was elected to this Honourable House, and indeed long before, I have been an advocate of small government. I have said on a number of occasions I believe the size of the Civil Service and of Government generally is much too large for the country to be able to handle. Now that we are at a time when there is not a surplus of funds in Government's treasury, we feel the crunch.

I have said that you cannot expect to reduce the size of the Civil Service unless we are prepared to reduce the services that Government offers to this country. We cannot have one without the other. A corollary to that is the fact that has been alluded to by the Second Elected Member for West Bay.

If Government is going to provide services to the community, the latter has got to be prepared for those services. It is far more equitable for those using the services, or who have the benefit of those services to pay for them, than for a flat general tax to be placed upon all members of this community. The funds derived thereby can be utilised for the provision of these specific services.

We have a situation in this country in which I believe there are some 25,000 vehicles for a population of approximately 40,000. Recently, there was a report that some 2,000 additional vehicles were imported into this Island over the course of last year. There has been much debate within this Chamber and outside about the extensive and hurried re-paving of some of our roads last year at the cost of millions of dollars.

Government has been working over the last year and a half or so, to provide a Crewe Road bypass. Previously, there was the construction of the Harquail Bypass and there are plans to extend that. I hear often about the need for a Bodden Town bypass. As recently as yesterday I heard about the need for a bypass that would commence in North Side.

The more vehicles we have imported to this Island, the more roads we have to build, the more Government's resources are stretched to do these various things. I believe that if we are to avoid things like income tax and property tax, that scare the pants off most people in this community, this country has to get to a point where the community pays for the services it receives from Government, or Government divests itself of the responsibility for the provision of those services and someone else assumes that responsibility.

I believe that to require importers of new vehicles to pay a waste handling fee and a waste handling fee for tyres and batteries, is justifiable. It is not, as the

Third Elected Member for George Town has described it, a tax. It is specifically described as a fee within the amending Bill and it is a fee for the provision of a service.

So, while I appreciate the fact that it is likely to increase the cost of a tyre or a battery, I do not believe it is going to increase the cost of the vehicle significantly and it will give the Government additional resources to dispose of the many derelict vehicles left here, there and everywhere for which all within the community have to pay at present.

Before I sit down, I should say that I believe the time has come for Government to look carefully at the whole issue of the importation of vehicles to this country and whether or not we can reasonably continue the unrestricted importation of vehicles in the long run. I know that is a somewhat sensitive issue, but this is a very, very small country, with limited roads. Unless Government is able to find the resources to build a huge amount of new roads which are needed, given the congestion we all experience on a daily basis, I believe we need to give real consideration to the implementation and provision of efficient public transport and restricting the number of vehicles which any one individual or family is permitted to own at one time.

With those few words, I wish to indicate my support of the Bill. Thank you.

**The Speaker:** I think this is an appropriate time for the luncheon break. We shall suspend until 2.15 pm

#### PROCEEDINGS SUSPENDED AT 12.50 PM

#### PROCEEDINGS RESUMED AT 3.37 PM

**The Speaker:** Please be seated.

Honourable Members, in view of a meeting now in progress that is very important to the national interests, I will entertain a motion for the adjournment of this Honourable House.

#### ADJOURNMENT

**Hon. W. McKeever Bush:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow, Thursday.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 3.38 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 26 JULY 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**26 JULY 2001**  
**10.20 AM**  
*Twenty-first Sitting*

*[Read by the Honourable Temporary Acting Third Official Member responsible for the Portfolio of Finance and Economic Development in the absence of the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs.]*

**The Speaker:** Please be seated. Proceedings are resumed. Item number 2 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have apologies from the Honourable Minister for Health and Information Technology, and the Second Elected Member for Cayman Brac and Little Cayman.

Moving on to Other Business, Private Members' Motions. Private Member's Motion No. 13/01, Amendments to the Immigration Law to be moved by the Third Elected Member for George Town.

**OTHER BUSINESS**

**PRIVATE MEMBERS' MOTIONS**

**PRIVATE MEMBER'S MOTION  
NO. 13/01**

**AMENDMENTS TO THE IMMIGRATION LAW  
WITHDRAWN**

**Dr. Frank S. McField:** Due to the fact that we have been in this Legislative Assembly for such a long time and we will be back here again in September, I am seeking permission to have that Motion passed over to the Meeting in September.

**The Speaker:** If you would move a motion under Standing Order 24(14) that it be withdrawn.

**SUSPENSION OF STANDING ORDER 24(14)**

*[Moved by the Third Elected Member for George Town and seconded by the Third Elected Member for Bodden Town]*

**QUESTION PUT. AGREED: PRIVATE MEMBER'S MOTION NO. 13/01 WITHDRAWN TO BE BROUGHT BACK TO THE NEXT MEETING OF THE HOUSE.**

**The Speaker:** Moving on to Government Business, Bills. Second Reading. Continuation of debate on the Public Health (Amendment) Bill, 2001. The Motion is open to debate.

The Second Elected Member for Bodden Town.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READINGS**

**THE PUBLIC HEALTH  
(AMENDMENT) BILL, 2001**

*(Continuation of debate thereon)*

**Mr. Gilbert A. McLean:** Thank you.

This Bill before the House seeks to place a charge on motor vehicles, motor cycles, lead-acid batteries and motor vehicle tyres for special waste handling. I think one could justifiably place a charge on such items which are brought into the Cayman Islands. It seems clear we are talking about items in the future, once the Bill is passed. The Government will collect a fee for handling these particular items which are difficult to dispose of both in finding space and in the management of their disposal.

These items have a way of providing litter and poisoning the ground especially in the case of batteries. Certainly, if we think of the thousands of cars in the Cayman Islands, it might be good for us to reflect on how tyres are being disposed of. I can see this as an item that would take up a considerable amount of space in the landfill.

I share the view of the Second Elected Member for West Bay when he said that the amount seemed rather small—\$2.00 on a tyre, \$5.00 on a battery and \$75.00 on the disposal of a motorcycle, and \$250.00 for a motor car. In speaking to this Bill, I think the time has come for the Government to find means, or look about buying equipment to dispose of motor vehicles. In just about all States of the United States, they have the means to crush them. I understand the equipment is quite expensive, but I really believe that we need to look seriously at this matter.

There is also the question of oil disposal, which can contaminate the environment. There is the gas-line. Should any of us like to see a horror scene, we should drive in the area of the landfill in George Town. If that does not create a sense of horror, I do not know what will. I have done that and it is really unbelievable what one can see there.

To my mind, finding a means of disposing of the waste in this country should be a major priority. I know it is expensive, but I also know it will be something that will forever have to be addressed and the sooner we come to a decision to dispose of this waste, the better it will be. I know there has been a recent study done and there are many attendant costs. This is one I think we need to address quickly.

Batteries are sold in Cayman by the thousands! I do not know how well the disposal of those batteries is managed. As for tyres, I understand there is a place in Florida where the metal is taken from them; they are shredded and the fine chips are used as a mix in hotmix asphalt. I understand they have found it to be some of the most durable hotmixed asphalt made. It gives it a certain elasticity which seems to serve well during road use.

I believe the money collected from these items should not go into general revenue, but into a special fund to handle the disposal of these items. Yesterday I think there was a question that there is such a fund. I believe this money should go into a special fund to be used for these purposes. Perhaps this could be the fund that goes towards finding modern means of disposing of solid waste in the Cayman Islands.

I think it is an excellent occasion for the Customs' Department and the Statistics' Department to cooperate on developing statistics on these particular items. I do not know if any true figure exists as to how many motor cars there are in Cayman. It would be good to find out both the sizes and types of motor vehicles that are here, particularly when people with heavy equipment want special considerations given that no more should be brought in. Government should have its own figures in order to respond and to know if it is a realistic request or not. We have to be in a position where we know how many gas guzzling motor cars are in the country and how many smaller ones. This is all valuable information for good public management.

One Member suggested that the time has come to look at restrictions. Someday, I dare say it will come to that. I am not prepared to say when, in that I would only offer an opinion, if I knew what was here now, how many public transport or mass transit vehicles are in the country. I can certainly see where it could serve more than one particular good.

I wish it were possible in all instances when the Government would bring about an increase of taxes that it could be broken down into items such as this where one could look at each one individually and debate it and vote for or against, rather than as the recent tax package where they were all together from

eggs right down to these particular items. However, I believe this is sensible management. These are items that require the special consideration of Government. Ultimately, when these items *die* it definitely becomes the problem of the Government to *bury* them.

Mr. Speaker, I give my support to this Bill.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak?

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Borden:** Thank you.

I rise to offer brief comments on a Bill for a Law to make further provision in respect of the charging of fees under the Public Health Law (1996 Revision). The first comment I wish to make is obvious. The Cayman Islands forms a consumer society. The problem is compounded because all we consume is imported into these islands. Many things we import carry with them certain risks and hazards in their use and particularly in their disposal.

Many people do not realise the waste issues surrounding automobiles. While it is true to say that automobiles are indispensable in our lives, it is also true to say that, by their very nature, automobiles pose challenges that we very often do not think about. Coming from the industry I have said for a long time that the Government needed to pay closer attention because it seemed as if the responsibility was largely upon the Government for the disposing of vehicles which were unused, abandoned, scrapped. We are not only talking about the metal, but other things more hazardous.

I recently heard on the news that there are 25,000 vehicles on the roads of the Cayman Islands. That came from the Department of Vehicles and the Statistics' Department. When you seriously ponder the number of old tyres which are abandoned and unused every month, and realise that the very material they are made from is not easily broken down, or not biodegradable, it is mind-boggling. In the past, I think we just buried these things at the dump.

It is also mind-boggling to think of the amount of space it takes to bury each tyre. When you multiply that by the number of tyres per month, it is no wonder we are running out of landfill space. Burying these is not a very efficient way of disposing of them. The time has come for the Government to think of more efficient means, but also to think of passing on the cost in disposing of these to the right entities—that is the users, the owners of these vehicles and to be fair, the people who sell them in the first place.

I think this Bill is timely and I am happy to see that it has widespread support by the Members on the Backbench. It seems reasonable that anyone who owns these kinds of vehicles and sell them should be prepared to pay for this. I think the Government already provides a great service by virtue of the fact that it is responsible for providing all the roads and

highways. I would also support the call echoed by my colleague, the Second Elected Member for Bodden Town, for the Government to look seriously at its own instrument for disposing of these vehicles.

Whether we flatten them or not, by now, there are affordable contraptions, bearing in mind that we will not have 1,000 vehicles every week to destroy. We should begin to look at this. There is a market for recycling the metal, the iron and the steel from these vehicles. Given enough, if it is even once or twice a year, we could ship this off our Islands and realise some return rather than just burying them or storing them in the dump taking up precious landfill space.

This whole business of waste oil has never been handled satisfactorily in the country. The entities responsible for selling the oil in the first place should bear more of the responsibility. There is no greater contaminant than oil and gasoline. If you bury it, it pollutes the water table. If it gets into surface water, it ruins it. In many jurisdictions arrangements are made for recycling this.

I am especially fearful of the lead content in the batteries. It has been historically proven that one of the contributing factors to the demise of the great Roman Empire was the fact that the people drank their wine from lead goblets. Even the Caesars were not immune to the cases of insanity. Scientists have found that one of the contributing factors to insanity was the lead content in the body. Children are particularly vulnerable. If this gets into our water system, this will be a long-term cause of a health breakdown, not to mention the fumes we inhale.

I see people jogging along corridors that are heavily travelled by automobiles. I contend that is counterproductive. While getting the muscles fit, you are ruining the brain and the lungs by inhaling all those lead fumes. It just so happens that the fuel we use in our vehicles here is not the most scientifically refined. Even unleaded gasoline has a high lead content.

It is timely, reasonable and right that the Government looks at measures like this. It is what I consider a fair tax because it should not be left to the Government to bear all the responsibility and financial burden of disposing of these things.

I am happy to be a part of a Government that promotes this type of responsibility and consciousness. It is hoped that this fee will not be viewed as punitive but educational; promoting awareness that certain hazards come with the use of these things. The payment of the fee should serve to inform people that owning an automobile is more than turning the key in the ignition and driving it away. We have other responsibilities as well—the disposal of the lead batteries, the disposal of the waste oil and the disposal of the metal shell.

If Government could embark on more of these ventures, perhaps there would be greater understanding when we levy fees. I am especially pleased to say

that the rationale behind the levying of these particular fees is flawless. I give it my full support.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I rise to make a very short contribution on the Bill before us to bring fees under the Public Health Law.

I too would like to echo some of the remarks made by other Members who have spoken. I have some concerns about the amounts being levied, and also where they are being levied. It reads that it shall be charged, collected and paid through Customs. I suspect that is for the future when cars, batteries, and tyres come in. If you look at the number of vehicles and it is 25,000, as the Minister of Education said, we can calculate that: four tyres per vehicle will total 100,000 tyres. It is really more than that because we have big 18 wheel vehicles. We can figure that those 100,000 tyres will wear out within the next two years. That is 100,000 tyres the Government has to handle and nothing is being levied on these as a disposal fee.

There are also the 25,000 vehicles. Yes, they will be replaced. We still have to dispose of those that are currently on the island. It is the Government's responsibility. I support levying a fee on these imported commodities. As soon as the merchant sells that commodity, he bears no more responsibility in protecting the environment and Government then has to do it. I understand the private sector may not necessarily see the viability of recycling at this time because of it being much less in numbers than other places in the world where consumption is much greater. Therefore, if it is placed upon the Government, someone has to assist Government with the cost. While I do not know how much it costs to process a car at our landfill, I certainly doubt that \$250 is going to deal with it.

I was at the landfill recently and saw that they had a stack of cars to send to Cuba. There is a handling charge to get them out of the country as well. We cannot procrastinate on situations such as the disposal of cars, tyres and batteries. If there is no action on our part, the relatively clean environment we enjoy today will be destroyed for future generations.

It is time for Government to start looking at machinery to do recycling and disposal. We heard recently that the current landfill is almost up to its maximum capacity. The Government is actively looking for alternate sites. The vehicles, tyres and batteries significantly contribute to the reason why the landfill has reached its capacity. Government has to find some way to dispose of these bulky and dangerous items like lead batteries and oil. I am surprised we do not see a fee for the disposal of oil, also. I believe that the oil companies some years ago took up an initiative to dispose of oils at the gas stations. I do not know to what extent that is still in place. Government also collects a lot of oil up at the Department of Vehicle and



Equipment Services (DVES). Government has many more vehicles here than any other entity.

We should not just stop at levying a few dollars at the time of importation just to raise some funds to offset the cost. We also have to think of other dangerous commodities that arrive in this island and how they are going to be disposed of. I know that in Caribbean Utilities Company, my former employer, they recycled their oil by sending it back overseas in big containers. I do not know if the oil companies do the same thing, but if Government has to handle anyone's oil, users should have to pay for the disposal. I do not see anything of that nature. Maybe the Acting Temporary Third Official Member will tell us what is currently being done with oils that come into the country.

I have no problem or any hesitation in supporting the levying of tariffs on these commodities. Thank you.

**The Speaker:** The Floor is open for debate. Does any other Member wish to speak? (Pause) The Floor is open for debate. Does any other Member wish to speak? (Pause) Last call, does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

The Honourable Temporary Third Official Member.

**Hon A. Joel Walton:** I rise to reply to the Public Health (Amendment) Bill, 2001. I have a couple of general comments that are more of an informational nature.

In my introduction of the Bill, I omitted to say that this Bill seeks to bring into effect one of the 17 revenue measures the Honourable Financial Secretary on delivering the Budget Address highlighted. I will just refer back to that document. There were environmental health fees for \$215,886. This Bill therefore seeks to put in place the legal requirement to allow us to collect that money. It is not a new fee, in that it was discussed previously. It forms a part of the revenue side of the Budget which was approved a couple of months back.

The second general point is that this fee is not retrospective in that it applies at the point of importation. There was a question as to how we would handle a car upon importation: would we separate the car, the batteries and the tyres and charge separately? How the fee works, Sir, is that you pay \$250 for the car. There is no separate charge at that point for the battery and tyres.

The reason there are separate charges for those items is that they are durables. As and when you wear them out, you buy them. So, when you import tyres as a bulk item, you pay the fee at that time. The same would apply to batteries. The same principle would be applied to motorcycles as to cars—you pay for the motorcycle as a complete part as opposed to separated out at the point of importation.

All cars currently on the Island do not pay this fee. All batteries, all motorcycles, all tyres that are already here, there is no fee. This fee will kick in once it is gazetted and assented to later on in the month and will apply to all incoming, all new items being imported into the islands at the point of importation. You do not pay beyond that point except when you replace your battery or your tyres.

Listening to the discussion yesterday, about the concept of trying to move to the user paying fees as opposed to general taxes, I was reminded about the comic, "Is it a bird? Is it a plane? No, it's Superman!" It was quite interesting to listen to a doctor in sociology and a lawyer debate the differences between fees and taxes. It certainly makes my life a lot easier this morning to say that it probably is a fee in that it is related specifically (and I see Dr. McField smiling) to a particular service which you get at the point of disposal. It goes back to that particular service.

Just allow me to talk a bit about that because I think the Second Elected Member for Bodden Town spoke about the special fund. I know the House is probably sick of hearing about the Financial Management Initiative and financial reform. One of the underpinning principles which guide that reform is identifying which service a department is providing and seeking to charge the economic rate for that service. That being, whatever it costs the department to provide such a service, for example, disposal of batteries or tyres. You then charge the user of the service a fee to at least cover the cost of that service.

This is what we are seeking to do here. Again, as the old saying goes, a rose is a rose no matter what you call it, so I do understand the Third Elected Member for George Town in his presentation as well. I would submit that it is a fee because it relates to a specific service the department provides for us as residents of the country.

Under the Financial Market Initiative, the guiding principle is that all departments, wherever possible, charge fees to cover their services. Appropriations for that department then become net appropriations in that if the Department of Environmental Health is able to charge the economic rates for all of its services, it will not need an appropriation. This comes back to what the Second Elected Member for Bodden Town spoke to, a special fund, in that all the revenue related to that department for the services provided goes back to funding the services of that department.

So, rather than having these global funds, like the Environmental Protection and so on, we have funds that are specific to departments' services. Of course, there will be departments, for example Prison, Police, Health, and Education, for which Government will have to continue to use taxes; that is, types of levies which do not relate specifically to your service. For example, take import duty. The bulk of import duty collected goes to other areas of Government. The Customs Department probably uses less than 5 percent of what it collects to provide the service. That

is a tax. It is an item we use to coerce the consumer to contribute to general public goods.

That is why we use import duty, to provide prison services for which we really could not charge, police services and to a lesser extent social services, particularly national assistance, welfare and the like. That is my quick attempt to distinguish between what is and what is not. I have been able to get some general agreement from both Members.

There were also some comments yesterday about the actual size of the fee. Being partially responsible, as Deputy, for financing public services, we are always happy to hear when persons realise that we are not seeking to overcharge the public for services by the Government. The approach we took was to try to start with a fair and reasonable fee. It might not pay for all of the services but we try to start small because it is a new fee. We can look at what it costs to provide the service and then adjust it up or down at a later date. That was the approach.

The idea has been around for many years. This time we have been able to get it through with the support of Members of this House.

Thank you.

**The Speaker:** The question is that a Bill entitled The Public Health (Amendment) Bill, 2001 be given a second reading. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PUBLIC HEALTH (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Moving on to proceedings that were postponed on 29 June 2001. The Police (Amendment) (Intimate Samples) Bill, 2001.

The Honourable Second Official Member.

**THE POLICE (AMENDMENT)  
(INTIMATE SAMPLES) BILL, 2001**  
*Postponed*

**Hon. David F. Ballantyne:** Thank you.

I introduced this matter on the last occasion but then sought to have it postponed. Today, if the House is agreeable, I would move that further debate on the Second Reading be postponed until the next meeting. This is with a view to using the time in the interval to address issues of possible concern. It is expected when these issues are further addressed that additional provision may be thought appropriate to make sure that the appropriate balance is maintained between the need to obtain evidence and the rights of the accused.

The Government would welcome the opportunity to look at this and if so advised to bring forward certain additions to the Bill.

In short, the Bill as drafted is bolted on to the existing Law. Looking into it, and having heard informal comments, I am of the view that we could improve on the existing Law with a view to having an effective Law providing a clear method of obtaining this, but which depended on either the consent of the individual or the need to obtain a court order in the absence of consent.

Accordingly, I wish the opportunity to revisit this and would be obliged if I might move postponing further debate for that purpose.

**The Speaker:** You wish to postpone, not withdraw?

**Hon. David F. Ballantyne:** No, Mr. Speaker, I do not wish to withdraw it. If it is acceptable . . . I realise we prefer not to carry business forward, but, by the same token, the Bill as it stands will probably be in that form but will undoubtedly be likely to have additional provision in it to address the matters that I mentioned.

**The Speaker:** I shall put the question that The Police (Amendment) (Intimate Samples) Bill, 2001 be postponed until the next meeting. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE POLICE (AMENDMENT) (INTIMATE SAMPLES) BILL, 2001 POSTPONED UNTIL THE NEXT MEETING OF THE HOUSE.**

**The Speaker:** Moving on to The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill, 2001. Continuation of proceedings that were postponed on 29 June 2001.

The Honourable Third Official Member who spoke thereon.

**THE EVIDENCE (AMENDMENT)  
(SPOUSES, EXPERTS, FOREIGN CONVICTIONS,  
ALIBIS, RIGHT TO SILENCE ETC.) BILL, 2001**

**Hon. David F. Ballantyne:** I rise to move the Second Reading of a Bill entitled, The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. David F. Ballantyne:** Thank you.

Again, certain aspects of this Bill have proved to occasion some concern on the part of Members. The concerns mainly relate to the parts of the Bill seeking to enable a court or jury to draw inferences from the

silence of the accused in a particular set of circumstances, either a failure to say something in response to questioning or a failure to advance any defence at an earlier stage. Undeniably, when these provisions were introduced in the United Kingdom they occasioned some debate there also.

As I mentioned on an earlier occasion, we have taken on board the nature of the concerns and have obtained from the United Kingdom the Law Commission Report which led to these changes there. It is a document of some 260 pages in length. There is also a Home Office Report on how in fact the inferences have operated since the introduction of the legislation. The plan is that, with the assistance of my colleagues, we would arrange an informal presentation for Members on these issues. That will take a little time and it is best that it does in order that these matters are properly understood, and, if agree, can be proceeded upon.

In the meantime, however, it is thought that the remainder of the Bill is relatively uncontroversial and therefore the proposal would be that we would sever those parts of the Bill relating to the inferences to be drawn from the silence of the accused and simply proceed with the balance. What I will talk to today would be the other parts of the Bill in relation to which I have not heard any concerns expressed.

The committee stage would see a severing of these other parts relating to the inferences from silence. So, the Bill will then consist of what I am about to talk to now. It is a bit of a mouthful, this Bill, in the sense that it covers a number of topics. However, these are thought to be improvements in relation to the law of evidence.

The first issue is relating to the compellability of a spouse in this jurisdiction. The current position here is that the spouse of an accused person is competent, but not compellable, to give evidence—the spouse may give evidence, but cannot be compelled. In this instance, it is seen that the inability to compel a spouse to give evidence may not assist in dealing with cases, for example, involving domestic abuse in particular harm to young persons.

The new provision in this Bill would allow for a spouse not only to be competent, but also compellable, but only where the offence charged involves assault, injury, or threat of injury to a wife or husband, or where the victim is under the age of 16, or where the matter relates to a sexual offence in relation to a person under 16. So the motivation is designed to be for the protection of persons from, effectively, if I may describe it, domestic abuse.

A spouse would also be compellable where the offence consisted of conspiring to commit or assist in, abetting, or counselling, or procuring any of the offences that I mentioned.

The final part to which I should refer is that where parties are no longer married to each other, the Bill would make provision for the former spouse to give evidence as if they had never been married.

These are relatively modest improvements, but important in relation to dealing with the difficult social issue of domestic assault and injury.

The next topic in the Bill is an amendment to the Law to provide for advance notice of expert evidence. I am informed that it can happen that a surprise expert witness may be presented in a criminal matter without any prior notification. This measure seeks to avoid the unfairness that would cause by requiring all parties to provide advanced notice of any expert evidence intended to be produced. At the present time, the Crown, the prosecution, is required to make advance disclosure to the defence, but the defence has no similar obligation. This provision would allow both sides an opportunity to look into what the expert witness will say and also the credentials of the expert which is another important aspect.

In the same vein, clause 4 of the Bill proposes to provide that an alibi defence, in other words the accused person was someplace else at the time the offence was committed, would require particulars to be given. These are detailed in the Bill. This is intended to remove any element of surprise and would allow the defence of an alibi to be examined and investigated.

This was first introduced in the United Kingdom under section 11 of the 1967 Criminal Justice Act, and more recently confirmed under the Criminal Procedure Investigation Act, 1996, in the U.K., which latter Act provides for a more general disclosure by both defence and prosecution.

I may say in my own jurisdiction, Scotland, alibi has always been, for as long as can be remembered, a special defence of which requires notice to be given so that the prosecution can take account of it. I think the gist of this Bill is that if notice is not given, then evidence relating to either expert evidence or an alibi defence would be at the discretion of the court. It would not say it could not be given, but the leave of the court would be required.

The next provision is a very important one to bring the Law of evidence in criminal matters in line with international standards in other parts of the world. Under Cayman Islands law, as it stands, there is a principle which emanated from the U.K. case called *Hollington & Hawthorne* in 1943. This provided that, in a criminal case, the conviction of a principal, the thief, is inadmissible as evidence of the commission of theft at the trial of a secondary party, for example, a person charged with handling stolen goods.

This rule has been abolished in the U.K. since 1968 in civil matters and in criminal matters since 1984, but it still obtains in the Cayman Islands in respect of criminal matters. This puts the Crown at a disadvantage in seeking to prosecute certain offences, for example, money laundering, where the predicate offence requires to be established in order to establish the money laundering offence. This is particularly where the predicate offence is committed

abroad but the proceeds are laundered in the Cayman Islands.

In order to prosecute such offences, we would be required to prove the predicate offence, the underlying offence, which occurred overseas from which the proceeds of crime then flowed to constitute the money laundering charges. The latter facilitating the concealment of the proceeds of crime. You have to show that those proceeds were the proceeds of a crime in the first place. That crime would have to be proved all over again in the Cayman Islands.

The amendment to the Law would allow for evidence to be given in our courts that the predicate offence had been committed in the foreign jurisdiction by allowing the conviction of that court to be admitted in evidence. It would not be conclusive. It could be rebutted if the contrary were proved that the person did not in fact commit the offence. It would create a presumption of fact, in my view, and it would alleviate the difficulty of having to prove all over again the foreign conviction.

It also applies in other cases as well if it is necessary to establish that a person committed a criminal offence somewhere else on a previous occasion. I should add that section 39 of the existing Evidence of Law allows proof of conviction as evidence in civil proceedings so this would bring criminal proceedings in line with that.

As I mentioned, the provisions of the Bill relating to inferences are to be severed at the Committee stage. That would leave the following further provisions by way of amendment to the Evidence Law, two provisions that are related: 1) we allow evidence to be given by live television link where a witness is outwith the islands, which would considerably reduce the cost of prosecuting cases. It is not only convenient and expeditious but quite cost effective. Not all witnesses would be required to travel to the Cayman Islands to give evidence, sometimes at considerable expense. Given the increasingly global nature of criminal matters, and the extra territorial nature of some, this is thought to be a useful addition to having witnesses give such evidence. They would be available for the purposes of cross-examination just as a live witness would be.

If, in a particular matter, the witness was vital either to Crown or defence, I think the Crown would not be unreasonable in seeking to accord with requests for witnesses to be brought. The advantage would be that perhaps for matters that are not crucial, but important, that evidence could be given in this way.

Associated with this is the final provision which seeks to make provision for video recording of testimony from a child witness. This, involving young people, is always difficult and requires courts to act in a sensitive way. Members of the House will be familiar with the ability of a court to screen young persons from other parties, particularly the accused in sensitive cases. The provision is relatively self-explanatory.

One of the main policy reasons is to protect or minimise the incidence where the child is likely to suffer further trauma within a court environment, particularly having to be confronted by a party who had caused damage to that child.

In some jurisdictions this is done by screening. In this instance the provisions regarding video recording would essentially be used to deal with evidence-in-chief. Provision would also be made, possibly by television link from another location, for cross-examination of the young person so as to provide a safe environment. I trust these measures are reasonably self-explanatory, but in the event there are any questions I would endeavour to deal with those in the summing up.

These are important advances and will assist the jurisdiction in the administration of justice. I understand these measures have the support of the judiciary and I would commend the Bill to the House.

**The Speaker:** I think before opening the Bill up for debate, we shall suspend for 15 minutes.

#### **PROCEEDINGS SUSPENDED AT 11.24 AM**

#### **PROCEEDINGS RESUMED AT 11.48 AM**

**The Speaker:** Please be seated.

The question is that a Bill entitled, The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill 2001 be given a Second Reading. The Motion is open for debate.

Does any other Member wish to speak? (Pause)  
Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Aiden M. McLaughlin, Jr.:** Thank you.

I rise to offer a few observations on the Bill before the House. The Honourable Second Official Member, in introducing the Bill, referred to discussions with Members of this House in relation to concerns raised in regard to some parts of that Bill. He has indicated that the sections relating to our concerns will be deleted during the committee stage of this Bill.

Those sections relate to what is generally termed the accused's right to silence. The sections concerned would impact or impinge upon that right to the extent that it would create a situation whereby adverse inferences could be drawn by the court or a jury as a result of the accused's silence at various stages leading up to the commencement of proceedings and indeed during the course of those proceedings.

My concerns in relation to those sections are quite fundamental and the Honourable Second Official Member has indicated that a presentation would be made to Members of this Honourable House dealing with the basis for these provisions which are provisions that now form part of English legislation. In

particular, they form part of the Criminal Justice and Public Order Act of 1994, which was a U.K. statute.

As they are being withdrawn, I do not intend to engage in a long debate about them, but I thought I should say that while my mind is certainly not closed to the presentation the Honourable Second Official Member will make, I will take considerable persuading that something as fundamental as an accused's right to silence should be the subject of legislation that in any way erodes that right.

An accused's right to silence is part and parcel of what a judge (I believe it was Lord Sankey) described as the 'golden thread': **"Throughout the web of the English Criminal Law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilt. The right to silence is an important aspect of that golden thread."**

*Blackstone* has the following to say about that right to silence: **"An accused person in a criminal trial has traditionally been accorded a right to silence, sometimes termed a privilege against self-incrimination. The right embraces the idea that the accused is under no legal obligation to assist the police with their enquiries and is not a compellable witness at trial. At Common Law it is supplemented by a further right. The failure to assist the police or to give evidence at trial is not evidence against the accused with the result that it is wrong to invite a jury to draw adverse inferences from silence."**

The effect of the provisions in the Bill that relate to the drawing of adverse inferences is this: the accused will still remain at liberty to maintain his silence on interrogation at a trial. The supplementary right to be free from adverse inference is removed and replaced by these provisions which specify the circumstances in which proper inferences may be drawn against him.

These provisions were the subject of some controversy in the U.K. when they were being discussed and debated there prior to becoming Law. The concerns that I have seen articulated in the text are the concerns I had (instinctively as a defence lawyer), when I considered those provisions.

*Phipson on Evidence* had the following to say about the changes effected by the Criminal Justice and Public Order Act 1994, the relevant provisions which are *in pari materia* to those that are contained in this Bill. It says: **"The Criminal Justice and Public Order Act 1994 has brought about significant changes in the law."** It refers to the right to silence and what, traditionally, that has encompassed. It quotes Lord Mustill in a case entitled, *The Crown v. the Director of the Serious Fraud Office, ex parte Smith*. This is a 1993 decision of the House of Lords. In it Lord Mustill sets out what are described as a disparate group of immunities which differ in nature, origin and incidence but which relate to the protection of citizens against the abuse of powers by those investigating crimes.

I will not go into the details of those immunities, but these are generally concerned with compulsion to answer questions. *Phipson* observes that **"The compulsion which induces the individual to speak could be the prospect of punishment whether by way of a separate criminal offence or contempt of court. But [and this is important] there are other incentives to break one's silence such as the prospect of adverse inferences otherwise being drawn at trial, or the silence being the subject of adverse judicial comment"** which I recognised in the categories of immunities.

**"The drawing of adverse inferences from the accused's failure to testify or answer particular questions also puts pressure on him to break his silence or else make the prosecution's case stronger. The common law has recognised that no individual, let alone a suspect, could be compelled on pain of sanction to answer police questions."**

Then it goes on to say, **"This position has, however, been eroded by statutes such as the Criminal Justice Act of 1987"** and the Criminal Justice and Public Order Act of 1994.

Against those concerns, I am indeed grateful to the Honourable Second Official Member for having taken my concerns and those of other Honourable Members of this House on board and I look forward to his presentation in relation to this aspect of the Bill. As I said, I shall keep an open mind in this regard and we shall see if the persuasiveness of the Honourable Second Official Member is sufficient to convince us, notwithstanding those concerns, that these sections are important and necessary to the administration of justice.

I will move on to touch on just one other aspect of the Bill that I think is worthy of comment, which I support. That is the question of the competence and compellability of an accused's spouse to give evidence.

In common Law, a spouse of a party to either civil or criminal proceedings was incompetent to testify for or against him. That situation has been adjusted in the U.K. and in the Cayman Islands by the passing of legislation. Up until this point the Evidence Law of the Cayman Islands falls short of the English position. The purpose of this aspect of the Bill is to deal with this perceived shortcoming.

The situation at common Law became somewhat confused in the U.K. just prior to the passage of the Police and Criminal Evidence Act, 1984. Prior to the decision of the House of Lords in a case called *Hoskin v. M. P. C.*, it was generally believed that at common Law the spouse of an accused was indeed compellable in cases of offences involving personal violence by the accused against his or her spouse. In that case, the majority of the Law Lords concluded that **"where an accused is charged with an offence of violence against his or her spouse the spouse is competent but not compellable for the prosecu-**

tion." The basis for that decision appeared to have been that their Lordships were reluctant to compel a wife to testify against her husband on a charge of violence however trivial, and regardless of the consequences to herself, her family and her marriage.

This concern has always been to ensure that in compelling spouses to give evidence against each other it might disturb marital harmony and create a harshness that was not in the best interests of the union. For a long time that provision prevented the prosecution from insisting that a spouse should have to give evidence against his or her spouse.

With the confusion created by *Hoskin v. M. P. C.*, as to what the common Law was in relation to these sorts of situations, whether or not even in cases where violence was involved against the accused spouse, the U.K. Parliament deemed it fit to pass legislation to clarify the position and make it abundantly clear the circumstances in which the wife or husband of the accused would become compellable. The circumstances set out in section 18(a) of the Bill before the House are essentially those contained in the Police and Criminal Evidence Act 1984.

This is particularly important in the social context where domestic abuse has become more prevalent. I do not know whether that is a fact, but, certainly, knowledge of domestic abuse has become more prevalent and is indeed the focus of a number of initiatives in this community. From experience as a lawyer, I know well what often happens in these sorts of situations is when an abused spouse makes a complaint which results in a charge being brought against the assailant, by the time the matter comes up for trial all sorts of things may have transpired. Reconciliation may have been effected. Intimidation may have been effected. All sorts of matters may have been brought to bear on the mind of the accused spouse which may operate to dampen the enthusiasm to give evidence against their spouse. So much time and effort on the part of the police is lost. Even more importantly, the cycle of abuse is not broken because there is, in the end, no sanction against the accused.

It is important, not so much that the wife be compelled in the sense of forcing her to do something she would otherwise not wish to do, which some may object to, but for the preservation of her life and safety and the discouragement of this type of behaviour which severely affects the community. This is not just the actual victim of the assault but also the children and other family members who are affected by observing this sort of behaviour.

Indeed, it could make it impossible or less likely at the least, for the accused to blame the wife for giving the evidence because she is compelled as a matter of Law to give it and would be able to rely on the law in that regard.

With those few words I indicate my support to the Evidence (Amendment) Bill on the basis that the sections which I had some concern over, in particular

the right to silence will be deleted from the Bill during committee stage. Thank you.

**The Speaker:** The Motion is open for debate. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Motion is open for debate. Does any other Member wish to speak?

If not, does the Mover wish to exercise his right of reply?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you.

I think that it is encouraging when we are able to absorb points in the House from each other. It is important that the law is the product of the collective wisdom of the House at the end of the day. I see no harm in deferring consideration of matters which have caused some concern and I am pleased that it has been acknowledged that the Second Elected Member for George Town will keep an open mind on the matter, although he has made it clear that as a Member and, as he candidly conceded, as a defence lawyer, he has concerns. I would expect, frankly, there to be concerns about these provisions, as indeed there were and perhaps may still be in the U.K. For these reasons it was thought right to try to obtain a review of the reasons leading up to the introduction of these matters which will be referred to in the Law Commission Report and also a review as to how they have operated in the U.K.

What obtains in the U.K. is not necessarily the last word and is not necessarily appropriate for export without contemplation. What I would say, however, is that, to my knowledge, there is a considerable body of case Law which has developed as it were on the back of the U.K. legislation. Without going into these cases, because this is not the occasion, those cases have laid down rules to be followed governing the operation of the legislation. It occurs to me that if we are to take these issues further upon due reflection, some of those rules might merit incorporation in legislation, rather than being simply case law and precedent. I will give one example.

The example is that one of the rules to which I have seen reference in one of the decided cases, is that the inference to be drawn from silence should only be drawn where the circumstances call for an answer to have been given and where there is a clear expectation that an answer could and should have been given. I only cite this as an example. It is not definitive and I think it will be a matter for discussion in an appropriate forum and for analysis and for conclusions as to how or if these aspects should proceed.

I do not know and it is for the House to take a view, as to whether the Law is somewhat tilted in favour of the accused, or tilted against the accused if these inferences were to be present in the Law. That is a judgment I will leave for us all to make at the ap-

propriate time. In the meantime, however, I am glad that the Bill has the active support, with the deletions mentioned, of the Second Elected Member for George Town, my professional colleague, albeit we may be coming from different sides of the matter professionally, I mean in terms of prosecution as opposed to defence. The proper purpose of these laws should be to strike a fair balance between the interests of the Crown in prosecuting matters and the interests of the defence in preserving the rights of the accused.

I would take the opportunity to share with the House the view that it is not for the Crown to win cases, it is simply for the Crown to present evidence that pertains. It is for the defence to seek to win in the sense of vindicating the rights of the accused. There is a basic difference in approach, in my opinion.

I am glad that reference has been made to the compellability of a spouse in the circumstances. I think that the sanctity of marriage should be preserved. You will note that in the Bill where both spouses are jointly charged neither may give evidence against the other. That is a safeguard in the Bill. The Bill also provides that a spouse may be compelled. Sometimes the element of compulsion may be necessary in order to say to a witness, 'You are required to give evidence' in circumstances where that person would prefer not to do so. It would be for the greater good, and I emphasise for the safety and welfare and well-being of young persons in particular who not only have the potential for being physically damaged, but emotionally damaged within a domestic situation.

The other provisions of the Bill to some extent tie in with that and will allow the courts to have the facility to protect young persons from unnecessary further trauma in giving evidence.

I particularly welcome the provision that allows the admission of foreign convictions since this will save a great deal of time and trouble and will allow evidence to be led of such convictions without the necessity of having to prove them unless it is challenged and the contrary is proved. So there is nothing absolute about this. These measures have been thought through and represent a set of improvements to the Law of Evidence.

I would only add in conclusion that the reference to 'right to silence' should be removed at the committee stage from the title of the Bill, so that we do not leave the wrong impression in the title of the Bill if the House is so minded.

With these remarks, I wish to thank the House for their active and passive cooperation. I therefore invite the House to consider this Bill for the committee stage, and move that it be committed to a committee of the whole House.

**The Speaker:** I shall now put the question that the Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill, 2001

be given a second reading. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE EVIDENCE (AMENDMENT) (SPOUSES, EXPERTS, FOREIGN CONVICTIONS, ALIBIS, RIGHT TO SILENCE, ETC.) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The House will now go into committee to consider The Monetary Authority (Amendment) (Fees) Bill, 2001, The Public Health (Amendment) Bill, 2001 and The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Et cetera.) Bill 2001

## HOUSE IN COMMITTEE AT 12.22 PM

### COMMITTEE ON BILLS

**The Chairman:** The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk state each Bill and read its clauses?

#### THE MONETARY AUTHORITY (AMENDMENT) (FEES) BILL, 2001

**The Deputy Clerk:** The Monetary Authority (Amendment) (Fees) Bill, 2001.

- |           |                                                                              |
|-----------|------------------------------------------------------------------------------|
| Clause 1. | Short title.                                                                 |
| Clause 2. | Amendment of section 40 of the Monetary Authority Law (2001 R), Regulations. |
| Clause 3. | Insertion of new Schedule—Fees.                                              |

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### CLAUSES 1 THROUGH 3 PASSED.

**The Deputy Clerk:** A Bill for a Law to amend the Monetary Authority Law (2001 R). To provide for the charging of fees by the Monetary Authority for miscellaneous administrative services and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE PUBLIC HEALTH  
(AMENDMENT) BILL, 2001**

**The Deputy Clerk:** The Public Health (Amendment) Bill, 2001.

- |           |                                                                                           |
|-----------|-------------------------------------------------------------------------------------------|
| Clause 1. | Short title.                                                                              |
| Clause 2. | Insertion of section 48A in the Public Health Law (1996R)—Regulations re: rodent control. |
| Clause 3. | Amendment of section 55—Regulations re: Cemeteries and crematoria.                        |
| Clause 4. | Insertion of Part 12A—Special waste handling fees.                                        |
| Clause 5. | Insertion of section 70—Fees for miscellaneous services.                                  |
| Clause 6. | Validation.                                                                               |

**The Chairman:** The question is that Clauses 1 through 6 do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 6 PASSED.**

**The Deputy Clerk:** A Bill for a Law to make further provision in respect to the charging of fees under the Public Health Law (1996R).

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE EVIDENCE (AMENDMENT)  
(SPOUSES, EXPERTS, FOREIGN CONVICTIONS,  
ALIBIS, RIGHT TO SILENCE, ETC.) BILL, 2001**

**The Deputy Clerk:** The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Right to Silence, Etc.) Bill 2001.

- |           |              |
|-----------|--------------|
| Clause 1. | Short title. |
|-----------|--------------|

**The Chairman:** The question is that Clause 1 do stand part of the Bill.

**Hon. David F. Ballantyne:** May I move that the reference in the short title to "right to silence" be deleted?

**The Chairman:** The question is that Clause 1 be amended by deleting the words "right to silence." Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 1 PASSED.**

**The Chairman:** The question is that Clause 1 as amended do stand part of the Bill. Those in favour please say Aye. Those against No.,

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 1 AS AMENDED PASSED.**

**The Deputy Clerk:** Clause 2. Amendment of section 18 of the Evidence Law (1995R)—Accused persons, et cetera, as competent witnesses.

- |           |                                                                    |
|-----------|--------------------------------------------------------------------|
| Clause 3. | Insertion of new section—Competence and compellability of spouses. |
| Clause 4. | Insertion of new section 28—Notice of alibi defence.               |

**Hon. David F. Ballantyne:** Mr. Chairman, there is a committee stage amendment to Clause 3 consisting of an amendment to the new section 18A(3)(b) by deleting the word "and" and substituting the word "or."

**The Chairman:** I need to revert because I need to put the question on Clause 2, if we are amending Clause 3. The question is that Clause 2 do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2 PASSED.**

**The Deputy Clerk:** Clause 3. Insertion of new section—Competence and compellability of spouses.

**The Chairman:** There is an amendment to Clause 3?

**Hon. David Ballantyne:** Yes, the proposed amendment is the deleting of the word "and" as it appears in



the new section 18A (3)(b) and substituting the word "or". The reason being that the three sets of circumstances set out in subsection (3), that is, (a), (b), and (c) are meant to be in the alternative not in conjunction with each other.

**The Chairman:** The question is that Clause 3 be amended as circulated. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENT TO CLAUSE 3 PASSED.**

*[Discussion off microphone]*

**The Chairman:** Maybe as a matter of information, this amendment was circulated and tabled in the legislature on 25 June of this year. The question is that Clause 3 as amended do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 3 AS AMENDED PASSED.**

**The Deputy Clerk:** Clause 4. Insertion of new section 28—Notice of alibi defence.

**The Chairman:** The question is that Clause 4 do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 4 PASSED.**

**The Deputy Clerk:** Clause 5. Amendment of the principal Law—Insertions of new sections.

**The Chairman:** There is an amendment.

**Hon. David F. Ballantyne:** The committee stage amendment to Clause 5 is by deleting the proposed new sections 27C, 27D, 27E, 27F and 27G and by re-numbering the proposed new sections 27H and 27I as sections 27C and 27D respectively.

**The Chairman:** The question is that Clause 5 be amended. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENT TO CLAUSE 5 PASSED.**

**The Chairman:** The question is that Clause 5 as amended do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 5, AS AMENDED, PASSED.**

**The Deputy Clerk:** A Bill for a Law to amend the Evidence Law (1995 Revision) to provide for advanced notice of expert evidence; to amend the Law relating to the competence and compellability of spouses; to provide for conviction as evidence of commission of an offence; to provide for video recordings of testimony from child witnesses, for the giving of evidence through television links; and for incidental and connected purposes.

**Hon. David F. Ballantyne:** Mr. Speaker, I apologise for interrupting, but may I backtrack for a moment?

Part of the 25 June committee stage amendment is outstanding in relation to what would become the new section 27H which is now the new 27C. It consists of deleting subsection (1) of 27H and substituting the wording shown on the committee stage amendment. I can explain further.

The deletion is of the existing provision, but the only change is the addition of a provision in this part which deals with a person other than the accused giving evidence to a live television link. What was omitted from the Bill and what needs to be included is a provision tying in this section with the section which permits a child to give evidence by video link so that the new wording that would be added by committee stage amendment is as follows. It is in little (b) of the committee stage amendment, "if the witness is a child, or is to be cross examined following the admission under section 27I of a video recording of testimony from him and the offence is one to which subsection (2) applies."

In effect, what this allows to happen is, as I said in my remarks, that where a child gives evidence in chief by means of a video recording, cross examination can thereafter occur by means of a live television link to avoid the child being physically in the same room as the accused person. That would be the effect of incorporating this amendment.

**The Chairman:** I shall have to recommit Clause 5.

**Hon. David F. Ballantyne:** If I may, for the sake of completeness, in Clause 27I (10) (b), there is a typographical error. The word "the" where it appears, should be deleted. I think I could have deleted that

under the provisions you mentioned, but I just want to mention it for the sake of completeness.

The word “the” appears in that Clause, in a provision that deals with what is relevant evidence. As the Clause stands, it says “it relates to the matter which in the opinion of the court is dealt with in the recording.” In fact it should read, and I compared it with the source legislation in the U.K., “it relates to matter which in the opinion of the court is dealt with in the recording.” Not “the matter...” It is 271 (10) (b) and it is a deletion of the word “the” where it appears on the first line of paragraph (b). If you follow me, it is right at the end of the Bill. The paragraph says, “it relates to the matter” the word “the” should be deleted. Since it is part of Clause 5, I thought I had better mention it now. Thank you.

*[Discussion off microphone]*

**Hon. David F. Ballantyne:** No, just “to matter”.

**The Deputy Clerk:** Clause 5. Amendment of the principal Law—Insertions of new sections.

**The Chairman:** Clause 5 has been amended with new sections. Does any Member wish to speak to it? If not I shall put the question that the amendment to Clause stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AMENDMENT TO CLAUSE 5 PASSED.**

**The Chairman:** The question is that Clause 5 as amended do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 5, AS AMENDED, PASSED.**

**The Deputy Clerk:** A Bill for a Law to amend the Evidence Law (1995 Revision) to provide for advanced notice of expert evidence; to amend the Law relating to the competence and compellability of spouses; to provide for conviction as evidence of commission of an offence; to provide for video recordings of testimony from child witnesses and for the giving of evidence through television links; and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** That concludes proceedings in committee. The question is that the Committee do report to the House. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: BILLS TO BE REPORTED TO THE HOUSE.**

**HOUSE RESUMED AT 12.38**

**The Speaker:** Please be seated.

Reports. The Honourable Temporary Third Official Member.

## **REPORTS ON BILLS**

### **THE MONETARY AUTHORITY (AMENDMENT) (FEES) BILL, 2001**

**Hon. A. Joel Walton:** I beg to report that a Bill entitled The Monetary Authority (Amendment) (Fees) Bill, 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

### **THE PUBLIC HEALTH (AMENDMENT) BILL, 2001**

**Hon. A. Joel Walton:** I beg to report that a Bill entitled The Public Health (Amendment) Bill, 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

The Honourable Second Official Member

### **THE EVIDENCE (AMENDMENT) (SPOUSES, EXPERTS, FOREIGN CONVICTIONS, ALIBIS, ETC.) BILL, 2001**

**Hon. David F. Ballantyne:** I beg to report that a Bill entitled The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Etc.) Bill, 2001 with amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Third Readings.

### THIRD READINGS

#### THE MONETARY AUTHORITY (AMENDMENT) (FEES) BILL, 2001

**The Clerk:** The Monetary Authority (Amendment) (Fees) Bill, 2001.

**The Speaker:** The question is that a Bill entitled The Monetary Authority (Amendment) (Fees) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MONETARY AUTHORITY (AMENDMENT) (FEES) BILL 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Bills, Third Reading.

#### THE PUBLIC HEALTH (AMENDMENT) BILL, 2001

**The Clerk:** The Public Health (Amendment) Bill, 2001.

**The Speaker:** The question is that a Bill entitled The Public Health (Amendment) Bill, 2001 be given a Third Reading and passed. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PUBLIC HEALTH (AMENDMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Bills, Third Reading.

#### THE EVIDENCE (AMENDMENT) (SPOUSES, EXPERTS, FOREIGN CONVICTIONS, ALIBIS, ETC.) BILL, 2001

**The Clerk:** The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Etc.) Bill, 2001.

**The Speaker:** The question is that a Bill entitled The Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Etc.) Bill, 2001 be given a Third Reading and do pass. Those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE EVIDENCE (AMENDMENT) (SPOUSES, EXPERTS, FOREIGN CONVICTIONS, ALIBIS, ETC.) BILL 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Motions, Government Motion No. 6/01 to be moved by the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports on behalf of the Honourable Minister responsible for the Ministry of Health and Information Technology.

### GOVERNMENT BUSINESS

#### MOTIONS

#### GOVERNMENT MOTION NO. 6/01

##### NOMINATION OF MEMBERS TO THE CINEMATOGRAFIC AUTHORITY

**Hon. Edna M. Moyle:** Government Motion No. 6/01 Nomination of Members to the Cinematographic Authority reads:

**“WHEREAS the Cinematograph Law (1995 Revision) calls for the establishment of an Authority consisting of the Governor, three Elected Members of the Legislative Assembly nominated annually by the Legislative Assembly and one Member nominated by the Governor to carry out the function as set out in the Law and Regulations; [Mr. Speaker the word “regulations” should read “rules” so it would read “set out in the law and rules]**

**“BE IT NOW THEREFORE RESOLVED THAT as outlined in section 2 of the Cinematograph Law (1995 Revision) the following Members be appointed by the Legislative Assembly for a period of one year from 1 August 2001: Mr Cline Glidden, Jr; Mr Lyndon Martin; Mr Anthony Eden, OBE, JP.”**

**The Speaker:** Government Motion No. 6/01 has been duly moved. Does anyone wish to speak to it? If not, would the Mover like to exercise her right of reply?

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 6/01 PASSED.**

**The Speaker:** That concludes the business on the Order Paper.

As this is the last day of this Sitting, I would like to take this opportunity to thank Honourable Members for their courtesy and tolerance to the Chair. Thanks also to the Clerk; the Deputy Clerk; *Hansard* officers; the office staff and the Serjeant-at-Arms for the very efficient and capable service performed. I cannot close without thanking Miss Anita for her kind assistance to us.

I want to wish each of you a happy vacation, those who are fortunate enough to have a period of that.

I shall now entertain a motion for the adjournment of this Honourable House.

### ADJOURNMENT

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am on 7 September 2001.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am on 7 September. Those in favour, please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 12.42 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM FRIDAY, 7 SEPTEMBER 2001.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**5 SEPTEMBER 2001**  
**10.10 AM**  
*First Sitting*

**The Speaker:** Good morning. I will invite the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports to say prayers.

**PRAYERS**

**Hon. Edna M. Moyle:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth II; the Queen Mother; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

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

**Proceedings resumed at 10.10 am**

**The Speaker:** Please be seated. The Legislative Assembly is in session.

Administration of Oaths or Affirmations. Oath of Allegiance to Mr. Donovan W.F. Ebanks, MBE, to be the Acting Temporary Honourable First Official Member.

Mr. Ebanks would you come forward to the Clerk's table, please?

Would all Members please stand?

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*Mr. Donovan W. F. Ebanks, MBE*

**Hon. Donovan W. F. Ebanks:** I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

**The Speaker:** Mr. Ebanks, on behalf of all Members we welcome you to this Honourable House for the term of your service. Please take your seat as the Honourable Acting First Official Member.

Please be seated.

Item No. 3 on today's Order Paper—Reading by the Speaker of Messages and Announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First Official Member who is presently Acting Governor; from the Third Elected Member for George Town and Fourth Elected Member for West Bay who are overseas attending a Commonwealth Parliamentary Conference in Australia. I have also received apologies for late attendance from the Honourable Third Official Member who will be arriving later today.

Item No. 4 on today's Order Paper—Questions to the Honourable Ministers/Members of Government. Question No. 92, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

**QUESTIONS TO HONOURABLE  
MEMBERS/MINISTERS**

**QUESTION NO. 92**

**No. 92: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works to state the anticipated commencement date for the construction of the West End Post Office.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. It is anticipated that construction of the West End Post Office will commence later this month (September). I do not have an exact date, but that is the closest I could get with regards to time.

### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Is the Minister in a position to say exactly what has caused the delay in construction?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** It was intended that the project would start in the second half of the year because the funds approved in the 2001 Budget were not the total cost of the project, only the larger portion. So, it was scheduled to start sometime in July.

The Cayman Brac Development Control Board, after the original plan was approved, requested changes to the site layout to modify the site access. The revised drawings then had to be done and the client, that is, the Postal Department and Public Works Department (PWD) are now in discussion with the Development Control Board of Cayman Brac because they hold the view that the original layout is better than what is being proposed subsequently. It is expected that these discussions will be finalised within the next two weeks in order to be able to get the project started.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say if there were any other reasons besides the non-approval by the Development Control Board for the project not starting to date?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** If there are other reasons I do not know of them. Unfortunately, the PWD Staff said they were going to be a little bit late; they knew the question was on. I cannot venture any other answer because I simply do not know. I can give the Member an undertaking that I will find out from PWD Staff and let her know, as they will arrive shortly.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Is the Minister in a position to give a timeline, subject to obtaining planning approval for the project going out to bid, or has it already gone through the Central Tenders Committee and the bidding process completed?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** My information is that the Central Tenders Committee meets this Friday, 7 September, to review the report on tenders and recommendation on contract award.

I believe once that process is completed, which is expected shortly, that the project time is 26 weeks. I would anticipate that once we get the project started it should be able to be continued straight through to completion without any delays after that.

**The Speaker:** Are there any further supplementaries? If not, we will move on to Question 93 standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

### QUESTION NO. 93

**No. 93: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works to provide a current progress report on the Ann Tatum Road and Polack Drive on Cayman Brac.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Work on Ann Tatum Road commenced at the southern end at the intersection with Major Donald Drive. Of a total length of 2,600 feet from Major Donald Drive to the northern edge of the bluff, approximately 2,200 feet by 20 feet wide has been cleared and 16 feet wide has been filled to date. Cost to date is approximately \$31,000.

Polack Drive is 1,500 feet long and, of this, approximately 900 feet has been cleared and filled at a cost of \$17,000. Works are currently on hold pending the return of the excavator from Little Cayman on 7 September.

### SUPPLEMENTARIES

**The Speaker:** First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister confirm that the reason why there is no work going on, is, as rumour has it, because the money has been depleted from that vote?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I have had no communication about any monies being depleted. Just to jog the Member's memory, when we met just before budget time we went through the various projects with PWD staff and the District Commissioner and it was my understanding, at that time, that what was agreed on would take us through to the end of the year. I have no knowledge of anyone communicating that to the Ministry or the Honourable Chief Secretary.

If the Member wishes for me to determine that, I can do so as quickly as possible. However, no one has communicated that to me.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I should be most grateful for the Honourable Minister's undertaking to that effect, in that, prior to hearing his answer this morning on the Floor of this Honourable House, the word is that the money is finished. It would be comforting to have a clarification of that.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Certainly. As I said, my information is that they are waiting on the excavator to be returned from Little Cayman. Maybe that is the explanation as to why the work has stopped. I will find out and let the Member know.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Could the Honourable Minister say what they are using to build these roads with at \$14 and \$17 per foot?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** My understanding is that it is the same material used in Grand Cayman, except that in Cayman Brac the material originates from Cayman Brac, not Grand Cayman. I do not think any other method is used. I believe it is rock crushed to a certain level of aggregate and if we speak to the terrain, I do not know how familiar Members are with the Bluff, but the terrain varies. I am not a hundred percent sure what type of terrain this is, but so that Members will have a clear understanding, the methodology employed in the Brac may be different from what we are used to over here in Grand Cayman. For instance, the clearing of the area to be made into the road is done by hand and the area found is filled to the proper level. I do not think there is usually a problem in having to raise the level so much as simply getting a level on most of the area we are talking about.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Could the Honourable Minister confirm that waiting on the excavator would imply that the terrain is not one of plateau but perhaps an undulating terrain?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, if I may use my own language—hopefully this will clear the question before and also this one. As the Member said, some of the terrain may be undulating and the hammer on the excavator is used to break down some of the existing rock which helps to fill and create a level. Perhaps quite the opposite of what we may be used to in some areas, instead of having to fill and bring the level up, some of the terrain is broken down to strike a level. The same rock on the location is actually used to strike the level, which makes a difference in not having to purchase any of the rock.

The gentleman from PWD is now present. Just so the Member will know, I have been told that there is no situation where there are no funds. It is simply waiting for the excavator to come back.

**The Speaker:** Are there any further supplementaries? If not, we will move on to question 94, standing in the name of the Elected Member for East End.

#### QUESTION NO. 94

**No. 94: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works if the Public Works Department's employees have been compensated for the loss of income due to the reduction in working hours as was recently promised by the Honourable Minister.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The retroactive wages for those group employees of the Public Works Department that were reduced from 44 hours to 40 hours per week from 1 April to 30 June will be included in their salary on 7 September, that is, this Friday.

**The Speaker:** The Elected Member for East End.

#### SUPPLEMENTARIES

**Mr. V. Arden McLean:** Could the Honourable Minister say why it has taken so long?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.



**Hon. D. Kurt Tibbetts:** Perhaps when one is seeking an end result it creates a bit of difficulty in being able to objectively make assessments as to reasoning and causes. This is not speaking to the Member personally, but general situations.

In order to determine the retroactive wages due to each affected employee, it was necessary to go back through each daily activity record for the period 1 April to 30 June to determine the exact number of hours worked by each employee. This is easily understood to be a time consuming exercise. My understanding is that this has been the reason why it has taken a bit of time. However, the Department has arrived with the calculations and is able to make the adjustments in the salary of 7 September to clear the matter up.

**The Speaker:** Are there any other supplementaries? The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Could the Honourable Minister say whether or not this same methodology was considered and, or implemented for the PWD group employees in Cayman Brac as opposed to the proposed laying off method?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I would ask the Member to clarify her question. I am not sure I understand where she is coming from.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman, would you clarify your question please?

**Mrs. Julianna Y. O'Connor-Connolly:** Certainly, Mr. Speaker. I wondered whether consideration was given— based on this expressed methodology of reducing the number of hours worked by PWD group employees on Cayman Brac, as is obviously the case here in Grand Cayman; as opposed to laying off personnel in order to cut some \$300,000 from salaries in District Administration as the men were informed on Thursday and Friday of last week on Cayman Brac.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am having a bit of difficulty here because some of the things that I am hearing I do not know anything about, but let me try to 'trek' through it.

The situation with PWD in Grand Cayman with the 44 hours reverting to 40 hours was a situation simply to be compliant with General Orders; that was the situation. For a while it was a bit messy, but I believe that finally the matter is sorted out because peo-

ple had different ideas as to how to solve certain problems.

With regards to the Brac, if I am hearing the Member correctly, she is saying that last week there was some cut taking place in what was originally agreed on via budget and people have been told they will be laid off. Is that correct?

Mr. Speaker, I do not know of the situation. If the Member would allow me time to find out exactly what it is all about, I will certainly try to get a clear understanding and speak with both Members. I honestly do not know anything about it.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. I appreciate the Minister's undertaking as a matter of urgency to look into this most important matter, as the men have been informed formally last week by PWD. I am reliably informed from the head of District Administration that orders came from Grand Cayman. So, perhaps as a part of the research, the Minister could check to see who issued the orders for almost \$300,000 to be cut from the emoluments of the District Administration. They have commenced that process with the Public Works Department.

**The Speaker:** The Honourable Minister for Planning, Communications and Works do you wish to reply?

**Hon. D. Kurt Tibbetts:** Yes, Mr. Speaker. As I said before, I certainly will try to find out; I will do better than that! I will find out and I will communicate with both Members.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning.

Moving on to Government Business, Bills. First Readings. I would appreciate a motion for the suspension of Standing Order 46(1) in order for a Bill entitled, The Legal Practitioners (Amendment) Bill, 2001 to be given a first reading. The Honourable Second Official Member.

#### **SUSPENSION OF STANDING ORDER 46(1)**

*[Moved by the Hon Second Official Member]*

**QUESTION PUT. AGREED: STANDING ORDER 46(1) SUSPENDED.**

### **GOVERNMENT BUSINESS**

#### **BILLS**

#### **FIRST READING**

## THE LEGAL PRACTITIONERS (AMENDMENT) BILL, 2001

**The Clerk:** The Legal Practitioners (Amendment) Bill, 2001.

**The Speaker:** The Bill entitled, The Legal Practitioners (Amendment) Bill 2001 has been read a first time and set down for Second Reading.

I would appreciate a motion to suspend the relevant Standing Order in order to take Private Members' Motions on a day other than Thursday.

The Honourable Minister for Health and Information Technology.

### SUSPENSION OF STANDING ORDER 14(2)

*[Moved by the Honourable Minister for Health and Information Technology]*

### QUESTION PUT. AGREED: STANDING ORDER 14(2) SUSPENDED.

**The Speaker:** Moving on to Other Business, Private Member's Motions, Private Member's Motion No. 23/01— Regulation of Dangerous and Ferocious Dogs in the Cayman Islands to be moved by the Second Elected Member for West Bay.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 23/01

#### REGULATION OF DANGEROUS AND FEROCIOUS DOGS IN THE ISLANDS

**Mr. Rolston M. Anglin:** I beg to move Private Member's Motion No. 23/01, which reads:

**"WHEREAS there has been a ban on the importation of certain dangerous and ferocious dogs into the Cayman Islands;**

**"BE IT RESOLVED THAT Government—**

- i. consider modernising this list;**
- ii. consider instituting regulations governing the manner in which such dogs can be taken outside of the owner's property; and**
- iii. consider instituting regulations governing the breeding of any such dogs."**

**The Speaker:** Do you have a Seconder?

**Mr. V. Arden McLean:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 23/01 has been duly moved and seconded. Do you wish to speak to it?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you Mr. Speaker.

Certainly, there would be a lot of us who are owners of dogs ourselves and consider the dog to be a pet and an integral part of the family setting. I am of the view that a dog is one of the most beautiful pets one could own.

The Agriculture Department certainly has in place what I think is an adequate policy for importation of dogs. When you look at the list of those prohibited into these Islands it includes Mallanois, Rottweiler, Japanese Tosa, Dogo Argentino, Pila Brasileiro, Chinese Shar-pei, Pit Bull Terrier, Japanese Akita, Staffordshire, and Mastiff of all types.

In the Cayman context there are a number of these dogs that were here before the prohibition. In my research I was informed by the Agriculture Department that this matter came to the fore back in November 1989 when there were reports coming from the United Kingdom that Rottweiler in particular posed significant threat to human lives and limbs. They have adjusted their policy based on information received from reliable jurisdictions from time to time.

Many people own mild-mannered dogs so, a lot of us are not certain why these dogs that are considered dangerous and ferocious would be kept in the first place and what would bring about the desire. It is my view that in Cayman today there are a number of reasons. Firstly, some people just like these types of dogs, whereas, some find it trendy. There would be those who keep these dogs for protection of either their personal or business premises.

I have also been reliably informed that there are certain persons who keep them as some form of sign, that is, people who belong to certain gangs find it necessary to have a specific type of dog.

Certainly all of us can appreciate the fact that people's personal reasons for owning a dog can be wide. The last reason I have observed and have been reliably informed about is one of the most disturbing reasons and that is, that certain persons who are purportedly involved with selling drugs find it expedient to keep dogs in their yards also. I can certainly think of a few such yards in my district. In fact, one particular yard has a relatively high fence with "Beware Bad Dog" signs all over it, with a picture of the dog on it. I have been told by Police officers that this makes their lives difficult considering they have good cause to believe that the illegal selling of drugs is being carried out.

There have always been dog-bites from the time man domesticated dogs. In the Cayman context, it is reasonable to say that these bites were usually suffered by people walking or riding by a yard where a dog was not restricted in any way. Most recently, I became aware of an instance where a senior citizen was viciously attacked by her nephew's dog and suffered significant injury. I am not sure: it was either a Pit Bull Terrier or Rottweiler. Upon learning of this I

did a bit of research to see what we had in place in regard to dogs that are generally considered dangerous or ferocious.

This issue has been debated over the years by many persons in larger countries, like the United States. There certainly never seemed to be any gathering of consensus as to whether or not certain types of dogs, by nature, posed a more significant threat, or were more prone to bite and attack than other dogs. We have gone beyond that here in Cayman because we have decided there are significant threats and that certain of these dogs can no longer be imported into these Islands.

However, because there was already a base population of some of these dogs that continued breeding, we could very well end up with more of those specific breeds in the Islands than when the bans were instituted. In fact, this has come to be a rather lucrative business. To purchase a Rottweiler puppy or a Pit Bull Terrier is quite costly.

Many municipalities in the United States have sought to address this matter on many different fronts—outright bans on specific types of dogs. This action has met great resistance from persons who actually own and breed these dogs. One argument that always comes up is that there was a lack of empirical evidence or study to actually support some of the views being put forward by members of the society.

About three years ago the Centre for Disease Control and Prevention (CDCP) in the US actually carried out a study. They found that approximately 20 people are killed in that country every year by dog attacks, and another 4.5 million are bitten, with 1 million being seriously wounded.

When any of us go to a funeral, or when we talk about death, this is something significant. Seeing on the news recently where a three year old child in Chicago was mauled and killed by the landlord's Pit Bull Terrier forced me to think about this issue again, and seriously consider if there was anything we needed to do here in Cayman to tighten up the situation.

Anytime a human life is at risk, we as responsible persons in this society who are put into positions of leadership are duty bound to ensure that we try to do the best we can to avert such situations. I say "try" because in my research I found that there are many types of dogs that have actually killed people.

In fact, in the study conducted by the CDCP, which covered some two decades, they found 25 types of dogs that were responsible for all those deaths. However, what is very significant, in my humble opinion, was the fact that 50 percent of the deaths were as a result of Pit Bull Terrier pure breed, Pit Bull Terrier mixed, Rottweiler pure bred or Rottweiler mixed dogs. Half caused by two breeds and derivatives of those breeds. Of course, when we talk about cross-breeds, I found that there is significant difficulty in identifying exactly what specific breed a dog is once they are cross bred.

When I looked at the fact where research and study shows that between 1991 and 1998 Rottweiler dogs caused 33 deaths in the US versus 21 by Pit Bull Terriers, I found what seems to be a cause for concern when it comes to these two types of dogs. However, further in my research, I noted that certain experts were of the view that even with these two breeds of dogs there seems to be a consistency in terms of the rearing of the dogs which causes this penchant for agitation and vicious attacks. They sum it up to people who hit the dogs; yell at the dogs; tease them; play roughly and wrestle with them; play tug-of-war with them. In other words, owners seem to be bent on ensuring that the dogs become as vicious as their reputation.

What was also interesting was that most of the fatal attacks were children. It is thought that the main reason for that is because children do not appreciate the risk that a particular dog in their family may pose. So, just by playing, they would go to the dog and hit it or pull its tail, sit on it by accident thus precipitating a fatal attack.

Recently in the US people have gone to court facing charges as serious as manslaughter when it comes to this issue. I will not stand here and say that any government, in any country, would be able—short of saying dogs cannot be pets—to say that we will not have the unfortunate and tragic situation where a dog takes a human life. I certainly believe that because there continues to be lives lost due to these attacks that we must ensure to do a number of things. I think what this specific Motion speaks to is ensuring that we have a modern list of dogs that seem to pose a threat.

I continually use that type of language because unfortunately research, in my view, will never definitively be able to prove that any specific breed of dog poses a more significant threat than others. When we look at the cases I have outlined, I think it is clear to see that there seems to be a direct correlation and higher rate of tragic consequences when certain breeds of dogs attack people.

I believe that when it comes to certain types of these that are termed dangerous and ferocious dogs, we are duty bound in some regard. Some of the more simple things that I think can be done revolve around three main areas:

1. what standards should exist in terms of any type of dog, but especially those defined as dangerous and ferocious being outside the owner's property;
2. what sort of criteria should exist in terms of people being able to breed or rear these dangerous or ferocious dogs with a particular view to resale; and
3. for a list of dogs in the Agricultural Department Policy, what form of standards of ownership should actually take place. In other words, should it be that certain young persons would be able to take Pit Bull Terriers and Rottweiler, (extremely strong dogs) into public places on their own?

A friend of mine related a story to me recently of being on the beach during the public holiday in May,

where his four-year-old son was playing on a crowded beach and there was a young teenage boy with a Pit Bull Terrier. That dog approached the child, snarled and showed its teeth, barked and lunged toward the child. Fortunately, the owner was able to get to the situation quickly and there was no attack. Mr. Speaker, I think this speaks volumes to the need for some form of regulations in terms of any dog being allowed to go out into the public domain.

I think we should certainly look at the possibility of ensuring that all dogs must be on a leash or a muzzle when in a public place. I believe that there certainly is merit to the thought of ensuring that anyone who seeks to breed what the Agriculture Department deems a dangerous or ferocious dog should have to meet certain minimum criteria.

For example, should persons be allowed to breed such dogs in residential areas? Should they be required to have some form of minimal kennel size to show they actually have an adequate facility to breed such dogs?

I will touch last on standards of ownership. Certainly, there seems to be some merit to the thought of towns and municipalities in the US whereby, persons of certain ages are not permitted to take these dangerous and ferocious dogs outside their property because it is seen as a younger person having the ability to take what is potentially a threat to human life into the public domain. One can akin that to the ability to take any form of offensive weapon.

When we speak about Rottweiller and Pit Bull Terrier and many of these other dogs already listed in the Agriculture Department's importation ban (the Japanese Akita) most of these dogs are extremely strong animals. For us to reasonably believe that someone other than an adult would be able to control that dog may be asking a bit too much. However, if we were to institute any form of regulations in terms of how the dogs can be taken into public, this would allay that particular fear.

Obviously, there are legitimate business needs for having such dogs because a lot of people utilise these dogs to guard their business property. I think that is a very separate and distinct area.

I would like to finally touch on my last point. Certain countries have instituted the requirement for public liability for persons owning and utilising dogs as guard dogs. In other words, there is always the risk that even when used to guard a business, some innocent person may be attacked. Heaven forbid if the attack winds up taking the person's life. What is the true legal liability? In the civil sense, what is the public liability of the person owning that dog?

I believe that the Minister, under whom this falls, already has a qualified staff to address this issue. I have found the staff of the Agriculture Department very helpful and knowledgeable in this area. I also believe that any time there is an issue or a matter that poses a potential threat to public life in this country, that it would, by default, constitute it an important

issue that must be addressed the best way we possibly can as legislators.

I personally take offence to anyone who believes that because this country has many major issues that they may consider more important than this one, to say that this is a waste of Parliament's time. I wonder what they would say if their child was viciously attacked by a Rottweiler and died. They would be the same persons to curse every Member of this Parliament saying that we were good for nothing because we did not do anything and we should have seen this coming.

At the end of the day, all of us know what goes along with this job. Certainly, everyone is entitled to his or her own opinion. However, I think that this is an important issue and one that we need to have as tight as we humanly can, simply because of what I have said before; it has been proven in other countries that there is a potential risk to human life.

With that, I end my contribution to this Motion.

**The Speaker:** Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

While I quite understand that there are other things equally important to be done in the country, I believe that this Motion brought by the Second Elected Member for West Bay is timely because of the abuse of man's best friend in this country. Thus, the reason I rise in support of this was because when I was asked to second the Motion, I readily agreed.

We constantly hear of residents of the Cayman Islands using certain breeds of dogs for their own advantage and not responsibly. As the Mover mentioned, the list of prohibited dogs is quite lengthy. Here in Cayman, there are but a few being used for reasons that could be considered illegal and those are the Pit Bull and Rottweiler, in particular.

I believe that anyone is entitled to have a pet. However, when we hear rumours of these dogs being bred and raised for reasons of fighting or preventing the police and other individuals from entering a yard where illegal activities are being carried on, then that has to stop. That cannot be tolerated.

These dogs in question can be considered pets in most instances. However, we hear of many incidents where these "pets" maul and sometimes kill human beings. Of course, then would we hear the excuse that the dog doing such a thing was always a gentle dog.

It is my understanding that dogs like Pit Bulls were originally bred to fight. You cannot expect to put a dog that was originally bred to fight in your household and expect something other than what they were bred for.

On doing research for this Motion, looking on the Internet, there are numerous sites for and against these ferocious dogs. At all times we see where the

dogs are unpredictable and there is no question about that; these dogs are unpredictable. It is said that the jaws of these dogs exert some 90 pounds per square inch. That is a lot of force applied, particularly on a little child. In most instances, it is children who are attacked by these dogs.

There are many who advocate these dogs. Let me make it abundantly clear that I am not against these dogs, at least not to the point where I would say we should not have these dogs, but there must be responsible ownership. When one has any of these dogs as a pet, that person must show some responsibility in controlling that dog.

In the Cayman Islands, particularly Grand Cayman, I have witnessed many of these dogs out in the general public without so much as a leash. The Animal Law is very specific: When a dog is out in public it must be under the control of the owner.

The law does not make a lot of provisions for the dog other than in some instances where under section 37(1) it says, **“Any court of summary jurisdiction may order that a dog which appears to be dangerous and not kept under proper control—(a) be kept under proper control by its owner; (b) or be handed over to the Department of Agriculture to be destroyed.”**

I do not know how often this happens because it appears that the irresponsible owners of these dogs go without being brought before summary court for judgment to be handed down if found guilty.

Then the law goes on further under section 37(2) and says, **“Whoever obstructs any officer of the court so that such officer is prevented from carrying out an order of the court made under subparagraph (b) of subsection (1) shall pay a fine of four dollars in respect of each day the carrying out of the order remains in abeyance through his default.”** Now, \$4 is a farce. People can afford to have these dogs and be irresponsible. There is no provision in the Law to be charged. They keep these dogs and I am sure they are aware of the penalties.

And then, section 38 of the Law says, **“Whoever suffers any ferocious dog to be at large, or who sets on or urges any dog to attack, worry or put in fear any person or domestic or protected animal is guilty of an offence and liable on summary conviction to a fine of five hundred dollars and to imprisonment for six months.”**

Now, Mr. Speaker, I have seen individuals in this country setting on and urging dogs to fight. I have seen these ferocious dogs at large. The police are as afraid of these dogs as any ordinary resident in this country. The Law has to be tightened. We have to put teeth (pardon the pun!) into the Law to allow the police to take these dogs off the street. In cases where dogs attack human beings in this country, those dogs must be put down.

I believe if the dogs were kept in proper control we would not be at this stage, bringing motions to ask for better control.

Some years ago we heard of a young child being attacked by a ferocious dog at Smith's Cove in South Sound. Practically nothing was done about it. The time has come for us to try to prevent this kind of accident and prevent our fellow citizens from being mauled.

We would not be responsible legislators if we did not protect our citizens at large. The law makes provision also for licensing of these animals. Section 28 says, **“Whoever keeps a dog over the age of six months without taking out a license in respect to the same, and every person permitting such a dog to be in a highway or place of public resort without a collar as prescribed is guilty of an offence and liable on summary conviction to a fine of twenty dollars.”** The last time I heard of \$20 it did not really mean much in the scheme of things in this country. So, it certainly does not provide a deterrent in this case. It does not frighten anyone.

There are public venues in this country, particularly outdoor ones, where people just show up with a Rottweiler or Pit Bull walking next to them.

I experienced an incident in East End sometime in April of this year, where many young children were at a function on the beach and a young man walked up right amongst the general public with a Rottweiler. This dog was bordering on 60 to 80 pounds; it was a beautiful animal. He proceeded to demonstrate to the public how this dog could husk a dry coconut with his teeth. I called the police but, of course, when the police came the gentleman was gone. However, he came right back as soon as the police left the premises. There is no control. Can we imagine a child walking by that dog during the demonstration and that dog turning on the child? Do you think there were sufficient people in that neighbourhood to stop that dog from mauling that child? They must be controlled. There has to be some degree of control over one's pet.

We hear of people breeding these dogs and their own families are mauled and bitten but nothing is done about it. The children are taken to the hospital, nothing is done, and the dog remains on the premises.

We have to provide the police with the necessary tools to remove these dogs from society. There should be no reason why the dog has to demonstrate more than once that it is a ferocious dog. At the first sign of it these dogs should be put down. There is no need to say it was only the first time and you do not think it will happen again, and then within six months to a year the dog goes and mauls someone again. We have heard of these incidents.

I know of areas where these dogs are kept in pens and while I do not know anything about how you prepare a dog to be ferocious and fight, it is my understanding that they feed them pepper. Evidently it causes them to be a little more aggressive, although I do not know if that has been scientifically proved. I have heard of it—maybe folklore—here in the Cay-

man Islands. These young boys who are alleged drug dealers breed these dogs, feed them pepper so they can become more aggressive.

I submit that every dog in this country should be licensed. If that dog is going to be taken out into the public it should be licensed and it should be on a leash; that is responsible ownership. If the dog is found outside the premises of the owner, the police should then have the right to detain the owner and impound that dog until the owner can prove that he has total control over that dog.

When we hear of such incidents, we sympathise with the families and the victim, but sympathy is not good enough. One individual mauled by one of these ferocious dogs is too much.

The Motion calls for government to consider modernising the list of importation of certain dangerous and ferocious dogs. I support that and it needs to be looked at because it has been in existence for some time. I do not think we can point our fingers at any particular breed of dogs. I believe any dog, if provoked, would respond with his defence mechanism, which is to snap out. However, when we get certain dogs that we know are very dangerous, very ferocious and do not necessarily have to be provoked, and will attack, then those dogs need to be removed from society.

I understand that the second part of the resolve asks Government to "consider instituting regulations governing the manner in which such dogs can be taken outside of the owner's property." To some extent that is in place now in the law. It has to be strengthened so that the police can ensure that the public is safe.

The third part calls for Government to "consider instituting regulations governing the breeding of any such dogs." While I understand these dogs are not allowed—they are prohibited and cannot be imported through the normal circumstances where you go and get permission from the Agriculture Department. However, these dogs are being brought in on boats illegally, crossbred and then sold at astronomical prices. Everybody who has something illegal to hide has one, and other people have them also. They are traditionally used to protect one's home.

Recently in Trinidad there was a case where a 73 year old woman was killed by a number of Pit Bulls. They are considering legislation on banning Pit Bulls. I do not want the people of this country to get the impression that they cannot have any dog they want. These animals are prohibited and brought in illegally, bred and are still owned by some people in Trinidad who have them to protect their homes because of the increasing crime; I understand that, but it must stay within the boundaries of their homes. You cannot have a fence that is superficial which serves no purpose to keep your dog within your premises. Eventually it will get out, go next door to the neighbour's house and probably maul a kid and then you will say

'you are sorry'. If you want to keep a pet, you have to be responsible.

This Motion is not to prevent people from owning a pet. I am not saying that other dogs will not have the tendency to do the same thing. Mongrels will do the same thing but they must fall under responsible ownership too. If you own it, you must be responsible for its actions, and you must pay the consequences if you are not responsible. Unfortunately the damage has already been done. You can pay the hospital expenses; you can pay the recovery expenses, but the damage has already been done. Once you have paid those expenses then you must pay the price of not having a pet.

I support this Motion; I think it is timely. I think it is time we put some teeth into the law to prevent the residents of this country from being exposed to a few individual whims and fancies and their irresponsible ownership of dogs. It is only a select few; it is not the country at large. Some persons who own Pit Bulls and Rottweillers are very responsible with them. They have them in their yards and they are very responsible when someone visits. Those people should not be victimised because of a select few. However, the select few must be stopped. If they are not stopped we are going to have more people mauled and possibly killed in this country by these ferocious dogs.

I support the Motion, and I thank you.

**The Speaker:** We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.41 AM

#### PROCEEDINGS RESUMED AT 12.06 PM

**The Speaker:** Please be seated.

Debate continues on Private Member's Motion No. 23/01. The Floor is open for debate. Does any other Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker.

I will be brief in what I have to say in regards to this Motion. I think it is a Motion that has merit and certainly, unlike what others may think, even though it relates to dogs, it is the Legislative Assembly that deals with laws relating to dogs, cats, pigs, people, motor cars, everything. So, it is in the right place.

The Motion refers to the ban on the importation of certain dangerous and ferocious dogs into the Islands. It is my understanding that a list has been done by the Chief Agriculture and Veterinarian Officer regarding the importation of some dogs into the Cayman Islands, which are considered to be ferocious or aggressive dogs by nature. Because of certain incidents that have occurred here in the Islands it was felt that a ban should be placed on the importation of such dogs.

The resolve of the Motion asks that the Government consider modernising the list so that any species

considered dangerous that was left off be added to this list.

The second resolve is, "consider instituting regulations governing the manner in which such dogs can be taken outside of the owner's property." I think that is sound logic. There should be some prescribed manner in which those dogs can be outside their owners' property; any dog, whether or not it is considered an aggressive and dangerous breed of dog. Indeed, the dog is the property of a particular owner and we cannot conceive that an owner would get a dog that would be allowed to go any and everywhere except within the boundaries of the yard of its owner.

This has practical significance. For example, I can think of a road near where I live, Beach Bay Road, where people from all over the Island come and regularly walk that road. There are persons who own dogs in that area and they rush out of their yards and attempt to get close enough to bite. That is a nuisance to the public. Even in that type of instance, when that animal becomes a nuisance to the public on a public road there should be some regulation or law in place where a member of the public could refer to have this situation corrected. Or, if bitten by a dog they would know the procedure to follow.

I noticed in the Animals Law (1999 Revision), it says that all dogs must be licensed. If we could think of that as really being done, Government would receive a significant amount of money depending on the amount which is attached to the licensing of the animal. It also speaks of dogs wearing a collar; that is string, leather, Velcro or whatever is worn around the neck of the dog. Having looked at the Law, I do not see anything in the Law prescribing a leash. We know that in other parts of the world that is very strict. There are leash laws in other jurisdictions. People in other countries, including the big cities, walk dogs on the sidewalks, but they must have them on a leash, not have them out there to be a nuisance to persons. That is something that should be considered and put into the Law here in the Cayman Islands.

There are provisions if a dog is found to be a stray. The police can seize the dog and it can be destroyed. However, this matter of dogs in general is something that should be addressed, whether or not it is a vicious attacking dog. Whatever limitations may be placed after Government has considered the matter, if indeed they accept the Motion, I think they should take advice from scientific resource persons concerning the number of dogs in the Cayman Islands and how best to control them.

Every so often we see pictures or hear of dozens of dogs held at the Humane Society compound. They are always appealing to members of the public to give these dogs a home. The truth is, in this country on a whole, dogs are owned by just anyone; they are not treated with the significance that they are treated with in other societies; they breed and create more puppies which grow into dogs and these dogs become strays. There have been problems with stray dogs

killing cattle in the past. I do not know how frequent that is now, but certainly it did occur in the past. So, I think it is well for government to take a comprehensive look at the situation regarding dogs on a whole, certainly those considered dangerous and ferocious and which in the wisdom of those who have more knowledge of them, than myself, or perhaps many of us in here believe should not be kept to be bred and produce more than what are here now.

I note from the Miscellaneous (Fees and Duties) (Temporary) Law 1997, that the license fee for dogs is abolished. A Member of the Government passed this to me, and just for the record, it is section 21 which says, "The license fee for dogs is abolished." Maybe that would be a good way to enhance revenue if people had to pay to have a dog. It does speak of dogs being licensed in the Animal Law so it has to be an expense to government for paper work, man labour and everything else; that is perhaps something which the Government could take a serious look at. If it is required to be licensed, it should be licensed, and it is a way of tracing persons who has which dogs and how well they are handled.

My view in looking at the situation is that we should remember the age-old saying that dog is man's best friend. I think this is true to a very large extent. Dogs have some of the greatest uses of any animals in the world, such as hunting. In fact, the police have Canine Units; they are used in the armed forces, and the average household likes a dog for a watchdog, not necessarily an attack dog, but it warns by barking when there may be a stranger approaching.

I honestly think that in Cayman, the way things are going, we will have more and more need for watchdogs in our homes or on our property. However, the proper care is of great importance. I have heard of instances here from persons whose opinions I respect, that we have some types of dogs, the Pit Bulls, the Rottweiller and so on, that are trained to attack. Normally it is always in connection with known location where there is drug dealing, or with persons who are considered drug dealers. So, one can easily see why they would choose to have the more dangerous and aggressive dogs, obviously to repel law enforcement when they may chose to investigate or perform an arrest.

Not many weeks ago I was told of an instance of the police going to a particular place where they were pretty certain drugs were being distributed. The owners of this place simply let the Pit Bulls loose. The police had to run for fear of being attacked. This is not good for a neighbourhood, a community/district or in fact, this country. I believe these factors should be taken into account when looking at what this Motion is calling for.

Alongside the more aggressive and dangerous type of dog, we need to think of the type of dogs found with aged persons in rest homes. These dogs provide therapeutic good and a companionship for these persons. I think we need to keep a balanced view, but

certainly there are those dogs that are aggressive and deliberately trained to be aggressive for unlawful purposes.

I looked at a news release from CNN.com on health, an article of 15 September 2000. It is captioned "*Rottweiler/Pit Bulls Account for Most Fatal Attacks on Humans*". So, there are those types of dogs that cause such harm to people. There have been instances on Walkers Road. Some months ago a dog was let loose on someone who had to flee for fear of his life. The dog chased the man and bit him; the kids were apparently having a joy ride over that. We heard of a child who was attacked and severely bitten on a beach. Rather than just hearing of these things I believe it is right that we do something to put an end to it, by putting the responsibility on the persons who own them with penalties, if these dogs cause damage.

If there is a breed of dog already on the Island and they multiply, the population of that type of dog increases. The Motion is asking in the third part to "consider instituting regulations governing the breeding of any such dogs." One thing we know that is creating such a problem with dogs, on a whole, is that dogs are breeding too much with no one to care for them. It would seem logical to look into the deliberate breeding of aggressive animals in the same way we look at the rate an average dog or mutt breeds.

Having made those observations, I think this Motion has merit. It is something that could readily be dealt with by amendments to the Law. We can make a difference in this particular regard. I do believe if there is going to be a license that there should be a fee. I think the Government should reintroduce that. The question of breeding dogs is one that needs to be looked at. Without question, there needs to be some amendment to bring into effect a leash law, or at least dogs must be on a leash when they are on the public road. It cannot be the way I have seen it on the Beach Bay Road where the dog comes full speed towards you and you brace yourself feeling a certain fear hearing the owners telling you '*do not worry about it, he is not going to bite.*' Well, no one knows that! If a strange dog is rushing towards you it is no use of the owner who is 25-30 feet away telling you that he is not going to bite—you believe he is going to bite—you feel a fear that he will bite. Dogs should be controlled. So, there is a very strong case to be made for the whole issue.

In closing, I would like to pay due regards to the efforts of the Humane Society that seems to be the only entity that is really trying to do anything about the numerous stray dogs on the Islands. I do not have a solution for it and I guess most of them will have to be put down, but certainly I think their efforts should be commended. I give this Motion my support.

**The Speaker:** Does any other Member wish to speak? The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

In replying to Motion 23/01 the Government supports the intent of the Motion and if we look at the way the Motion is worded, and I quote:

**"WHEREAS there has been a ban on the importation of certain dangerous and ferocious dogs into the Islands;**

**"BE IT RESOLVED THAT Government –**

- i. consider modernising this list;**
- ii. consider instituting regulations governing the manner in which such dogs can be taken outside of the owner's property; and**
- iii. consider instituting regulations governing the breeding of any such dogs."**

First of all, in speaking to the way in which the Motion is worded, I just wanted to clear the matter up from the onset. We need to accept that in dealing with some of these matters spoken of in the Motion, they need not necessarily be dealt with via regulations. I think the important consideration in the Motion is that the matters be dealt with. I am simply making a clarification because some of the areas would be via a law. I do not think the mover was trying to limit any actions simply to be done via regulations and not a law. So, in the spirit of that understanding, I want to clear that up so that in the future we are not tied in any dealings that may occur which are thought to be limited via regulations.

Under the Animals Law (1999 Revision), Part 2, section 11, "**The Governor may make regulations prohibiting, restricting and generally regulating the import or export of animals, carcasses and biological products generally and of specific animals, prescribing forms of licenses and fees payable on the issue of such licenses.**"

As we speak to that we will see very clearly that there is scope for a law and also regulations to be made. Not wanting to beat it to death, I just want us to understand clearly that we are going to be dealing with both law and regulations. Once we get past that point we can move into the substance.

A license to import dogs into the Cayman Islands, under section 10, is subject to such conditions as the Chief Agricultural and Veterinary Officer may consider desirable. Since 1989, the Department of Agriculture has published conditions prohibiting the importation of certain breeds or mixtures of breeds of dogs deemed dangerous; that is both to the public and to other animals. These breeds include, but are not limited to: Staffordshire Terrier, Staffordshire Bull Terrier, Pit Bull Terrier, American Bulldog, Rottweiler, Chinese Shar-pei, Japanese Tosa, Bull Mastiff, Mallanois, Dogo Argentino; Neopolitan Mastiff; Japanese Akita; Phila Braseleiro; and Dogue de Bardo.

Those names quoted are at present on this list, but bearing in mind these breeds include but are not limited to these. The list is by no means exhaustive. From time to time the Chief Agricultural Officer has



refused to allow entry of other lesser known dangerous breeds when applications for importation have been received.

While the existing conditions adequately address the importation of dogs, in my view, the Animal Law, as it is now, does not allow for proper control of animals resident and breeding in the Islands.

It is the Government's view that legislation is needed. First: a proper and workable licensing system for dogs to allow identification of owners for delinquent and/or abused animals, and of course, along with that must be accompanying fees. Other Members have mentioned this.

Second: there needs to be a control of all dogs, in particular dangerous dogs, while in a public place, and I think we might refer to that as a leash law.

Third: licenses for the breeding of dogs and, in some cases the prohibition of the breeding of certain breeds of dogs.

Fourth: the sale, exchange and abandonment of dangerous breeds of dogs.

Fifth: the mandatory sterilisation of dogs considered dangerous by the Chief Agricultural and Veterinary Officer. I think there are many who hold this view, but in the interest of the nation it is a view that has to be taken.

Sixth: the eventual outlawing of special breeds of dogs considered dangerous by the Chief Agricultural and Veterinary Officer, for example, Pit Bull and Rottweiler.

Seventh: stiffer penalties for owners of dangerous dogs who place the public at risk by not taking adequate precautions to protect the public from their animals. I think others who spoke before me mentioned this.

These deficiencies in the existing law have been recognised by the Department of Agriculture. To this end a draft Bill has been prepared to amend the Animals Law accordingly. That Bill Is A Bill for a Law To Amend The Animals Law (1999R) to Provide for The Licensing of Dogs, The Regulation of Dangerous Dogs, The Establishment of an Animal Welfare Advisory Committee, The Appointment of Animal Welfare Officers and for Incidental and Connected Purposes. This Bill is expected to be tabled soon and addresses all of the above concerns. It also attempts to tackle the serious problem of animal abuse and animal neglect by redefining the boundaries of what is considered cruelty and for providing stiffer penalties for those who abuse animals.

I refer to the draft Bill and just taking a quick look at the Memorandum of Objects and Reasons, and if you do not mind I wish to quote from the draft, so Members will have a clear indication of the direction in which we wish to go with this Bill.

**The Speaker:** Certainly.

**Hon. D. Kurt Tibbetts:** Thank you, Sir.

Under the Memorandum of Objects and Reasons in the marginal notes of 'Proper Licensing' it states, that Clause 3 repeals and replaces part 5 of the principal Law and deals with the licensing of dogs. Only persons over 16 years of age may keep a dog and all dogs over the age of four months must be licensed.

In the marginal note referring to a Leash Law, it states that the owner of a dog or a person who has custody of the dog must ensure that while that dog is on a highway or other public place, it is on a lead and wearing a collar with an identification tag bearing the license number.

These may appear to be stringent measures to some persons, but because of the history we have encountered with certain types of these animals, we believe it is necessary. Once everybody falls in line, I do not believe it will be a problem. There will be some persons who will be averse to any change, but I think once the system is in place and running smoothly, it will just become part of everyday life like everything else. I believe it is necessary.

Under the marginal note referring to breeding premises to be licensed, the Memorandum of Objects and Reasons says, "**Clause 4 inserts a new Part, Part VA, which provides for the licensing of premises of a business where animals are bred, trained or kept for guard duties at other premises. A person who wishes to carry on such a business must be licensed by the C.A.V.O.**". Again, lining up all the ducks so that the information stream is regularised and the accountability for all actions of these animals is able to be traced.

**"The C.A.V.O. shall not issue such a license"** [that is an operating license] **"unless he is satisfied that (a) that the applicant is a suitable person to hold such a license; and (b) that the premises where the activity will be carried on are suitable. The license will be annual and subject to the payment of a prescribed fee."**

Under the marginal note of dangerous dogs, **"Clause 5 repeals and replaces section 37 of the principal Law. It deals with the keeping of dangerous dogs which are those dogs of a breed specified from time to time for the purposes of section 37 by order of the C.A.V.O."**. And this new section 37 will provide that **"no person shall,**

- (a) breed or breed from a dog to which this section applies;**
- (b) sell or exchange such a dog or offer, advertise or expose such a dog for sale or exchange;**
- (c) make or offer to make a gift of such a dog or advertise or expose such a dog as a gift; and**
- (d) allow such a dog of which he is the owner or which he is for the time being in charge in a public place without being muzzled and kept on a lead; or**
- (e) abandon such a dog of which he is the owner or being the owner of for the time**

**being or in charge of such a dog allow it to stray.”**

It goes on to say that, **“the C.A.V.O. may by order also appoint a day after which no person shall have a dangerous dog. A scheme of payment may be implemented to compensate those persons who arranged for a dangerous dog owned by them to be destroyed before that appointed day.”**

There is one other area I wish to quote within the draft Bill, section 5(3), which reads, **“After such day as the C.A.V.O. may by order appoint for purposes of this section, no person shall have any dog to which this section applies in his possession or custody except (a) in pursuance of the power of seizure conferred by the subsequent provisions of this Law or (b) in accordance with an order for its destruction made under those provisions. But the C.A.V.O. shall by order make a scheme for the payment to the owners of such dogs who arrange for the dogs to be destroyed before that day for a sum specified in or determined under the scheme in respect of those dogs and the cost of their destruction.”**

On many occasions what is heard by the public is not what was said. I want to make it very clear that this section refers to a portion in the Draft Bill, which says that the C.A.V.O. “may”. There is a difference between “may” and “shall”.

I believe that the intention of that section is to allow the C.A.V.O. to have some line of authority within his judgment, to be able to deal with these matters if it is deemed that that is for the good of all concerned.

There are many dog lovers in this country. As was said before, I believe that a dog can be termed man’s best friend. However, like everything else, there are certain areas that need to be looked at in regard to keeping dogs as pets whereby the big picture has to be taken into consideration along with the safety of the citizens. I believe that the vast majority of Members, if not all Members, would be in concert with the thought that there are some basic factors that need to be addressed, that is the safety factor and the area of abuse or neglect to these animals. From time to time we see or hear of horror stories. Not so long ago we heard on the news about a dog being put in a sack and found dead in the water. It was seen from the state of the sack that the dog was alive when it was thrown into the water and was frantically trying to get loose before drowning. Regardless of what a human may think of an animal, there are other ways and means to deal with getting rid of it. That is not neglect, but abuse. In fact, I would term that downright wicked!

So, there are areas of concern. Government is going to put forward the Bill in consultation with Members of this Honourable House. We will move further on with whatever regulations and prescribed fees have to be put into those regulations. I think the Government can support the spirit of the Motion. I just wish for it to be clear that in accomplishing what I be-

lieve we all wish to accomplish, that it will be done both by law and by regulations.

**The Speaker:** We shall suspend proceedings until 2.15 PM.

#### **PROCEEDINGS SUSPENDED AT 12.49 PM**

#### **PROCEEDINGS RESUMED AT 2.37 PM**

**The Speaker:** Please be seated.

Debate continues on Private Member’s Motion No. 23/01. Does any other Member wish to speak? (Pause) If not, does the Mover wish to exercise his right of reply?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

From what I have heard in regards to those who spoke, I think we have had some meaningful debate on what I consider a very serious matter. We were not about to make such a good Motion go to the dogs because some people did not like it!

I thank the Seconder of this Motion for providing his contribution touching on the laws that currently exist. I thank all those who spoke, the Second Elected Member for Bodden Town, and the Government. It is heartening to note that the Government has already drafted legislation. It certainly sounds comprehensive.

I would, however, like to quickly add two things to the thought process of the way forward by the Government: Yes, I agree that a leash law would be advantageous, however I also believe consideration needs to be given to a muzzle law in regard to what are considered dangerous and ferocious dogs. An owner of such a dog may have it held on a leash, but two things could potentially happen: the leash could break, or it could get out of the owner’s hands. I think a muzzle in this regard is also advantageous. Many other places have done this as well.

It is also heartening to note that the Agricultural Department has also not allowed certain lesser-known breeds that may not be on the list to enter into the country. That means they have the data to address the first part of the resolve of this Motion, which is to modernise the list.

I would like to reiterate that because some of these dogs are so strong and so aggressive, just having a fence around one’s yard may not be sufficient. They can dig under the fence, or make their way over it. There may be need to consider stating that they have to be in a kennel on the property.

All too often on American TV we see children mauled to death by these breeds of dogs. I was not about to sit back and have that happen here in Cayman and then bring a motion to this House. This is an attempt to ensure that public safety is a top priority. This in no way is a failsafe approach; none of this will ever be failsafe. From now until eternity people will

always be bitten by dogs, but certainly this is a step forward in the right direction.

I thank the Government for accepting the Motion. I am extremely pleased that they already have draft legislation in place. Thank you.

**The Speaker:** The question is that Private Member's Motion No. 23/01 be passed, Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 23/01 PASSED.**

**The Speaker:** Moving on to Private Member's Motion No. 22/01, Prescribed Decibel Level for Automobile Sound Systems, to be moved by the Third Elected Member for West Bay.

### **PRIVATE MEMBER'S MOTION NO. 22/01**

#### **PRESCRIBED DECIBEL LEVEL FOR AUTOMOBILE SOUND SYSTEMS**

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

I beg to move Private Member's Motion No. 22/01, Prescribed Decibel Level for Automobile Sound Systems, which reads:

**"WHEREAS there has been an excessive increase in the sound level of audio systems in automobiles;**

**"BE IT RESOLVED that Government considers setting a maximum decibel level for stereo systems in automobiles in the Cayman Islands and provide for a penalty for exceeding such level."**

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I beg to second the Motion.

**The Speaker:** Private Member's Motion No. 22/01 has been duly moved and seconded. Do you wish to speak to it?

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

For many years the public has been complaining about what are called "boom boxes on wheels" on the Cayman roads. Yet, during my research I could not find where one of the individuals had been brought up on charges before the courts for disturbing the peace and being a public nuisance.

It is a fact that as soon as some of these individuals buy a car or are given a vehicle, they take out the backseat and replace it with the most powerful and biggest speakers they can fit into that space and

then run around town. The police will stop them and ask them to turn it down; they turn it down, run another 200 feet and turn it all the way back up again.

This is a major problem for other motorists on the road for more than one reason. It is annoying because they cannot hear what they are listening to on their radio or sound system in their car, and it also endangers other motorists because they cannot hear emergency vehicles. They cannot even think straight; their whole vehicle vibrates when they are sitting on the road. Yet, these individuals *get away with murder*, as they say.

I also know of cases where people are asleep in their homes, hundreds of feet away from the public road, are awakened at all hours by these boom boxes.

Maybe we should consider a legislation law similar to the one in Central City, Colorado where, when an individual violates the noise ordinance he is charged a small fine, but he also has to spend three days incarcerated listening to such tunes as Jingle Bells and Christmas Carols and the same volume they played their music.

Up until now there has not been one repeat offender! If such action can get those results, I think we should look seriously at considering it.

The Motion calls for setting a maximum decibel on these sound systems and my recommendation is that the Government pass legislation where no more than 75 decibels can be set as a maximum. In my research I came up with this chart: On a scale of zero to 140, very quiet is from zero to 30; quiet is 30 to 50; moderately loud is 50 to 75; and very loud is 75 to 100; uncomfortably loud is 100 to 125; and painfully loud is 125 to 140. Yet, some of these sound systems have been recorded by some of the traffic officers here in Cayman at 150 decibels. That is painfully loud, it is damaging to the eardrums. I think we need to set a maximum limit on the decibel these sound systems can be played.

The unfortunate thing is that even though our Towns and Communities Law [section 12 (1)] states, **"Any person who makes any noise in any town or district which is likely to cause annoyance or discomfort to any individual inhabitant of that town or district, after having been required by a constable to desist from making such noise, is guilty of an offence and liable on summary conviction to a fine of five hundred dollars for a first conviction, a fine of one thousand dollars for a second conviction and a fine of five thousand dollars and imprisonment for six months for a third or subsequent conviction."**

The problem is that when the officers approach individuals about this noise, they turn the volume down. Once they turn the volume down, it is not an offence. If they do not turn it down then the officer can arrest them. However, once the officer is out of sight they turn the volume back up. If there was a set decibel limit, the officer could measure it, just like a speedometer, and bring them in on charges. Until

now, they are not able to do that. It really ties the hands of the officers.

The other guidelines I found on the effect of sound are, normal speech is 35 decibels, loud speech is 55, sleep disturbance is 30 to 45, thresholds of reported annoyance is 50, serious annoyance is 55 decibels; noise induced hearing loss—negligible risk 75, increasing risk 100 to 150 decibels.

Most of the law is already in place, we just need to put some teeth in it. So, I am asking in this Motion that we set a maximum decibel for the volume of these sound systems. Thank you.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr. Speaker, I only have a short contribution to this very noble Motion. I congratulate the Mover and the Seconder who are the Third and Second Elected Members from West Bay, for bringing it to this House.

In Cayman Brac we suffer from similar situations. I share similar concerns as the Mover of the Motion has articulated.

The Towns and Communities Law that covers this issue at the moment is discretionary. It is up to the discretion of the officer as to what is considered a level of disturbance. We certainly need a decibel level prescribed. I would like to make a submission for consideration by this Honourable House, especially the Mover and the Seconder, that not only automobile audio sound system levels be considered, but also the exhaust.

In many instances cars and motorbikes are suppressed; beefed up to have fancy exhaust systems that make noise of equal or greater disturbance to that of the audio system. I think it is imperative that this Motion and any action in the form of legislation encompass the exhaust systems.

Some of these exhaust systems sound like they are malfunctioning, but that is by design. A Daihatsu can be made to sound like a Mustang. The motorcycles can be made to whistle. I think it is imperative, and I ask for the consideration of the Mover and the Seconder and all Members of this House, to broaden the scope of this Motion to include exhaust noise. I hope the Mover will address that in his winding up.

I have nothing other than my support to add to the Motion and my congratulations to the Mover and Seconder. I seek Members' support in passing this Motion here today. Thank you, Mr. Speaker.

**The Speaker:** Does any other Member wish to speak? The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Thank you, Mr. Speaker.

I thank the Mover and Seconder for having brought this matter to this forum.

The Government is very mindful of the issues that have been raised. Representation from the public in relation to disturbances caused both by vehicles and by occasional and sometimes, unauthorised functions also reach Members of Government. It is a fact that the only legislation currently existing that addresses the issue of excessive noise is the Town and Communities Law (1995 Revision). The Mover earlier referred to section 12 of that law and the fact it mandates that someone who may be perceived by a law enforcement officer as creating excessive noise must first be warned and given the opportunity to desist.

The Mover quite adequately highlighted the difficulties that causes for law enforcement officers in relation to moving vehicles in that drivers will turn it down, move on and turn it up, knowing that their chances of encountering the same officer immediately following is negligible.

In the case of noise from functions at fixed sites, the practice is to approach the site and speak to someone responsible for the music, issuing a warning that will probably not be complied with. Generally when approaching a second time that first person is nowhere to be found and someone else has taken the responsibility, who in turn is then entitled to the same warning. That process can go on and on for a couple of hours while the function progresses and comes to a close, without the same persons ever being faced by a law enforcement officer for a second time and liable for any action.

It is also true that there is currently no description of a maximum decibel limit under that law. There is provision in section 13(2) for the Governor in Council to prescribe decibel limits by regulations. That is actually moving to fruition, in that, the Commissioner of Police has recently acquired equipment for measuring decibel levels. I expect that very shortly, certainly within the next 30 days, the Council will be asked to prescribe limits that will be decided on with the benefit of some practical demonstration of what noise these modified vehicles are able to generate.

While that prescription under the Town and Communities Law will obviously clearly enhance the ability to deal with noise and make it a bit easier for law enforcement to deal with noise raised by vehicles, it will be necessary to look at different geographical dimensions to the decibel levels we set as maximum limits. Sound obviously diminishes as we go away from the source. I expect that decibel levels on a fixed site would be set relative to the property boundaries, whereas in a vehicle the level may be set at some distance from the vehicle which would be relatively close and an offending vehicle can come within five or six feet, or less, of another vehicle that does not want to be necessarily listening to the same noise.

The Second Elected Member for Cayman Brac and Little Cayman raised the issue of other sources of noise that can emanate from a vehicle. I do not see any reason why that would not be covered by the same prescription of maximum decibels we set. If we

simply set the levels for sound, regardless of how it is generated, it should cover all. I am glad he raised it because that is a type of noise that we would want to cover. I thank him for raising that.

While Council will be able to set these limits, consideration will have to be given as to whether this provision that entitles offenders to a warning should remain in the legislation. Subject to the Government's decision as to whether it should remain or be purged, a noise offence would be similar to any other offence—if you offend, you are liable to prosecution. It would be a decision that the Government would have to take and if that requirement for a warning is removed, then it will require a small amendment to that Law.

However, Government is pleased to accept the Motion. It is an issue that we are working on, and one that we would hope, in the very near future, will be adequately addressed by the actions in train. I thank Members for their support and comments on this issue.

**The Speaker:** Does any other Member wish to speak?

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you Mr. Speaker.

I rise to support Private Member's Motion 22/01. It is a very worthwhile Motion that has been brought by the self-termed "freshmen" and I give this my full support.

I remember in the number of years I spent at the Glass House on the third floor, sometimes I could literally feel the building shake from cars crossing in front of the Immigration [building], ultimately passing the police station, and I often wondered why this was not picked up.

Some of our young legislators have been questioned as to why some of these Motions are being brought. I think we need to take our hats off to these young legislators. It is incumbent on us, as residents of this country, that when we see something beginning to get out of hand, not to wait until it is done before we take action. This is what I am seeing from the two Members of West Bay and the Member from East End doing in Motions they have brought and seconded to this House.

I support what the Second Elected Member for Cayman Brac and Little Cayman said about noise pollution; it is very timely. I am glad government has accepted it and is taking the necessary action.

Sometimes when passing some of these vehicles on the road I have to wonder whether or not I am downtown during Pirates' Week on the final Saturday night. I have no problem with music but there must be limitations because of road safety. It can impede the traffic safety on our roads. I support this Motion.

**The Speaker:** Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

I would like to thank the Government for accepting this Motion and I thank Members for their support. I would like to say that we are asking to have decibel levels set for automobiles. We should also set them for parties at people's homes where they may disturb their neighbours.

I think this Motion is timely because of the many complaints we have had over the years. If it is approved and Government institutes this level, I suggest, recommend and encourage Government to get the type of decibel meter that can be downloaded into a computer where the date, time and the decibel level is recorded so there can be no question in court.

In closing, I would like to ask all Members to give their support to this important Motion.

**The Speaker:** I shall now put the question on Private Member's Motion No. 22/01. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 22/01 PASSED.**

**The Speaker:** Moving on to Private Member's Motion No. 21/01, Airing of Mature Audience Television Programmes By Licensed Television Cable Operators In the Cayman Islands.

The Second Elected Member for West Bay.

## **PRIVATE MEMBER'S MOTION NO. 21/01**

### **AIRING OF MATURE AUDIENCE TELEVISION PROGRAMMES BY LICENSED TELEVISION CABLE OPERATORS IN THE CAYMAN ISLANDS** *Withdrawn*

**Mr. Rolston M. Anglin:** Mr. Speaker, I beg to withdraw Private Member's Motion No. 21/01, but with the Chair's indulgence, I would like to read the Motion and provide a few brief remarks.

**The Speaker:** Please continue.

**Mr. Rolston M. Anglin:** The Motion is entitled, Airing of Mature Audience Television Programmes by Licensed Television Cable Operators in the Cayman Islands.

**"WHEREAS certain inappropriate viewing material (for example Sex in the City, Queer as Folk, G-String Divas and Music Videos) is aired on Music Television (MTV), VH-1, Black Entertainment**

**Network (BET), Home Box Office (HBO) and Showtime at hours before 11 pm on the CITN Cable Television package;**

**“BE IT RESOLVED THAT, in regard to licensed television cable operators in the Cayman Islands, Government considers instituting a review and amending or introducing the necessary legislation to ensure that all such mature audience material is aired after the hour of 11 pm.”**

I would like to add that the specific types of programmes I mentioned in this Motion were those that I received complaints about over a period of time from persons in our community who feel that some of these are inappropriate to be aired at such early hours.

I certainly realise that with music videos, in terms of showing them at a particular time, there would be inherent difficulties. One out of every ten may be offensive and there is no readily available method for cable operators to know this here in Cayman. That is because they do not operate as a cable operator would in countries like the US where they are the operator and everything is derived from your particular station and company, which you then feed on to your subscribers. We actually receive a feed from another country into Cayman. These were put into the Resolve. It had to be highlighted because I have had so many complaints. Upon receiving them, every once in a while I took the opportunity to view some of these myself.

One has to wonder why we are so surprised at where the country is headed morally. I am not saying this is the sole reason, but possibly a major contributing factor.

I was shocked to see things on at early hours, predominately around 3 to 4 pm when certain Rap videos show people in long strange looking limousines 30 to 40 feet long, with swimming pools, and persons scantily (to say the least) dressed.

This Motion was not seeking to be an alternative to parenting. It takes parents to monitor what happens in their own homes. This Motion seeks to ensure that shows in Cayman of a particular nature were shown after a specific hour.

We only need to look. . .

**Mr. Alden M. McLaughlin, Jr.:** On a point of order.

#### **POINT OF ORDER**

**The Speaker:** May I hear your point of order?

**Mr. Alden M. McLaughlin, Jr.:** Is the Member withdrawing the Motion or speaking to it? If he is speaking to the Motion, I and other Members would like an opportunity to debate it.

**The Speaker:** It was my understanding that he was making a brief explanation prior to moving a motion for the withdrawal.

The Second Elected Member for West Bay, please continue and make it brief.

**Mr. Rolston M. Anglin:** Thank you Mr. Speaker.

I am a reasonable person, like all my Honourable colleagues in this Chamber.

Two points and it will only take approximately two minutes. Firstly, the United States only allows these materials to be shown at specific hours, that is, after 10 pm. However, in Cayman we have a quandary in that when they go on daylight savings time they are shown here one hour earlier. So, after having received specific knowledge of the great difficulties that may be encountered technically in terms of what the Motion seeks to do, I am ready to withdraw the Motion. I am encouraged because there are some Members of this House who are open to the notion of reviewing whether or not we should go on daylight savings time here in Cayman not only for this issue, but others, and those are issues for separate debate should they come to this Chamber.

Secondly, it is my understanding from the Ministry that the cable station has agreed to do certain public service work to educate their subscribers on how to utilise the parental locking capabilities to help to address this issue.

I thank you, Mr. Speaker, and my colleagues for their indulgence.

**The Speaker:** Would you move a motion under Standing Order 24(14) that this Motion be withdrawn?

**Mr. Rolston M. Anglin:** I move that Private Member's Motion No. 21/01 be withdrawn.

**The Speaker:** In accordance with Standing Order 24(14) the Motion has been moved that Private Member's Motion No. 21/01 be withdrawn. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 21/01 WITHDRAWN.**

**The Speaker:** Moving on to Private Member's Motion No. 20/01, Prime Lending Rate, to be moved by the Second Elected Member for West Bay.

#### **PRIVATE MEMBER'S MOTION NO. 20/01**

##### **PRIME LENDING RATE**

**Mr. Rolston M. Anglin:** Private Member's Motion No. 20/01, Prime Lending Rate, standing in my name reads:

**“WHEREAS the New York Prime Lending Rate is by definition and practice in the United States of**

**America a base used for short term business loans;**

**“AND WHEREAS the New York Prime Lending Rate is used as a base for lending institutions in the Cayman Islands;**

**“AND WHEREAS the New York Prime Lending Rate as at August 28, 2001 is 6.50 percent and the 30 Year Fixed Mortgage rate is 6.51 percent;**

**“BE IT RESOLVED THAT Government considers mandating that lending institutions in the Cayman Islands use the same base rate for their loan products as is used in the United States;**

**“AND BE IT FURTHER RESOLVED THAT Government consider instituting Usury legislation to provide for maximum spreads on loan products in the Cayman Islands;**

**“AND BE IT FURTHER RESOLVED THAT Government investigate the feasibility of making the Monetary Authority responsible for setting interest rates in the Cayman Islands.”**

**The Speaker:** Do you have a Seconder?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.  
I beg to second the Motion currently on the floor.

**The Speaker:** Private Member's Motion No. 20/01 has been duly moved and seconded. Does the Mover wish to speak to it?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you.

Mr. Speaker, for some time now, and when I say “some time” I mean many years, people in this country have complained vigorously about the cost of living. When one speaks about the cost of living in these Islands there are a few things that quickly come to mind. Firstly, the cost of housing and financing your housing, the cost of electricity, the cost at the super-market and the cost of telecommunications in these Islands. Certainly, most business entities in this Island would be involved in some form of financing from a banking or lending institution. So, there would be certain costs that each of these companies must bear that inevitably have to be passed on to the consumer in this country. Certainly, the matter of financing is no exception.

Let me make two points very clear: Where the Motion speaks to the New York Prime Lending Rate being used in the Cayman Islands, for clarity, what happens is that the lending institutions here simply receive knowledge of change in that rate and they utilise that same rate and call it, from my understanding, the Cayman Islands Prime Lending Rate.

The last resolve speaks to the Monetary Authority being responsible in setting lending interest rates. Certainly, this matter is speaking specifically to them simply being the body that disseminates the interest rates based on what the practice of the country is. For

example, if we were to continue in the current practice whereby the New York Prime Rate is utilised as a base for all lending, it would be a matter of the Monetary Authority officially receiving notice of the change and disseminating that notice to lending institutions in the Cayman Islands. Currently, the banks act in concert on this matter and whenever there is a change, they simply make an announcement and it is usually accompanied by a press release in the *Caymanian Compass* with all of their names attached to it stating what the new Cayman Prime Interest Rate is.

I am not advocating that the Monetary Authority at this stage of our country's history and development be charged with formulating the interest rate structure in these Islands. After all, I think we would all agree there are certain fundamental criteria in these Islands that may be lacking in terms of being able to make that bold leap forward. Certainly, the rudimentary nature of the economy of the Cayman Islands would be the first thing that we would point to in that regard.

We are not an economy that has the hallmark of wealth, manufacturing capabilities or defined taxation policies whereby we can say we have a body that would be charged with fiscal policy—as is the Federal Reserve in the United States—utilising interest rates to ensure that the economic policy of the political directorate would somehow transcend into economic reality, as prevails in that country and many other more developed countries, with mature financial markets and economic bases.

When we look back at this country's rapid development over the last 40 years or so, and look at the first banks coming to Cayman, it is my information that certain generous concessions were given. Things like Government not being involved with interest rate setting; that there would never be a central bank in this country; things that seemed to have stacked the deck in favour of the banks and lending institutions here in Cayman.

A similar motion trying to get to where this Motion is trying to get was brought to this House one year ago, in this same September sitting by the Honourable McKeever Bush. That Motion sought to have negotiations between Government and certain lending institutions with the view to ensuring there are equitable interest rates being passed on to the consumers of this country.

When we look at the policy the lending institutions have instituted in Cayman, there are a number of matters that come to mind. First, we recognise that the Cayman Islands dollar is certainly pegged to the US dollar and is backed by certain US Government securities. That would then explain why the lending institutions in these Islands would utilise a base rate that comes from the USA. The prime lending rate is a rate that would be used to gauge things like lines of credit, and certain other short term lending products.

Certainly, a 15, 20, 25, or 30 year mortgage, or a ten year property loan, any such loan that most of us would consider long term (something over 12 months)

would not use the same rate as the US for pricing that particular product. The banking institution in the US has certain advantages over a place like Cayman. When we speak about mortgages in particular, we see there is an established secondary market for these products; that is, a customer will come into a bank, receive financing for a house and that loan product itself can then be sold on to other institutions. Certainly, that feature in itself being present in the US market will lend itself to having interest rates, mortgages, being at a certain range of levels.

When we consider the way in which Cayman has grown over the past years, and the amount of wealth, relatively speaking, that has come into the hands of a much broader base of persons within the community we quickly see that the market itself, for mortgages has grown tremendously.

I think even the banks would admit with their risk management policies and practices that on their normal portfolios they would have had some favourable experience in their lending practices and loan books over the years. I say their normal portfolio because it has come to my attention, not only from my former profession but more recently again from persons involved in this business of lending on money, that there is one specific segment of their loan book that has experienced much higher than usual loss rates, and that is the Government guaranteed scheme. It is my understanding that the loss rate on that particular product is some 30 to 50 times higher than the loss rate on the ordinary loan book of certain lending institutions in these Islands.

Getting back to the growth in terms of the market of those persons who seek financing, I think we can all acknowledge that it has grown tremendously over the last 30 years in these Islands from being virtually non-existent to now being booming. In fact, there are many of us who might feel like Cayman probably has one of the highest debt servicing ratios of many countries in this entire world.

I recognise that when it comes to pricing loans and setting interest rates, the banks must do their background checks and risk profiling on their applicants. They should also be able to set the loan rates at the level they feel is fair for a particular loan and will naturally look at the perceived risk that they see attached to a specific individual. What is ironic is that persons who are less stable economically usually have to pay the higher rates of interest than persons with means. Of course, this is a phenomenon that is not just restricted to Cayman. However, what it simply means is that those who are more able to pay get more favourable terms and those who are less able to pay, typically cannot negotiate those favourable terms. There are a lot of reasons behind that and this Motion is certainly not the place to speak to those particular reasons.

We then have to go on to what exists in detail in the market in Cayman today. We have had a great increase in this loan market, the demand for loans.

We have also had significant numbers of people who have moved to this country who themselves demand loan products. A good number of them are more able to secure housing and loans at more favourable terms.

Now, we then have to move on and look at what has happened regionally in terms of banks and bank development in the Caribbean. I have been told on more than one occasion over the last seven years—ever since my first audit of a major banking facility in Cayman which was involved in mortgages to the general public—that the Caribbean is looked at as a region by head offices of certain banks. In other words, they attach a certain risk ratio globally and then break that down by region; saying '*North America here is your general risk profile, the Caribbean here is your general risk profile, Central and South America here is your general risk profile*'. I was told that the Caribbean attaches a perceived higher level of risk and there were many reasons given for that.

I would like to say that in this sophisticated world we live in, certainly when an audit firm takes on a client they do not simply look at the client's region and attach a specific risk profile. Yes, the country has something to do with it, but you look at the individual company, the management, and then you develop your risk management systems and base your audit fee on that. Something very similar happens in a bank: a person walks in the door, the bank does a background check and they attach a certain risk profile to that person.

I have been told the Caribbean is also being looked after but this has a number of drawbacks to that approach. The Caribbean has some separate and very distinct islands in terms of economic development and relative economic wealth. Certainly, giving a mortgage in Haiti will attach significantly more risk than giving a mortgage in Cayman, irrespective of the economics of the person. You have to look at the political uncertainty alone in that country.

Caymanians; persons who come here from abroad; the various legal and accounting firms; banks; trust companies; the government; everyone working in tandem have worked long and hard to develop this country to where it is. The relative political tranquillity in this country has a lot to do with our economic success. Certainly, when we speak to loans and lending, I find it a bit strange that people would be talking about the Caribbean and the risk associated with the Caribbean and not talking about Cayman. It is not like they are coming into Cayman tomorrow and they do not have any empirical evidence or any detailed and concrete working knowledge of the persons here.

Certain financial institutions have been lending money here for many years and have been able to develop their risk management systems to a level where they should be able to look at Cayman as an Island, as a group of people, and be able to lend their monies appropriately.



There are those who would say that sounds like a smokescreen. . .

**The Speaker:** May I interrupt you?

I do not presume that you will be finishing very soon. Is it the wish that we take the afternoon break, or should we waive the break and continue? I am in the hands of the House.

Proceedings are suspended for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.52 PM

#### PROCEEDINGS RESUMED AT 4.32 PM

**The Speaker:** Please be seated.

Debate continues on Private Member's Motion No. 20/01. The Second Elected Member for West Bay, continuing.

**Mr. Rolston M. Anglin:** Thank you.

This Motion certainly is one which has stirred up some debate in the community. It is my understanding that it has stirred up significant debate in the banking community. One thing that has to be borne in mind and made abundantly clear in this debate is the whole notion of risk analysis, and for banks to be able to have their personnel sit with every potential lending customer and come up with what is the appropriate interest rate, as far as they are concerned, for taking the risk in lending out their money.

The second resolve speaks to Usury legislation to provide for maximum spreads on loan products. As someone recently said, it really does not matter too much to them what base the banks use. What they were really concerned about was what spread they tack on to their loans.

While that comment has a lot of merit, one of the things I would like to add is the fact that I believe as the first resolve calls for, if we are going to use the US for the model Cayman is going to be based on, in terms of foreign exchange rate and interest rate policy, that we should use the appropriate rate.

We should look to the US and utilise the rate they use and are allowed to use for particular types of loans. The banks must be able to do risk profiles on their customer and charge an appropriate interest rate. It is my firm view that we cannot sit here and say *'Well, you can only use the 15 or 30 year Treasury Bond Rate for example, for a mortgage as the base, and on top of that all you can have is 2 percent spread'*. Banks must have the latitude to charge the appropriate interest rates for each individual customer. That goes in tandem with the fact that each customer has to do his best to build up credit worthiness so that they can negotiate the appropriate spread for their particular loan.

You might find a first time land or homeowner going to the bank to borrow who does not make the most money in the world but meets the debt-servicing ratio of the bank, and the bank gives him a particular

spread. That spread must allow the bank to get the reward that is fair for the risk taken. Naturally, there will be inherent problems, but that is where the specific individual has to check around.

Once that person gets a rate, and it may not be the most favourable rate, after they have paid their loan, let us say in three to five years, it is then their duty to go back to the bank and renegotiate saying that they have proved to be less risky than initially thought. It is their duty to shop around.

Any bank that is truly committed to giving any form of long term loan would recognise that there is nothing better than having a customer who will make their monthly payments on time all the time. There are certain concessions that any bank would give in that regard.

Usury legislation, in my view, is the key to this entire move. Whereas there can be inherent problems in terms of the spread being what some persons consider excessive. What the Motion seeks is, as in countries such as the US, for there to be a reasonable cap above which spreads cannot go, but giving the banking institution the latitude required to be able to properly price its loan product.

I certainly will not claim to have the answer of what that amount should be. Certainly, the banks sitting down with government at the same table . . . they are the lenders. They have a good idea based on all the evidence they have accumulated over the years as to what the rate should be.

When the Motion speaks to the lending rate used as a base in Cayman, the New York Prime Rate is simply called here the Cayman Islands Prime Rate. That is a very important point for Members and the listening public to consider. The New York Prime Lending Rate, and the Federal Reserve Prime Lending Rate are synonymous. Once that rate is announced by the Federal Reserve Chairman it automatically becomes the Cayman Islands Prime Rate. There is no local economic basis for the Cayman Islands Prime Rate. If there were, then under the third resolve we could speak to the Monetary Authority formulating that prime rate. However, as I outlined earlier, there is not the economic system here, the maturity of the economy and the financial market in this country locally, to do that. That is my humble view.

If we are going to simply look at the US and pick a specific rate to be utilised as our prime rate and our base for lending, upon which spreads are added, all this Motion is seeking to do is to have the banks utilise the same base utilised in the USA. For example, if banks were to get into 30-year mortgages, which is the standard in the US, the 30 year Treasury Bond Rate is what would be utilised as the general guide for your rate. After all, if we look at the third whereas of this Motion, the prime rate as at August 28 was 6.50 percent. The 30 year fixed mortgage rate was 6.51 percent. If that prime rate had anything to do with the cost of funds of banks why would they only have .01

percent of a spread? The 30-year Treasury Bond Rate is used as a base.

This is still out of Economics 101, but also for any of us who watch programmes such as MSNBC and CNBC, whenever interest rate debate comes up, we often hear them talk about what the appropriate bases are, and what bases are utilised in the USA. As at August 28, the 30-year Treasury Bond Market Rate was 5.38 percent. Now, the 30-year rate I have quoted here makes some semblance of sense. If our general base utilised was 5.38 percent and the 30-year rate at that date was 6.51 percent we see where there is on average some spread of 1.13 percent. Naturally, within that you would have people with larger spreads, much larger than 1.13 percent—typically up to 3.5 percent.

There is also a big block of good performing loans in that country which allow those particular borrowers to get more favourable terms; the same negotiation I spoke to earlier. They have proven track records so they can go out and get rates that are much lower. Obviously, with any average, if you have a much larger number of small numbers in an average, and a few large numbers, obviously the average will be much closer tied to the smaller numbers. It is simple math; one plus one is two, plus 10 is 12 divided by 3 is 4. The average is 4 but one of the integers in that equation is 10. So, the average is significantly below 10; it is much closer than the two ones because there are more of them—that is the point I am trying to make.

Even though we see the spread, on average, is just over one that in my humble submission is not to be taken for what is the reality of certain economic factors that may prevail in this Island; things like the fact that a lot of our lending is based predominately on the equity in the real estate itself. In other words, persons are not necessarily going to the bank with a \$100,000 for a fixed deposit at that institution, and then get a loan for a mortgage. They are saying to the bank, *'I want to build a house. The valuator has said at the end of the project it will be worth \$250,000. Can I have \$200,000 to complete the construction?'* All the bank has is the valuation of the real estate. Of course we recognise that the real estate market in this country, or any country, is one that can change very quickly. Other things being equal, what is the value of a square foot of land that you are standing on? It is worth what someone is willing to pay you for it. So, all things being equal, \$100,000 in the bank is \$100,000.

I believe that when we speak to the second resolve of this Motion that the banks would have to be consulted, they have empirical evidence that would suggest what the reasonable usury rates are that should be allowed. At the end of the day, there are two very important parties having to be represented in this debate: the borrowers and the banks that have a business to run and to make a reasonable profit on the risk they are taking.

When we speak of loan products, we are not talking about walking into the grocery store and picking up a gallon of milk. We are talking about walking into the bank and asking them from their collective savings, less the general reserve criteria stipulated by the Cayman Islands government, to take a portion of that and lend it to you for a specific period. You must remember you are asking the bank to lend money to be able to do a specific task. In a lot of instances, the task is not necessarily an economic one; it is to build a house, to buy a car, to buy a boat.

So, they are not buying into a supermarket. They are not lending the money on to a supermarket running a business in the greatest of numbers. The numbers are predominately on the personal lending side. They are lending you money for a specific product you are going to build or buy and you then are going to work to repay that money over a specific period of time. The banks must be allowed to run a business in this country.

This Motion has no intention of taking that ability away from the lending institutions. It is asking the lending institutions to utilise the appropriate base rate used in the US, and then on top of that not to charge excessive spreads protecting the consumer from excessive spreads based on their economic situation. In other words, if a person goes into a bank and is not of the highest standards of means, he basically has to take it or leave it. That person is saying *'Prime plus six, prime plus three, prime plus four; that is what I have to take because I have to get a house for my family and I need to get into my house'*.

I do not believe this Motion in any way is seeking to make paupers out of banks, to ask banks to lend their money for little to nothing and not be able to make a profit. Who would operate a bank if that was the case? There would be no economic incentive to operate a bank.

In all phases and stages of life there are crossroads. The crossroads come between the human side, the consumer side of things, and the motivation of persons engaged in economic activities. That motivation is usually to make a profit.

The third resolve speaks to the Monetary Authority setting interest rates. If the Government accepts this Motion that would be based on whatever they would seek to have happen in the first resolve. They would simply get the base from the US and that would be the base they would publish as the base rate in the Cayman Islands. I think it is a more palatable way to have interest rates announced to the public in this country, not to just see the names of six banks, all on the same press release saying *'this is the interest rate and the base rate that will be utilised in the Cayman Islands'*.

**The Speaker:** We have reached the hour of interruption. Would you be finished in a few minutes?

**Mr. Rolston M. Anglin:** I have a few more points to make. I cannot say that I will finish in the next few minutes.

**The Speaker:** I will entertain a motion for the adjournment of this House.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** Before putting the question, I want to correct a procedural matter. On the moving of the Motion to withdraw Private Member's Motion No. 21/01, I did not get a Seconder. I would like to move that Motion again and have it done properly.

The Second Elected Member for West Bay, would you move the Motion?

**Mr. Rolston M. Anglin:** I move the Motion to withdraw, Private Member's Motion No. 21/01.

**The Speaker:** Do we have a Seconder?  
The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Mr. Speaker, I beg to second the Motion.

**The Speaker:** The question is that Private Member's Motion No. 21/01 be withdrawn. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: PRIVATE MEMBER'S MOTION NO. 21/01 WITHDRAWN.**

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.34 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 6 SEPTEMBER 2001.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**6 SEPTEMBER 2001**  
**10.31 AM**  
*Second Sitting*

**The Speaker:** Good morning. I will invite the First Elected Member for Cayman Brac and Little Cayman to say prayers.

**PRAYERS**

**Mrs. Julianna Y. O'Connor-Connolly:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth II; the Queen Mother; Philip, Duke of Edinburgh; Charles Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

**Proceedings resumed at 10.31 am**

**The Speaker:** Please be seated. The Legislative Assembly is in session.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First Official Member who is presently Acting Governor, the Third Elected Member for George Town and Fourth Elected Member for West

Bay who are currently overseas on a CPA conference in Australia.

The next item is Other Business—

**Mr. Gilbert A. McLean:** Mr. Speaker—

**Hon. D. Kurt Tibbetts:** With leave of the Chair, I would like to apologise to the House because there are no questions on the Order Paper.

The Business Committee has met and tried to have questions lined up on the Order Paper so that we could get them answered as quickly as possible. Unfortunately, the system has dragged a little bit and Ministers and Official Members have not been able to put forward questions. However, I can assure this Honourable House that we will do our best to have enough for tomorrow to make up for today, and more, and try to keep it in line as best as we can thereafter, Sir.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, regarding questions, I have a concern about the lack of answers to questions being brought to the Honourable House on time. In the two previous Meetings this has been the case and I am led to wonder what is happening. Is it the case that the departments or the persons having to produce the information are so uninformed that they do not have the information readily available, or is it the case that for some unknown reason it is being delayed?

I would like to bring to the attention of the Chair that one of the most important times in the process of the Legislative Assembly is Question Time. Certainly in the past, Civil Servants knew immediately that when a question was received they should prepare the answers for their Ministers. I would like to protest the lack of readiness and presentation of information that is asked for in questions. We do have to submit questions ten days ahead of the opening of the House and, at least, there should be some that are readily available. I believe that some did not require that much research.

I would ask that the Chair take note of it as well as the Government.

**The Speaker:** Moving on to Other Business, Private Member's Motion 20/01, Prime Lending Rate, continuation of debate thereon.

The Second Elected Member for West Bay continuing.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

#### PRIVATE MEMBER'S MOTION NO. 20/01

##### PRIME LENDING RATE

*(Continuation of debate thereon)*

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

In continuing my contribution to this Motion, we need to bear in mind a couple of things regarding what I think is a very important matter as it relates to Cayman. We all recognise that our financial markets are not as mature as the more developed countries in the world. So, when we look at capital and the availability of capital in regard to personal and business loans, we do not have the sophistication that exists in places such as the United States.

For example, on the business loan front and capital availability to businesses, we do not have the type of markets with great access to public funds by way of public offerings, initial public offerings, so when it comes to the availability for businesses to raise funds, there are usually two fronts: people either get together in a joint venture, one person comes up with an idea or has an existing business he wants others to invest in, so he does his own lobbying and comes up with a group that will put monies up. The other main alternative is to go to the banking institutions and get the banks to buy into your plan and provide you with a business loan.

On the personal front, as a government we certainly do not have the available capital to easily put together certain types of state-funded lending organisations such as those that exist in the US, for example, the General National Mortgage Association, known as Genny Mae. In that country there is access to funding by persons who own houses and there is also the creation of secondary markets in the mortgage and loan arenas.

I come from the financial arena and have had considerable experience there. I recognise that in the running of any country, government must always be cognisant of ensuring, as best it can, that market forces operate and determine things like prices of products. In this case, the interest rate is the price of money.

However, given the size of Cayman and the size of our banking community, when compared to countries like the US, we see that even in much larger markets where there is a lot more competition between the banks by sheer numbers, and by the size of the market available to them, even their governments over many years has grappled with this issue of what level of intervention they should have within this sector.

There was a time when through the Glass-Steagall Act banks were not allowed to carry out

certain other businesses. That Act stood for many decades.

In regard to the second resolve of this Motion, speaking to usury and usury limits, almost every state in the US has certain prescribed usury limits. By definition, the usury limit sets out some statutory maximum that the government of that particular State feels lending on a whole cannot go above.

Over the last decade, the federal government of the US passed federal legislation that has allowed the banks in all States to not have to conform to certain State usury laws. The usury laws in existence at present are for all other forms of lending. For example, if I were your neighbour and you asked me to lend you \$100, there is a prescribed maximum interest rate in most States that I cannot charge above maximum interest rate.

The premise was that the major banks, banks that usually have "NA" at the end of their name, which implies a national association, were allowed to lend at certain prescribed rates above the federal discount rate. What happened then was a sequence of events which I am sure the federal legislators themselves did not foresee when crafting the legislation.

What has come about is an intense battle over predatory lending. Once the federal government gave the major lending institutions the ability to go into the market, lend and structure loan products uninhibited, they have certainly found that the result on the consumer of the US (and usually we are speaking of the "small man") has been negative to say the least. In fact, since this has happened, in 1999 North Carolina became the first US State to start to take corrective action. They recognised what was happening to the consumers within the country. Many other States have followed suit and are currently in the process of following suit.

There are a number of things that happened and some of those same practices are being carried out here in Cayman. I had a constituent who came to me with a loan agreement that was entered into with one of the major banks on this island, one of the six clearing banks. The person's loan calls for interest to be paid over a three-year period. At the end of three years they were to repay the bank a lump sum of some \$48,000. These are called "balloon-payment loans." This person and his family certainly are not well to-do individuals.

As most States including the State of North Carolina and most federal legislators would admit, balloon-payment loans are reserved for individuals with some form of means. How can the average person be expected to pay interest and loan payment over a prescribed period and live, yet also be able to come up with such a large payment at the end?

Another practice carried on in this country, which became a major problem in the US over the last decade especially, is a prepayment penalty. In other words, let us say something positive on the economic front happened in a person's life, and they could start

prepaying some of their mortgages. A lot of these mortgage agreements are such that they have excessive penalties for prepayment.

Let us say a person of modest means makes his payment on time year after year. When a bank takes that risk, we all acknowledge that the interest rate for that person versus a person of means would be higher. However, what happens when that person has paid for five years consistently, not missing one payment, never late with a payment? Should he not be rewarded? He has now established a track record. Once that is established, that person can go back to that bank, or another bank, show his track record and say, *'My interest rate was X, I have now proved that I can pay and that my level of risk has been reduced, I would like you to take over my loan.'* However, prepayment penalties punishes the person for being a good paymaster and proving to the lender that he is not as high a risk as initially perceived!

There is also a practice called "flipping." Persons of lesser means, who have certain loans, in particular balloon-payment loans, once reaching the set period where they must come up with the lump sum (which is usually large), the bank eagerly refinances that original balloon payment, which by the way is usually within a couple of thousand dollars, at most, of the original principal.

In other words, if you took out a loan for \$150,000 and agreed that after five years you would pay \$145,000 back to the bank. However, for those five years all you are paying is interest. Come the five years, how are you going to come up with the \$145,000? You cannot, unless you are a person of means. What does the bank gladly do? You have paid them for five years without missing a payment, so, they gladly finance the \$145,000! These practices have been banned in North Carolina. There can be no prepayment penalties for loans under \$150,000. After all, those are the people we would consider in Cayman the "small man."

When we look at this issue and compare where Cayman is, which is absent of any such legislation, and we look at other countries, it is only wise to learn from the mistakes of others. Certainly, this is an area just like a lot of other areas where we will not get perfect legislation or negotiation and a perfect end result, but at least persons are made to understand you are serious about doing things in a fair manner, not unconscionable. As I said yesterday time and time again, banks in this country serve the most useful of purposes. They provide us a safe place to put our money; they provide us with the capital we often cannot come up with for things that are important to human existence, such as mortgages. For taking the risk, for managing our money they must be rewarded in a way that allows them to make a decent profit. No one is arguing that fact. I certainly am not!

However, from the complaints I have gotten, and from my personal experiences, and in looking at what prevails in these islands, I believe it is time for the

Government to have meaningful discussions with the banking industry to come up with an ideology that all can feel is fair and equitable.

Another of my constituents paid on a mortgage for 15 years. That particular individual's mortgage was for 15 years. However, some six months before the mortgage was supposed to be fully paid, he got a letter from the bank advising him that on an original loan of \$55,000 they were willing to finance the amount he would have outstanding six months later, which was the end of the loan term over the years through negative amortisation on his loan. He then still owed \$27,000. That is unconscionable in my view.

Let me make this clear: From my research that sort of practice is not prevalent in every bank here on this Island. I have gotten complaints about two particular banking institutions. I have had persons bring me their amortisation schedules, once they requested them from the banks. Negative amortisation is yet another problem that the federal authorities in the US found to be prevalent. Again, North Carolina, and other States following suit, has put in their regulation that negative amortisation is illegal.

This whole issue, in my view, is centered around interest rates, but there are much wider questions that government must be able to ask of the banks and negotiate with the banks to cease. It is my belief that there are many practices in the banking industry that our government is probably not aware of. That speaks to the fact that we have taken a hands-off approach, going on a laissez faire theory of economics. That is a good theory, the very cornerstone of free market economies. Certainly, I am a person who believes in as little government intervention as possible. As far as I am concerned markets are the markets and government is government. However, you cannot find one country on the face of the earth where governments have not had to institute regulations in some form or another. You probably cannot find any country in the world with a government that has not instituted market-distorting practices such as subsidies to certain sectors.

Yes, laissez faire is a theory—the cornerstone of the free market system. However, at the end of the day no government can ever dream, in my humble view, that it will be able to sit back and the market is going to operate perfectly and certain situations, such as national security, will not come where they themselves have to do certain things in the best interest of all concerned—they and their citizens.

When I speak to usury legislation, and I use the term "lending institutions," that includes everything and everyone who lends money in this country—not just banks; not just the credit union, but also persons who lend money. We have to ensure that persons who borrow money in this country are not raped.

On the matter of spreads above which banks lend on money, I think there are few in the banking community that would accept, if given a reasonable spread; they would have no problem operating. In most

US States that I have studied, banks are given adequate reign to make a healthy profit. The maximum spread stipulated is one that allows them negotiation so they can lend on money. The view taken and still held by those State governments for instituting and maintaining such legislation is that given the spread and given maximum rates, anyone who is going to lend above that amount would be taking on a significant risk anyway. If a bank does a risk analysis and finds it has to charge a person 20 percent on a mortgage; that is more than likely a person who should not get a mortgage in the first place.

That is the third problem that has been prevalent in the US since the federal government relaxed its policies. Inappropriate people have been given loans. In a lot of instances they were given refinancing whereby they already had a portion of equity in their home built up, or persons may have owned undeveloped property, so they had equity in land. Once you lend on to that person, and they have to be charged an exorbitant rate they are so risky, there are those who view that as unethical lending because they are lending to a person that will more than likely fail and not be able to maintain the payments. Who benefits in the long term? Who loses? Certainly, the consumer is the loser in this instance.

Regarding the base rate, there are many that will argue back and forth as to what is a more appropriate base rate. In fact, there are those in the international financial community who have held the view that LIBOR (London Interbank Offering Rate) is probably one of the more sound rates there is internationally. It is one of the only ways in which the financial community has developed the mechanism to come up with the true cost of money in an international setting, not on a local setting in any given country. However, I do not know of any widespread support internationally for banks to move towards using that as their base. This, unfortunately, does not necessarily account for some of the very unique situations that exist in individual countries and in their particular markets.

Moving on to the US, specifically; that particular country has long held the notion that long-term lending and long-term loan products should be based on the US Treasury Bond Market. Mr. Speaker, if you would permit me, I would like to read the definition that the Federal Reserve Bank gives to "prime interest rate."  
**"The prime rate is a rate posted by a majority of the top 25 by assets in domestic offices insured US Chartered commercial banks. Prime is one of several base rates used by banks to price short term business loans."**

By definition, the prime US rate is used by banks to price short-term business loans. My reason for bringing this Motion is the fact that the banks in Cayman receive that rate and simply call it and set it as the Cayman prime rate. By definition then, that Cayman prime should be utilised for short-term business loans, and they should then use other formulas to come up with long-term personal loans—

auto loans, mortgages, and home refurbishing. All those other longer-term personal loans should utilise, in my humble view, a more appropriate base rate because the prime rate is certainly not utilised for those particular markets in the country of origin.

There is another part of this argument. When we look at Cayman, and at our exchange rate, we have currency that is some 18 to 19 percent stronger than the US. So, by simply taking the US prime rate, calling it the Cayman prime rate, and leaving at exactly the same amount, there are those who feel that is completely fair because the Cayman dollar is 20 percent higher anyway. I certainly cannot argue against that point. My simple point is that it is not the same base rate utilised in the US for long term lending.

This Motion is asking for government to consider doing certain things the US market already has in existence, which is, that the more appropriate base rates be utilised.

As I said yesterday, on the second resolve in terms of usury and spreads, no government, in my humble view, can be restrictive in this area. We cannot go out and say that a bank can only lend at base plus 2 percent or plus 3 percent. Even though certain people may feel that is excessively high, that is the initial risk that will be attached to certain persons in our society and in any society. That is just a part of the economic reality of life in most countries. Not everyone will be "well to-do" persons.

I believe that on both of these fronts there needs to be serious dialogue between the banks and the Government of the Cayman Islands ensuring that what exists in the long term in this country is something that holds what I call economic merit. For example, when we look at what it is the banks are doing, that it is something which can actually be supported by and in the country they have chosen, like the US to base their pricing on.

Cost of money, cost of funds, naturally is closely interrelated to interest rates. Whatever the banks have to pay for the money they have is going to determine what they can lend at. It is my humble submission that in Cayman the banks do make healthy profits. We have one bank that publishes (there are a few that do, but one in particular) its reports on a very timely basis. In fact, they recently published their results and speaking about their results they spoke to the fact that times were a bit difficult. However, even though times were difficult, they still made 15 plus percent recurrent capital.

If Wall Street in the US can have the companies that make up the Dow Jones Industrial Average boast 15 percent return on capital, we certainly would not see their market going through the turbulent times they are now. By any stretch of the imagination, that is a decent return. Certainly, if that is what persists in times that are described as somewhat tough, then that certainly speaks well of what would happen in good times.

As I indicated yesterday, on the third resolve of this Motion that speaks to the Monetary Authority—let

me make this abundantly clear: Cayman does not have a sophisticated capital market; it does not have the hallmarks of a traditional large country economy. Things like manufacturing, agriculture, a true technology and production centre, initial public offerings, a government treasury market, are all lacking. The Motion was not saying that the Monetary Authority would be expected to be able to formulate interest rates. The Federal Reserve has all those things in the US—all the different sectors. They have a very mature economy. That is why they can utilise their interest rate policy; that is why they can utilise their money supply policy to achieve certain economic goals that have been mandated by the political directorate, but also certain economic goals that citizens of that country have come to expect.

Whatever it is the banks and government were to decide would be appropriate interest rates. When those are received and when those are changed, I believe it should be the Monetary Authority, or some independent body, that issues those. Certainly, there are many in this community who do not have a good feeling in the pit of their stomachs when they see all the clearing banks utilise one press release to advertise their interest rates and prime rates. There are many in this country that feel they are operating as a cartel.

I believe that certainly when it comes to what is termed “predatory lending practices”—some of which I outlined earlier, such as balloon payments, prepayment penalties, negative amortisation—that government should be minded to have dialogue with the clearing banks to try to come up with a policy in which they can regulate themselves. I certainly do not believe in big government or in government creating bureaucracy after bureaucracy to try to solve certain problems that might exist in society. If it can be established in the private sector with certain machinery, they usually do it more efficiently, and a lot of times they will embrace it because they are doing it.

There is scope for them to put together a committee to come up with a code of ethics saying they will not practice certain standards, that they will practice a minimum standard of banking here in Cayman. I think it is greatly needed. I would think, at the inception stage that someone from the Portfolio of Finance, probably from the Monetary Authority’s banking division should be a part of that process. I think it is proven beyond a shadow of a doubt in countries like the US who has legislated time after time addressing problems in the banking industry that there needs to be a watchful eye by government. However, that should be at the initial stages and they should be able to regulate themselves. If that does not work, they would certainly know what the alternative would be—have the Government do it. I certainly would not advocate that. I believe that is the method and the way forward in this country.

I believe this Motion is one that certainly could go a long way to ensure banking practices in this country

are up to a standard that the Government and citizens feel is a bit more on the fair side, and in some instances a bit more ethical. Certainly it would give the type of climate I believe needs to exist in this country in the long term. We can no longer simply have markets operate, persons being totally distrustful, persons put into certain mortgage products that they should not be put into.

With that, I eagerly await Members’ contributions.

**The Speaker:** The Floor is open for debate. Does any other Member wish to speak?

The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Thank you, Mr. Speaker.

I rise to offer some comments on Private Member’s Motion 20/01. I have taken note that the operative word in the first and second resolve is “consider.” The operative word in the third resolve is the word “investigate.”

The resolve section of the Motion invites Government to consider mandating that lending institutions in the Cayman Islands use the same base rate for their loan products as is used in the United States; the second resolve,

**“AND BE IT FURTHER RESOLVED THAT Government consider instituting Usury legislation to provide for maximum spreads on loan products in the Cayman Islands.”**

**“AND BE IT FURTHER RESOLVED THAT Government investigate the feasibility of making the Monetary Authority responsible for setting interest rates in the Cayman Islands.”**

The basis on which the Government will be accepting this Motion is that what is being sought for in the resolves of this Motion, will require research and analysis of the variables impacting on the lending rate structure as adopted within our local financial institutions. Following this review and analysis, a recommendation will be made to Executive Council as to what would be the most appropriate action to address the issues raised, or what is being sought for in the resolve sections.

One of the indicators of the efficiency of a banking system is the size of the spread, or the interest rate spread. The spread is the difference between the average interest rate a bank pays to its customers, and the average interest rate it charges on its loans. A number of other jurisdictions have in place mechanisms for monitoring various aspects of the domestic financial system including the size of the spread. Such mechanisms typically derive from a comprehensive analysis of a wider number of factors including the domestic economic conditions, the level of risk a bank faces in terms of loan defaults, the operational cost of banks, and the general availability of credit within the domestic economy, amongst others.

It is important to note that these are some of the many other factors that effect the determination of



interest rates in addition to the prime rate in the United States therefore, a comprehensive assessment is needed. To date, we have not had such formal mechanisms in place in the Cayman Islands because it has generally been felt that the market was working sufficiently in this regard. However, the level of concern now seems to warrant further investigation into this matter, and it is now government's intention to establish a formal forum with the retail banks on the Island to address such issues.

If it is felt that the current manner in which rates are set is having an adverse effect on the domestic economy, it would seem prudent to first establish a fuller understanding of the factors involved in the decision making of the retail banks in the determination of interest rates, as well as fully understanding the extent of any deficiencies of the current system, in order to arrive at any proposed solution.

In order to determine a policy on the application of interest rates, it will be necessary to obtain a macroeconomic view of the domestic financial system, which would also involve regular meetings with the retail banks. I will on behalf of the Government proceed to organise this formal forum to address these issues and will report to this Honourable House accordingly.

The forum will be headed by Mr. Paul Byles, head of the Policy and Research section of the Monetary Authority. Once the exercise has been carried out, we will return to the question of what appropriate interest rate controls could be pursued. On the question of whether the Monetary Authority should be responsible for setting interest rates, I think it would be more appropriate to return to that question after we have determined what the necessary control should be. The Honourable Mover of the Motion alluded to that point.

The proposed actions I just outlined should not cause any undue alarm within the financial community. The review that will be carried out by Mr. Byles and his team will primarily be with the banking community, so nothing at all will be done in the dark, so to speak.

Every financial institution operating in the Cayman Islands should have somewhere in its Charter or Mission Statement the need to subscribe to the concept of good corporate citizenship. The fact that the Government will be accepting this Motion should not be taken as a *fait accompli*; that the results of the Motion will be implemented without due consultation or that the actions being sought through the resolve will be the only mechanisms which will be the basis through which the concerns as raised will be addressed.

The Government has worked very closely over the years with our financial industry. There is the principle of partnership that is always alluded to, and the appropriate consultation in addressing all of the resolve sections of this Motion will be carried out in this manner through the consultative process.

The Government also recognises that other Members may have other views as to the way in which to deal with interest rates, the base rate and level of

spread. In accepting this Motion, Government will certainly take these views into consideration also. On the basis of the views that have been shared and the principles underlying the presentation of the Motion, the Government is willing to support the Motion.

**The Speaker:** We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.32 PM

#### PROCEEDINGS RESUMED AT 12.05 PM

**The Speaker:** Please be seated.

Debate continues on Private Member's Motion 20/01. Does any other Member wish to speak? (Pause)

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

I have read Private Member's Motion 20/01 and have listened to the Mover's contribution (The Second Elected Member for West Bay) with great care. We all agree that the interest rates in the Cayman Islands are a matter of national concern and a matter affecting the standard of living in this country. There is no objective broader for a government than improving and enhancing the standard of living for its people. There is a need for government to take the necessary action to ensure that interest rates are established in a competitive manner and that the public is receiving funding for their personal projects, business projects, or even government for its capital projects, at a cost that is not prohibitive.

However, the Motion as presented, and how it has been accepted where there is simply a commitment to consider and investigate, provides great concern. Government establishes the environment in which businesses operates. For the banking industry and lending institutions of this country to be lingering for what could be months or even years considering the trend of government and the notion that government may be legislating and mandating as the resolutions read, "to mandate that lending institutions in the Cayman Islands use the same base rates for their loan products as in the United States." The second resolution states "that government consider instituting usury legislation to provide maximum spreads on loan products in the Cayman Islands;" and "that government investigate the feasibility of making the Monetary Authority responsible for setting interest rates in the Cayman Islands."

The last resolve that speaks of government setting interest rates, I have been made to understand through listening to the contributions and in private discussions with the Mover, that what is being sought is not the setting of interest rates which an individual would be charged, but more so the Monetary Authority being responsible for disseminating and publicising

what is the base rate to be charged. Even so, I still have concerns.

Interest rate is the price banks charge for their funds. If we view banking institutions as retail operations, where money is the inventory and interest rates the price, any effort by government to control or legislate how these rates are to be charged is a method of price control. I am concerned that the precedent and trend this establishes could lead to other areas where government will attempt to control the price charged for variables within this economy.

We must understand that we are in a global market. Those who deposit funds in the Cayman Islands also have the option of depositing those funds elsewhere. It is imperative that the rate in which we charge for our deposit funds, which is the cost of the funds that becomes a component in determining the interest rate to be charged on loaned funds. The interest rates we pay on our deposits must be at a competitive rate globally otherwise those funds will be deposited elsewhere. Interest rate parity accounts that the interest rate in a country relative to the exchange rate, and as we know, our exchange rate (because our dollar is pegged to the US dollar) will fluctuate along with the US dollar against the world currency. So, the relative interest rate accounting for the differences in exchange rates globally must be on parity, otherwise you will have a fleet of funds from one country to another until those relative interest rates are adjusted in parity.

We are no exception to that rule, especially in the day of digital technology and information availability at the touch of a button—everyone knows what is available in alternative jurisdictions. We as a country must allow the interest rates on our deposits to be determined by market forces.

As banks in the Cayman Islands sometimes have to go on the open market for funds, where the deposits in the Cayman Islands are not sufficient to meet the demand for loans, they have to go on the open market to gain funds. When they are on the open market they are subject to the New York Prime Lending Rate, normally. Consequently, in determining the cost of the funds they are going to loan, which becomes the basis of determining prime rate, we as a government cannot affect that particular rate. There are market forces that have to determine that particular rate.

Because of our dollar situation with the US and moving directly along with the US dollar in the same direction and the same proportion, we have adopted a policy over the years of using the New York Prime Lending Rate. Banks undertake locally, that within five working days of a change in the New York Prime Lending Rate the banks will adjust the rates here to be equivalent to that rate—a system that has been in place and that has worked.

What gives me concern is that when the clearing banks publish together what is the new Cayman Prime Rate, they do not determine that prime rate; they simply follow the New York Prime Rate. Where this

Motion comes into play is once the prime rate is determined, and we have gone through the reasons why the Government cannot affect the prime rate, then the points above prime that the banks charge should be allowed to be determined by competitive forces. I am aware that in Cayman we would like to say that our banking industry is not competitive, however it is.

I recently negotiated with my own mortgage from one bank to another and saved one point. That is a significant savings and it is possible to do. We need to ensure that the public is aware and educated on the process of negotiating for their best offer. They do not have to accept the banks first offer. Compare banking institutions to ensure the competitive forces come into play.

The Motion uses an example of 8 August 2001, that the 30-year fixed mortgage rate was at 6.51 percent and on that date the New York Prime Lending Rate was at 6.5 percent. This illustrated that in the US they use an alternative base rate for long term instruments. The one major distinguishing factor between what we have in operation here in Cayman and that in the US cannot be ignored or downplayed. That is the secondary market for mortgages.

Once an institution in the Cayman Islands commits to a 20-year loan, they are committed to that loan for the duration of 20 years. They have to account for fluctuation in interest and price levels to inflation. That has to be a local issue. That cannot be determined by what is available in New York, it is local inflation. They must ensure that the dollar they receive 20 years from now has an interest rate that will compensate for the real inflation, a real interest rate. They must account for it on a local basis based on their best estimate of what the inflation will be in this local economy. That issue has to be determined on a local basis not using any international basis. That is to determine the points they will charge.

In the US, they can go a little bit more aggressive and even have longer period mortgages because those mortgages can be sold on to another institution. The money can then be turned over at a greater rate within each banking institution so that they can have a lower interest rate on their long term loans. However, in the Cayman Islands, we do not have such a secondary market.

I want to establish my position quite clearly because it is an extremely sensitive issue. We want to find a method to bring down the cost of borrowing funds in this country. We all want that but, it is imperative that we do it in the most appropriate and effective manner. It is my position that the manner this Motion seeks for the Government to consider and investigate is not the most appropriate method.

When we speak of regulating the spread the banks can charge, as the Mover admitted, that will cause us to eliminate certain individuals from getting funds. We must accept the fact that because of our unique history and our rapid development, we now have a marketplace, a community that is heavily laid in

debt. We have a significant amount of consumer loans defaulted upon. We have a lot of cars funded through short-term loans that are defaulted on, especially in the economic climate we have today. So, the banks must be able to consider the local situation to determine their perceived risk in loaning to the general public of the Cayman Islands.

To simply state that these issues will be based solely on factors outside of this country, without banks having the flexibility to adjust their rates to suit their situation, is not a complete answer to this question. Once we agree on the premise I have put forward, that the prime rate has to be determined by the New York Prime Rate, then, the points above the prime rate have to be determined by the banks' perception of risk and inflation in this local economy. The only thing we must ensure to secure the best rate for the people is that these rates, the points above prime, are determined in a competitive manner. Each bank is competing for its share of the business. On that note, there is another special consideration government must make.

Government must ensure that its policies take into consideration the inflationary impact of each action. That very inflation we have just seen, a 1.4 percent increase, will have to be accounted for when the banks are determining the points above their prime rate. In a time of economic slowdown, we would have expected a reduction in the price level of the country, but we have seen an increase which is a local issue and must be determined locally by the banking institutions participating in this marketplace, not by an outside source.

The Government must also realise that each bank has a quota that they must loan in order to sustain their viability. That is their main source of profitability. When the Government has to go out into the same local market and secure large sums of money which allows these banks to secure their quotas, they are less driven to be competitive in the marketplace. Also, we must understand that government loans are at some of the best rates; therefore, the banks have to seek to fill the remainder of their quota at the higher cohorts of interest. So, Government can assist in bringing the cost of funds down through its own policies.

I am advocate that the Cayman Islands, given the state of the oligopolies we have, need to have some form of antitrust; some form of legislation that prevents cartels from forming; some form of legislation that will ensure that these rates are determined competitively.

The process we are currently going through where an intelligent motion is brought to the House, presented to 18 Members of the Legislative Assembly for consideration, and all Members agree on the intent of the Motion, but having healthy disagreement as to the methodology to get to that objective is a healthy process. In the end the country will benefit because we will all grow in our thought process and in our positions on various issues. So, I thank the Mover and Seconder for bringing this Motion.

I would like to reiterate my position: The Motion "Prime Lending Rate" calls for the Cayman Islands to use the New York Prime Lending Rate as the base rate in the Cayman Islands; that is currently the case. It then suggests that for long term instruments, by using an example to illustrate that, should use other basis, such as in the US they use Treasury Bonds, a 15 year Treasury Bond rate for a 15 year mortgage. However, we must understand that we are located in the Cayman Islands and we are lending money that is deposited here in the Cayman Islands at the rate that we are paying, and in the case that our banks have to go on the open market they are subject to the New York Prime Lending Rate. It is my position that the New York Prime Lending Rate must be the basis on which all loans are determined.

It is my position that there is scope to have fewer points above the prime through enhanced competition—enhanced competition through legislation that prevents banks and lending institutions from collectively setting their points. It is my concern that such legislation should not only cover lending institutions, but companies such as insurance companies that jointly establish rates, it would appear.

I have presented my views and my position and the reason why I cannot support this Motion, even though it is only being put in for consideration. However, the principles under which it is being considered I cannot support. Consequently, I will not be voting for this Motion.

If I have said too much or too little, Mr. Speaker, may it please you.

**The Speaker:** Does any other Member wish to speak?  
The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I rise to offer my contribution to Private Member's Motion 20/01, Prime Lending Rate.

Much has been said by the Mover in regard to his reasons for bringing this Motion, which is covered in the 'whereas sections'. Without attempting to debate banking, I am not a banker, but I can zero in on the fact that something needs to be done in regard to controlling the runaway interest rates in the Cayman Islands.

Over the decades I have always marvelled at how insurance companies and banks in this country seem to have persons who advocate their position much more strongly than they do the position of the citizens that the representatives are supposed to represent.

*[laughter]*

**Mr. Gilbert A. McLean:** I sometimes wonder who is serving who, or what. It is all right for us to speak of market forces and allowing market forces to adjust the economy, our lives and so on. These are terms that fit best into the sphere of the international world and industrialised countries. There is something I think we

need to always bear in mind: We neither control the market, nor the forces; we are little players playing along in a big world and we have to keep this situation focused on our local situation, as the last speaker said.

In keeping this matter of banking focused on our local situation, we have to be aware that we are paying some of the highest interest rates in the world, even when the world out there is charging some of the lowest interest rates since banking came into being.

We keep boasting—and there is so much idle boasting over the decades—about us being the fourth, sometimes I hear the fifth largest banking centre in the world. What has it brought us to date except some jobs in the banking industry, which is a natural spin off. However, the majority of people in this country cannot qualify to borrow one penny from these banks we boast so much about!

There is a charge on everything the bank does—service charge, five cents for this; five dollars for transferring \$100 from one account to another; the banks collect all of that. We brave hearts in the Cayman Islands have not been able, over the decades, to say to these banks that we boast so much about, that we will put on a ten cent or fifty cent fee on those transactions, nor have we been smart enough to set up a system where the government insists that funds collected by banks are paid into the government. I hear there are some deficits in that as well.

It is only the government of any country that can be the controlling force of banks or any other institution. The Cayman Islands is at least 100 years behind in being the controlling force it could be and should be, in my opinion. It is as if we are always on our knees, hands up in prayerful atonement to the banks to do something nice for us. It is about time we stood on our two feet and looked the banks squarely in the eyes and say to them, *'You operate in this environment'*—an environment we have slaved (and I emphasise the word 'slaved') to create for them—*'we have to get some benefit from the game.'* Until a government—this one or any to come—takes that attitude and understands that that is the way it is, it will not be any different.

I have heard of Switzerland—bankers to the world. They were smart enough to tell the OECD to go and take their policies to places where the fires always burn (so we are told) and that they would not accept them. However, they have very serious control in place, including their Central Bank and some of the strictest rules on earth for banking. I am even told they pay taxes.

If this Motion before the House asks for this Government to consider making a few changes that should have been done 25 years ago, I can find nothing wrong with it. The only control that can be exercised legitimately in any country on the earth, is that exercised through the government and we hope through duly elected representatives.

Unless Cayman gets to that stage, we keep losing as we do right now. In the past few months, the

Government was supposed to have negotiated a loan of over \$50 million. I heard it was not the easiest thing in the world. From my layman's position, if we were the right banking centre we claim we are, and if government were exercising its rightful control, it would have been one of the easiest things in the world to do. For starters, in the same way the banks collect exorbitant rates from everyone who ventures into the field of borrowing from them, then government would in turn have collected a small fee as part of all of those transactions and ways and means the banks are earning profits here.

I cannot subscribe to the foolishness I have heard for so many years, *'Oh, if you do this, the banks will go somewhere else. They will leave and take their money elsewhere.'* Where are they going to take it? I have not been able to find that out. Are they going to take it to Switzerland? They know what the rules are there. Are they going to take it to France? They want them to do that. Are they going to take it to Germany? They are waiting. Are they going to take it to Canada? They are waiting too.

One does not have to be a financial genius to know that the reason why the banks from America, Canada, Germany, or Switzerland, have banks outside their shores is because of the potential to make money in a different jurisdiction. If they have the right, as everyone seems delighted to believe they do, to come to this jurisdiction to make all the money they can, why do we not have the right, as the people of this country, to say there has to be a spin off benefit and we will devise a system and means for them to assist us a little, while we assist them immensely. I have not been able to figure that out. I know there is no way to logically figure it out because it is a foolish attitude that has prevailed in this country for a very long time.

What other country in the world do we see where every one of the major banks is in one big full page ad with the smiling faces of their managers saying, *'We shall set the interest rate at this price,'*—which is 4 percent or 3 percent rise over what it was before—and everyone says *'Amen. Thank you, Mr. Bank?'* It is unheard of; it is ridiculous; it is collusion!

I would like to refer to the US and point to various things they do, that we should do. Some of them I think we should adopt, such as the Securities and Exchange Commission that says if I am found trying to do something to create a monopoly situation in one area, I can really go to jail for that. There has to be competition! Competition in Cayman—it is zero! We delight in creating monopolies because apparently we believe that is something good for us. The rest of the world says *'oh no! we know better than that'*. As long as there is competition, people have a chance to get a better deal. In Cayman, we allow that to happen.

Now, if the banks that are charging these excessive rates can get together in collusion to do that, what is wrong with the Government of the country taking a position to develop a system of ways and means to regulate interest rates so that they earn

profits, and the people who need to get a loan can get a loan at interest rates they can afford? I cannot see anything wrong with that. Certainly, I can stand on this side of the House and raise the point. If I were on the other side of the House, I could promise the banks that they would have to answer that question. Of course, the banks have the money and by my very statement they would feel compelled, I daresay, to assist anyone who disagreed with my view. This is the way it plays.

I think this Motion is raising a subject that I certainly campaigned on in the recent election. I would try to play my part in seeing what could be done, or in assisting in any effort to lower the interest rates in the Cayman Islands because everyone is paying top dollar for everything that could be cents. The supermarkets must get loans from the banks in the Cayman Islands, and they must pay top dollar. They pass that on to everybody else when they sell their goods.

When someone buys a motorcar, they pay top dollar. Do not ever think about getting a house mortgage, or even attempting to get a loan to buy a piece of land, which many years ago when I did a little bit of economics one of the principles of economics was that land is the source of all wealth. I do not know if it has changed since, but there seems to be a great disdain by the banks against anyone purchasing a piece of land in the Cayman Islands, at least to get a loan to buy it.

As for home mortgages, it is shameful what people have to pay on interest rates here. The fact that it may be US money, or depositors' money and so on, people move their money and put it where it can earn greater interest, but we know, and the OECD does, I suppose, have a plus side . . . if you dance around the world too much with money and it is coming out of those industrialised countries, they are out to take a major piece out of it. That is what one of the games is all about that we have been fighting now, for a few years with them—it is about money!

Is it not crucial and fascinating that one of the things we are accused of not doing is taxing these entities? We are suffering from a lack of taxation. Is it not incredible? They say that because we do not tax we should be punished. Well, then let us not call it "tax" let us call it "fee"—and "fee" them! It is time we got a little smart, if not totally.

The Member bringing this Motion is an accountant by profession. While he has certain views with which I do not agree, and I have views which he does not agree with, I think this Motion is indeed very timely. If ever there was a time it is right now when the economy here is in deep slow down (we would not call it "recession"). There is difficulty with people meeting their mortgages. We look, we see cars being taken from people because they cannot pay; houses are falling the same way. Why? High interest rates! They cannot afford to pay it.

With loss of jobs, or cutbacks with one spouse or whoever out of a job, they cannot afford to pay it. What would good bankers do? I believe they would call each

of those persons in, go over the loan with them and ask how much they can pay and try to reschedule it—but 'no!' Look at the situation occurring here. The other day I saw someone who is having his house taken. They did not owe a whole lot of money, I think it was around about \$200,000 and it had been a much larger sum borrowed originally. While they had that capital amount owed, below that was another line of interest rates, must have been almost \$40,000 they had supposedly reached in that period of time. Now, if somebody is having a problem meeting their monthly payment, which includes interest, how are you going to continue to compound that interest and expect them to meet that?

I have heard of persons who are involved with banks having a company set up on the side so that when the house gets taken, their company buys it and they come into possession of a cheap house. There are real problems in this country of ours and they need real solutions. I support the Government looking into this matter, investigating it, and doing something about it.

The last speaker mentioned something about government having some of the more favourable rates on the recent borrowing. I think it is about time the Government got as good a rate as can possibly be found in this country. It will be no use to us as a people if we become an impoverished pitiful lot and sit starving to death or being unable to do anything constructive for ourselves, while we look with adoration at the banks and say what a wonderful job they are doing.

We need to reach a position where they will continue to do a wonderful job making profits, but we the people of the Cayman Islands, have to benefit from creating the environment including taking the bloodied noses we get maintaining that for them to do. It is about time we benefit from this.

To me, this Motion is one to consider and investigate. Hopefully the Government will take this on board, as has been said by the Third Official Member, to consider it, investigate it and do something about correcting the situation here in the Cayman Islands. I can assure one and all that if they come back to this House with something to fix the situation, be it through the Monetary Authority, or even one little 20 x 20 room where they say this is our central bank to do the things central banks should do, they will have my support, as does this Motion at this time.

**The Speaker:** We shall suspend for lunch. At the conclusion of lunch, which I suggest, should be 2.15 pm, the Acting Chief Secretary would like to meet with all Members in the Common Room. The House will resume at the conclusion of that meeting.

**PROCEEDINGS SUSPENDED AT 12.48 PM**

**PROCEEDINGS RESUMED AT 3.22 PM**

**The Speaker:** Please be seated. Debate continues on Private Member's Motion 20/01. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) If not, does the Mover care to exercise his right of reply?

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

I would like to thank the Honourable Third Official Member for his acceptance of the Motion. I feel confident in terms of his acceptance that it is what I consider a very appropriate response.

Much has been said in regards to this Motion. We certainly have heard different perspectives put forward on this issue. However, before I respond to some of those remarks, I would like to thank the Elected Member for East End, because even though he did not contribute by debating, he certainly agrees with this Motion and the spirit of the Motion. He sees the importance of ensuring that his constituents get the best possible representation in this Honourable Chamber.

I would like to say in regards to the contributions made, that I was a bit surprised at the comments of the Second Elected Member for Cayman Brac and Little Cayman. He said that while he agreed with the spirit of the Motion (I think that is what he meant), that he would not have gone about it in this way; and he does not think that government should be involved in this area at all and that it should be free market forces and competition. He then turned around and said (and I quote, because I wrote it down), "there needs to be legislation to ensure that interest rates are derived competitively" and made reference to antitrust legislation. In the same breath I heard the word "oligopoly" come out, which obviously poses the greatest threat to any such regulation.

For the benefits of Members and the listening public, I would like to utilise the definition from a well respected guide called the *Barron's Guide*, using the *Dictionary of Business Terms*: "Antitrust Laws are statutes that promote free competition by outlawing such things as monopoly price discrimination and collaboration for the purpose of restraint of trade between two or more business enterprises in the same market."

Cayman is a relatively small environment in terms of the numbers involved. When looking at this issue, as a person who went to university in the United States of America, this sort of thought process also came to mind. However, I am here to get to the point; and I am here to represent the people of the Cayman Islands. That includes business and the banks.

It is my humble submission that we can get in here and talk about antitrust legislation all we want. The truth of what normally prevails in Cayman is oligopolies, where there are few entrants in the market. Those few entrants have prices that are very close. There are those who suggest that there is formal

collusion in certain sectors. We are so small that I am not even sure we need formal collusion, when all one person has to do is send another person over to the supermarket to see what they are selling a five pound bag of rice for. All the banks know what they are charging and what their spreads are. They do not need to formally get together.

I considered that route but I thought we had to drive straight at the matter. I think the Third Official Member has set the stage that needs to be set where there will be dialogue with upper management in the Monetary Authority and the banks in Cayman. I think that is the key.

I am not quite certain how the ability of the Second Elected Member for Cayman Brac and Little Cayman negotiates within banks relates to the small man in this country. If the small man in this country made what MLAs make, I probably would not have brought this Motion. In fact, if the small man in this country could negotiate with banks the way an MLA can, I do not think we would be talking about this issue at all.

Mr. Speaker, when we get in here we better remember who it is we are representing. We had better remember the types of people and the levels of education—and I do not say that in a derogatory manner—we must stay real! I submit that the average person in Cayman does not necessarily have the wherewithal to be able to properly negotiate. They are all too glad to get the first mortgage and get into their house. They are too happy to get it, Mr. Speaker.

The average person in Cayman does not have a university education. The average person is not an MLA. I do not know about the Second Elected Member for Cayman Brac and Little Cayman, but I certainly know that people in this community treat you a lot different when you are an MLA, even if they really do not want to; that is true!

I heard a remark that causes me great concern. I have discussed this privately with the Third Official Member. The Second Elected Member for Cayman Brac and Little Cayman told this Honourable House that he is aware of commercial banks (I can only assume one of the six commercial banks) that has to go into the secondary market to get funding. I am not aware of any such problem existing in this country. In fact, in my former profession, one of the recommendations we made time and time again to bank clients was to lend more of their money because their reserves far exceed the statutory requirements laid down by the Monetary Authority. I will not stand here and allow the public to be told that the banks in this country have to go out and borrow at the prime rate to lend to them. Wherever he got that information, I advise him to check it again. I am of the view that is not the case.

As for default rates, the banks in this country have an impeccable record of risk management. There is only one sector that I am aware that has been problematic, and that is the government guaranteed

scheme. I have not seen any of the six major banks in this country which lends to the public that has had exorbitant default rates. They are impeccable, extremely conservative. They do a good job; they have extremely well run and healthy portfolios.

Just today a former client of mine and I happened to go to lunch. I did not think this Motion would come so quickly and I wanted to refresh myself on a few things to make sure that the information I had from my last audit (June - August 1999) of Butterfield Bank had not changed dramatically in the industry. He told me that he was not aware of any bank having to go into the open market to borrow funds. Quite the opposite happens—the banks sweep their excess funds in the overnight market in the United States an actually gain income at the prime rate, that is, the short-term rate. They can go and sweep it. A lot of times they have to accept a point or two below, but they still sweep that excess funding and make money off it.

This is a business that you have to understand all elements of if we are going to debate it meaningfully and if we are going to really be able to say whether or not we support a motion or not.

I trust, as the Second Elected Member for Cayman Brac and Little Cayman said, that certainly we all in here are going to grow in our thought process and our knowledge base in listening to other Members' debates, and grow in our position and accept other positions that might shed light on some of the positions we have.

I have been reliably informed that there is one particular bank in this country right now that has at least one member of its senior management staff (and I do not just mean a loans officer), senior management credit staff, who is actively trying to get that bank to go into medium term cap fixed rate mortgages. That is, fixing a mortgage for ten years.

Now, the reason this person is anxious to do this is because interest rates are low. This would be the time that is attractive to do that. It does not sound like the banks are going to be shutting up shop tomorrow and we would not have the benefit of them if this Motion is accepted and government seeks to engage in dialogue.

I have had an experience that certainly tells me that the average person cannot negotiate on his own. My mother paid 15 years consistently. She never missed a payment on her mortgage. She was a housekeeper for a wealthy Canadian who asked her one day to see her loan agreement.

I would like to thank Mr. Gordon Harrison publicly, Gordon and Shan Harrison. He was shocked when he saw it.

The very next day he went into the bank with my mother and sat down with the loans officer and said "This lady has paid for 15 years and never missed a payment and never been late. Is that correct?" "Yes" was the answer. "Can you give her a better mortgage rate? She has now proven . . . she has a track record." "No, we really cannot do that," was the answer. He

said, "Fine. We are going somewhere else." As soon as he said that, one percentage point was taken off. At that point he was so agitated he still went. She got two percent off her spread.

Two years later he went back to the new bank and said, "Okay, it's been two years." My mother was at prime plus 4 percent, despite having paid 15 years without missing one payment. I use that as an example to illustrate to all Members, especially the Second Elected Member for Cayman Brac and Little Cayman, that not everybody makes an MLA's salary; not everybody in this country has the time, the knowledge and the patience to be able to shop around.

Now, I will add one thing to that train of thought: Credit counselling is something that the banks should encourage, that we as a government should encourage in this country. We should encourage people to be more knowledgeable about what they need to try to do when going for a mortgage. However, we are way behind the times. This has been happening in other countries for years. I cannot look at theory and at what happens in the US and say that is okay to apply in Cayman. We are years behind and we have to catch up.

I just want to reiterate the fact that I firmly believe the Third Official Member's response was spot on. This Motion speaks to three things and these are the operative words: *consider* mandating. From the response I have gotten I think the attention of the banking community has been gotten by this Motion, and I believe they will come to the table and have meaningful discussion with the Government at this stage. I believe that we have the stage set for meaningful dialogue that can only be healthy.

I come from the financial sector by way of background. However I was sent here by the people to represent everyone, to represent them in particular. I must represent the people of this country! I have said it time and time again, and will say it again in case some people did not hear me. I already know that jobs are created by business, so I realise that we cannot have a hard-line approach that we are going to try to do things to harm businesses. Businesses create jobs.

Mr. Speaker, I thank you and all Members who indicated support of this Motion.

**The Speaker:** I shall now put the question on Private Member's Motion 20/01. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I heard a "No" Sir.

I think we need a division.

**The Speaker:** Madam Clerk, please call a division.

**The Deputy Clerk:****DIVISION NO. 15/01****AYES: 10**

Hon. George A. McCarthy  
Hon. D. Kurt Tibbetts  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Mr. Rolston Anglin  
Capt. A. Eugene Ebanks  
Mr. Gilbert A. McLean  
Mr. Anthony S. Eden  
Mr. V. Arden McLean

**NOES: 0****ABSTENTIONS: 2**

Mrs. Julianna Y. O'Connor-Connolly  
Mr. Lyndon L. Martin

**ABSENT: 6**

Hon. Donovan W. F. Ebanks  
Hon. David F. Ballantyne  
Hon. W. McKeeva Bush  
Mr. Cline A. Glidden Jr.  
Mr. Alden M. McLaughlin, Jr.  
Dr. Frank S. McField

**The Speaker:** the results of the vote, 10 Ayes, 2 Abstentions and 6x Absent. The Motion has been passed.

**AGREED BY MAJORITY: PRIVATE MEMBER'S MOTION NO. 20/01 PASSED.**

**The Speaker:** It is my understanding that there is a meeting of Executive Council. I will entertain a motion for the adjournment.

**ADJOURNMENT**

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 3.53 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 7 SEPTEMBER 2001.**





**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**7 SEPTEMBER 2001**  
**10.29 AM**  
*Third Sitting*

**The Speaker:** Good morning. I will invite the Honourable Temporary First Official Member responsible for Internal and External Affairs to say prayers.

**PRAYERS**

**Hon. Donovan W. F. Ebanks:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth II; the Queen Mother; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

**Proceedings resumed at 10.32 am**

**The Speaker:** Please be seated.

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

**APOLOGIES**

**The Speaker:** I have apologies for absence from the Honourable First Official Member who is presently Acting Governor; from the Third Elected Member for George Town and Fourth Elected Member for West Bay who are overseas attending a CPA conference in Australia. I also have apologies for late attendance

from the Honourable Second Official Member and the Second Elected Member for West Bay.

Moving on to Item No. 3 on today's Order Paper: Presentation of Papers and Reports. Report of the Committee to Examine the Conditions Relating to the Recruitment of Caymanians into the Teaching Profession, to be laid on the Table by the Honourable Minister responsible for Education, Human Resources and Culture.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REPORT OF THE COMMITTEE TO EXAMINE THE  
CONDITIONS RELATING TO THE RECRUITMENT  
OF CAYMANIANS INTO THE TEACHING  
PROFESSION**

**Hon. Roy Bodden:** Mr. Speaker, I beg to lay on the Table of this Honourable House the Report of the Committee to Examine the Conditions Relating to the Recruitment of Caymanians into the Teaching Profession.

**The Speaker:** So ordered. Do you wish to speak to it?

**Hon. Roy Bodden:** Thank you, Mr. Speaker. Only to say there is a Motion that calls for the House to speak to the report at a subsequent stage. I ask Members to take note. Thank you.

**The Speaker:** Item 4, Questions to Honourable Ministers and Members. Question 95 stands in the name of the Second Elected Member for Bodden Town.

**QUESTIONS TO HONOURABLE  
MEMBERS/MINISTERS**

**QUESTION NO. 95**

**No. 95: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works: What has been achieved through Government's effort to deter the recently announced electricity increase by Caribbean Utilities Company Limited (CUC).

**Hon. D. Kurt Tibbetts:** Mr. Speaker, the answer: As Members of this Honourable House will be aware, CUC operates under an exclusive franchise granted in 1986 for a period of 25 years to generate, distribute and supply electricity on Grand Cayman.

On 28 May 2001, CUC met with Government to present their Interim Rate of Return and advised of their intention to raise rates by 2 per cent effective 1 August 2001 to allow the Company a 15 percent return, as provided for in their licence. Government did not support the proposed increase and CUC subsequently agreed to defer the rate increase, and to conduct an electricity rate review with the contemplation that agreement would be reached with Government on a new rate structure by 31 October 2001.

CUC has now submitted to Government their Audited Final Return which confirms that the Company is entitled to a 2 per cent rate increase effective 1 August 2001, as well as an Interim Electric Rate Review as agreed.

The rate review was completed by R W Beck of Florida and recommends that CUC make moderate adjustments to the rate structure until a full and proper allocated cost of service study can be completed, including a demand rate for large consumers. These studies are traditionally used in North America and form the basis of ensuring fair, cost-based pricing of electricity.

According to CUC the proposed interim measures include the flattening of the residential rate schedule and the protection of customers consuming less than 2000 kilowatt hours (kWh) per month, which, I am told, is over 90 per cent of their residential class. It is also proposed that small and large commercial customers be protected, as it is apparent that the thrust of growth has occurred in the medium commercial customer segment.

CUC has advised that should Government be prepared to move forward with the interim recommendations, including support for the commissioning of an allocated cost of service study, then they are prepared to suspend all rate increases to which they may become entitled to until the study is tabled and reviewed, which would be no later than 1 August 2003.

CUC also indicated to Government that considering the interests of all their stakeholders their Board has decided not to accelerate the timetable for renegotiation of their licence, which is currently provided for at least 5 years prior to expiry of the existing licence.

This matter now has to be considered by Government and no decision has been taken at this time.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say if it is required in the license, which CUC holds, that they consult Government on increases, and whether it is necessary to have Government's permission before they can increase the rates?

**The Speaker:** The Honourable Minister for Planning Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, their franchise agreement does not mandate that they have to consult. I think fair comment would be that as a matter of courtesy they go through the procedures as outlined in the substantive answer whenever such an increase is pending. My information is that prior to this they simply used to send it in, end of story. At this point in time, it is anticipated that what they have sent to the Government, once it goes through Executive Council, we will be talking to them about it again. Unfortunately I cannot pre-empt such talks to say what the end results will be. The fact of the matter is, the franchise allows them that 15 per cent return and, there is no obligation within that franchise to get any written agreement by the Government once they are able to prove (that is usually done by audited statements) that they need to make an increase to allow them up to that 15 per cent.

One other thing, if I may say—that franchise does not say to them that they must get 15 per cent return on their investment, but it does say “up to” so, that has latitude within that range up to the 15 per cent.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Does Government have the right through the contract or licence to have an audit done of CUC's accounts rather than relying on what they present to Government as their case for having an increase?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you. Yes, the Government does have that right, and at present is negotiating a tender for an audit to be done.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. Paragraph six indicates that they are prepared to suspend all rate increases until a study is done up until the period of 1 August 2003. Depending on the results of that study, would the rate increases that they would have been entitled to, be retroactive if it is found in the study that it was okay for them to do it?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I would have to say off-the-cuff that the answer to that question would be yes. My only caution with it would be that any rate increase which has occurred prior to that would have

occurred because the company has proven from audited financial statements the increase was warranted. They would not have done so without going through the motion of proving they had the right to do so. I would suspect that what they are speaking to in regard to an allocated cost of service study, probably will not reflect on what the Member is asking about, but rather a new structure and methodology employed with rates from there on in. That is my interpretation of it.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if Cayman Brac Power & Light Company is subject to scrutiny and audits by his Ministry as well?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, since late last year we have been in contact with Cayman Brac Power & Light in regards to renegotiating their agreement. What both parties, namely the Government and the Directors of the Cayman Brac Power & Light Company, had agreed to was, to await the outcome of our dealings with CUC so that there would be par for the course discussions. However, since very recently, the Board of Directors of CUC has indicated to Government that they are not prepared, at this point in time, to accelerate the timetable for renegotiations. We now have to revert to Cayman Brac Power & Light and look at the franchise which existed up until October last year, I think, so that we can renegotiate that franchise. We do have the right to audit their accounts as the Member asked. I just wanted to fill him in with the picture.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister indicate if the franchise agreement for CBP&LC has a prescribed maximum return such as the one for CUC?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** There is no agreement at this point in time. That will be part and parcel of the negotiations for a new agreement. As I indicated, the previous agreement expired in October last year and they are simply following that agreement.

Now, that agreement was not with as intricate a detail as the one for CUC. Basically, if memory serves me right, one of the common threads in the agreements was what they pay into Government's coffers, which is 5/8 of 1 per cent of gross revenue. However, in regards to what the Member is asking, the reason

we were holding off was to see what might have occurred with negotiations with CUC so that we could have something as a base to go from.

What will now have to happen is that we will have to look at what existed with CBP&L and re-establish a base to work from. I anticipate we will be doing that in short order so we can have them back on track with a franchise agreement. As of now, there is no fixed rate or return on the investment for the company in Cayman Brac.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Minister said that the proposed interim measures include the flattening of the residential rate schedule. Can the Minister tell us if "flattening" means it is going to be flat, or is it going to come from the five band that currently exists, down to two or three, or is it going to be just one flat rate for electricity on residential?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, A paragraph in the letter from CUC relating to this issue reads: ". . . the proposed interim measures include the flattening of the residential rate schedule and the protection of customers consuming less than 2000 kWh per month, which is over 90 per cent of their residential class". Such a flattening would be consistent with the energy conservation message CUC is currently attempting to deliver to the community. My understanding of that paragraph is that unlike the rate which may presently exist, and which the Member refers to, speaking to the fact that the more electricity is consumed, after a certain number of kWh is consumed, then if you consume more the rate per kWh decreases. My understanding from this is also that once you do not consume over 2000 kWh, the rate per kWh is consistent throughout.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say if it is Government's intention to ask for the utility company in the Sister Islands to tender an audit by or before the end of this year?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am at a disadvantage here. I know my Permanent Secretary and Senior Assistant Secretary have been in dialogue with principals of the Company. I do not know thus far, what talks have actually taken place. I cannot say at this point in time if it is the intention or not. The truth of the matter is that I am not exactly sure of the last time one was asked for. What I can say to the Member is

that I will determine the situation and depending on when that was, make a judgment call as to whether we need one now, especially during this negotiation stage.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say if there is anyone in his Ministry or departments under his Ministry who is versed in the business of utilities and has knowledge sufficient to monitor on behalf of the Ministry just what is happening in CUC?

I note that in the answer it speaks of a proper allocated cost of service study. Do we have anyone capable of examining that and who can supervise this whole situation?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I think the correct way to answer this is that in-house there is really no one with any specific qualifications, regardless of tenure or experience in dealing with some surface matters and being familiar. However, regarding this specific issue the Member is asking about, I certainly believe the course of action, once completed and we want to satisfy ourselves; that is Government would simply use a consultant to get the results we wish to get. The reason being is because that level of in-depth qualification is not required on a day-to-day basis, so it is more cost effective and prudent to utilise that level of experience if and when necessary. This will be one of those occasions once the study is completed.

**The Speaker:** The Second Elected Member for Bodden Town. I will allow two additional supplementaries.

**Mr. Gilbert A. McLean:** In the answer it says that CUC has indicated to Government that considering the interests of all their stakeholders it has decided not to accelerate the timetable for re-negotiation of their licence, which is currently provided for at 5 years prior to expiry of the existing licence. Is it the case that the licence expires in 2007 and is Government taking steps now to see that there will be changes made, or at least preparing itself for the new licence which might be granted to the company?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I will just quickly refer the Member to the first paragraph of the answer that speaks to a franchise granted in 1986 for 25 years. That would put the agreement valid until 2011, I think. It seems from the indication we received recently that CUC is not prepared to start those negotiations until 2006, as of now. I had hoped that they

would have been prepared but it seems like when consideration was given to the shareholders and their responsibility, that is the Board of Directors' responsibility to the Shareholders, they decided not to accelerate the process.

CUC legally has this franchise until 2011. Discussions will perhaps continue over the next few months. If Government is not satisfied with the arrangements, it is going to have a very long think in regards to whether or not we should leave it alone as it is, or whether we have recourse. That is not said in a threatening manner, but that is said paying credence to the simple fact that Government has a responsibility to the citizens of this country.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** In regards to a prior question asked by the Second Elected Member for Bodden Town about the monitoring of returns at CUC, as I can recall, last year sometime a Motion was passed to establish a Utilities Commission. Can the Minister comment on that at this time?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, right now the Permanent Secretary, in the Ministry, has created a little subcommittee that is now looking into the pros and cons of methodologies to be employed, as to whether we would be speaking to a single-serving Public Utilities Commission or if we need separate entities. Terms of reference are being drawn up at this time. As soon as we have some indication as to the way forward Members will be advised. It is not something that has just been left alone.

**The Speaker:** The Elected Member for East End, final supplementary.

**Mr. V. Arden McLean:** In the substantive answer the Minister said that R W Beck of Florida recommends that CUC make moderate adjustments to the rate structure until a further full and proper allocated cost of service study can be completed, including a demand rate for large consumers. Is the Minister in a position to give us the comparison of the old rates to the new ones they are recommending by kWh—the “moderate” changes they are talking about? Also, can he tell us if the demand rate for large consumers includes large consumers in the residential as well as commercial?

**The Speaker:** I think this is a bit outside the ambit of the substantive answer, but if you wish to answer it you may.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Bearing in mind the fact that the Member referred to a part of the substantive answer, with your permission I will bear it relevant to the question.

**The Speaker:** Certainly, if you are prepared, go ahead.

**Hon. D. Kurt Tibbetts:** First of all there is a bit of difficulty in answering what the Member is asking in regards to comparisons of the demand rate for large customers. What that paragraph speaks to is "until a full and proper allocated cost of service study can be completed"—which has not been completed yet. So, I would not have the figures for that to give the comparisons, unless I am misunderstanding the Member.

If the comparisons being asked for by the Member are the comparisons to date Mr. Speaker, I am asking permission for the Member to clarify it so that I may answer it properly. I am not so sure that I understand if he is speaking about something that is not completed yet, or something that obtains at present.

**The Speaker:** The Elected Member for East End can you clarify your question, please?

**Mr. V. Arden McLean:** The substantive answer said that R.W. Beck of Florida recommends that CUC make moderate adjustments to the rate structure until a full and proper allocated cost of service study can be completed. This is what I was wondering about. Can the Minister explain to us if he has the information to show what that moderate adjustment would be?

Secondly, including a demand rate for large consumers, that would be under the study that is to come, I suspect. On that issue, will the demand be charged if it is anticipated that it will be charged on large residential and large commercial?

**The Speaker:** Before answering that question, I would appreciate a suspension of Standing Order 23(7) & (8) in order that Question Time can continue beyond eleven.

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

*[Moved by the Honourable Minister for Planning, Communications and Works.]*

**QUESTION PUT. AGREED: STANDING ORDER 23 (7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, perhaps the safest way forward here is to go directly to the corre-

spondence which is not confidential . . . well, let us put it this way: It certainly will not be when I am through here!

I will read directly so that the Member will understand. The paragraph which refers, I believe, to what the Member is speaking about is as follows: "The interim review also recommends that small and large commercial customers be protected as it is apparent from the data available that the thrust of CUC's growth has occurred in the medium commercial customer segment, or those who consume between 2000 kWh and 30000 kWh per month. This segment would experience up to an 8.8 per cent increase in rates, representing 30 per cent of the commercial sales. The adjustments to the rate structure also include a recovery of approximately \$1.2 million which is the amount CUC would have been entitled to recover beginning 1 August."

Is that relevant to what the Member is asking? If that is not relevant, the paragraph above reads: "**The interim measures include a proposal to flatten CUC's residential rate . . .**" which we have already gone over, and I believe is clear.

The paragraph below reads, "**On the basis of findings of the Beck report, we recommend that Government accept the interim adjustments of CUC electric's rate structure as it will begin to align electric rates in accordance with the cost of the service and bring relief to a significant percentage of our customers. Furthermore, we also recommend that a proper allocated cost of service study be completed no later than May 2003 as economic efficiency can be substantially improved through closer attention to rate classes and rate structure.**"

**The Speaker:** Moving on to question 96, standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 96

**No. 96: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology if there are any persons, past or present, who are members of the Veterans Association receiving free medical services who are not connected with the Cayman Islands.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Members of the Veterans Association of the Cayman Islands are covered by the Health Services (Fees) Law (2001 Revision), section 9(1), paragraph (b) which states: "**Subject to subsection (2) and section 10, fees are not payable by a patient at a health care facility if the patient presents a card issued or recognised by the Director of Health Services identifying the patient to be -**

“(b) a member of the Cayman Islands Veterans Association or the spouse of such a member.”

Section 10 states, “The exemptions from fees and waiver of fees provided for by sections 5, 6, 7 and 8 and by paragraphs (a) to (e) of section 9(1) do not apply in respect of a person who is covered by health care insurance which would otherwise cover those fees, to the extent that such insurance cover is in force.”

Currently there are 106 members of the Veterans Association. Of this number, 62 are Caymanians by birth, 24 are Caymanian status holders, 19 have permanent residence and one is a work permit holder.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Sometimes I think I understand things clearly but there are times when I have to seek clarification. Is the Member saying in his answer that there are approximately 20 people—non-Caymanian—who by joining this Veterans’ Association receive free medical aid, even though these 20 may be millionaires?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I would like to clarify that the Health Services Fees Law (1993) that I referred to have really been revised. It is now the Health Services Fees Law (2001 Revision).

While I was trying to get this information for the Member, I did not exactly hear his supplementary, would he repeat it please?

**The Speaker:** The Second Elected Member for Bodden Town, would you repeat your question, please?

**Mr. Gilbert A. McLean:** I was asking the Minister if he could clarify whether his answer was saying there were 20 people who are not Caymanians and are receiving free medical simply by joining the Veterans’ Association of the Cayman Islands, even though they may be millionaires.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, I am afraid this is one of the areas that Government is most concerned about and it has been under very serious discussion as of late.

In our opinion there are members of the Veterans’ Association and the Seamen’s Association who are fairly wealthy people. We believe the intention was to provide medical services to those people most in need and that they should really be satisfied through a

means test. This is an area we are looking into at present.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister tell the House the approximate annual cost for these 106 persons?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, the information I will provide on health care will include the veterans and seamen. I do not have a breakdown so it will be a combination.

The position over the last four years (showing the annual increase in these fees) is: 1996, we had a total of \$826,107 exempt in respect of veterans and seamen medical; in 1997 it increased to \$983,383; in 1998 \$1,060,442; in 1999 \$1,443,538; and in 2000 \$1,553,445. These are exempt amounts for the veterans and seamen.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The Minister said he is looking into this particular condition. Will he in any immediate timeframe be bringing amendments to the law to correct this situation?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** The question of seamen, veterans and even the Ex gratia payment being made is a matter that spans perhaps two or three ministries, definitely two ministries, and those are my Ministry and the Ministry of the Honourable Minister for Community Development. We are looking very seriously into this matter. We have been discussing it and I will be taking a paper to Executive Council on this and following that then to the Legislative Assembly.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister indicate if he is aware of a portion of the membership fee for the Veterans’ Association designated for medical? If so, has any portion of that collected by the association been passed on to Government?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** This is an area that we are investigating. We have received information from the Association that certain fees are available and will be

sent into Government. Exactly how much this is, I am not sure at present. However, I am looking into this whole matter.

**The Speaker:** Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Can the Honourable Minister say if the 20 other people who have no Caymanian connection per say were entitled to free medical in their country of origin?

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker that is a very good question.

I would just like to say for clarity, that the members of the Veterans' Association born outside of the Cayman Islands represent approximately six nationalities. Twenty are originally from the US, 15 from the UK, six from Canada, one from Denmark, one from Poland, and one member is originally from Trinidad and Tobago. All of these individuals, except one, have Caymanian status or permanent residency.

I would not wish to call the names of the gentlemen, but I would be prepared to lay on the Table a copy of the list that I have available if this was something you so ruled on.

**The Speaker:** Does it have a confidentiality clause? Were you given it under confidential cover?

**Hon. Linford A. Pierson:** I was not given this under confidential cover. I brought it along because I felt it was only right that Members of the House be given this information in the interest of transparency.

**The Speaker:** I would rather. . .

**Mr. Gilbert A. McLean:** Mr. Speaker.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Mr. Speaker, the fact that the Minister has determined that this is something that can be laid on the Table . . . I would ask that the Chair consider allowing such to be done for the information of Members.

**The Speaker:** I have no problem with allowing it to be tabled, but if it is for information of Honourable Members, I would suggest it be circulated. If it is for general distribution and dissemination of information, then we should lay it on the Table, whichever you prefer.

**Hon. Linford A. Pierson:** Mr. Speaker, on second thought, if it is laid on the Table of the House it then becomes a public document and I would not wish for

the names of these individuals to be published in the papers. Perhaps a better way of dealing with this is to circulate it to Honourable Members for their information. I would be happy if this could be done by the Clerk.

**The Speaker:** You will give the House the undertaking that it will be done?

Does that meet with Members' satisfaction?  
The Elected Member for East End.

**Mr. V. Arden McLean:** It certainly does not meet my satisfaction. It is public funds these people are receiving. Therefore, the public should know who is receiving the monies they pay into taxes in this country, the same way they know the amount that Arden McLean from East End makes as a Member of the Legislative Assembly.

**The Speaker:** My ruling is that it shall be circulated to Members.

Are there any further supplementaries?  
If not, we move on to question 97, standing in the name of the Elected Member for East End.

#### QUESTION NO. 97

**No. 97: Mr. V. Arden McLean:** asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development If any monies have been realised from the recent sale advertisements of confiscated assets by the Drugs Task Force and, if so, how much has been collected.

**Mr. Speaker:** The Honourable Member responsible for Finance and Economic Development, the Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker the answer: On 22 June 2001, an advertisement was placed in the *Caymanian Compass* that gave details of items that were to be sold by the Drugs Task Force. A total of four canoes and one fibreglass dingy were advertised for sale at prices ranging from \$900 to \$5,750. Many boat engines were also advertised for sale at prices ranging from \$1,600 to \$3,400. Of the items advertised, one 28 feet canoe was sold for \$1,500 and one 16 feet dingy was sold for \$500. The total proceeds from the sale was, therefore \$2,000.

**The Speaker:** Supplementaries?

The First Elected Member for Cayman Brac and Little Cayman.

#### SUPPLEMENTARIES

**Mrs. Julianna Y. O'Connor-Connolly:** In reference to the last sentence, can the Honourable Member confirm that this means receipt of funds?



**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Yes. This is the amount that was received from the sale of these items. These are monies received by the Drugs Task Force.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Member say who received the funds and if it was in fact general treasury?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** The funds were not paid into general treasury, but were paid directly to the Drugs Task Force. However, it may be useful in providing this information for me to mention the authorisation that was put in place in 1990. In fact, this is a memorandum that was issued by the Financial Secretary in 1990 to the Commissioner of Police authorising the setting up of a special account that would receive funds such as the sale of confiscated assets. Although the funds did not go into this account, I think it would be useful for me to read that memorandum and a copy can be made available to Honourable Members.

**The Speaker:** Please continue.

**Hon. George A. McCarthy:** This memorandum is marked "Confidential" at the top. It makes reference to police commissioner's account. (pause)

Mr. Speaker, noting that this memorandum is confidential I have noted that this special commissioner's account is part of general accounts of the Government. It would form a part of the schedule that would set out the various accounts flagged by various departments of Government. However, looking at the content of it, although it was confidential at that time, in my judgment, I do not think it would create a problem if this information were to be given to Honourable Members.

It reads, under Financial and Stores Regulations section 6(1), "**the Financial Secretary hereby sanctions the appointment of Barclays Bank PLC as bankers to the government. The account shall be entitled 'The Cayman Islands Government Police Commissioner's Account** [and it gives the number] **"The purpose of the account is:**

**"1) to receive monies seized from convicted drug dealers which are forfeited to the Commissioner by the Court;**

**"2) to receive interest on balances; and**

**"3) expenditure from the account is at the discretion of the Commissioner but must be related to beneficial use in support of the police efforts in combating drug abuse and the detection of drug related crimes.**

**"Accountability of the Commissioner:**

**"1) The Commissioner shall maintain a simple and confidential record of receipts and payments related to the account with appropriate supporting records and documentation sufficient to allow verification and regular reconciliation of the transactions bearing in mind the need for secrecy in some instances;**

**"2) as soon as possible each year, the Commissioner shall furnish the Accountant General with a copy of the bank statements showing the balance on the account at the preceding 31 December;**

**"3) the Accountant General will, on receipt of this statement include this balance under treasury bank balances in the accounts of the government;**

**"4) the Accountant General will also include an equivalent amount under 'miscellaneous deposits' in the accounts of government.**

**"Audit of the Account:**

**"1) the Accountant General will examine the account record at least once each year and provide a certificate to the Commissioner together with a report on the account;**

**"2) the account will be subject to normal external audit procedures by the Auditor General as prescribed by the Public Finance and Audit Law.**

**"Limitations on the account: The maximum balance to be held on the account shall be determined by the Financial Secretary and is now set at \$20,000. The Commissioner shall notify the Financial Secretary in writing of any amount held in excess of the prescribed limit and shall pay this amount to the Accountant General as miscellaneous revenue of government as soon as possible thereafter."**

I have read this memorandum for the benefit of Members to point out that the authorisation for monies to be deposited into a special account maintained by the Commissioner of Police is in place. There is a variance in terms of the practice in that the funds realised by the drugs task force have not been paid into this account. I will be writing to the Commissioner of Police requesting that all monies received by the Drugs Task Force from this date forward (I will be asking the Assistant Financial Secretary, Mr. Ken Jefferson, to do so immediately) should be paid into this account and no separate account should be maintained other than this single account.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Can the Honourable Third Official Member say where the funds described in the substantive answer have been paid?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** The funds realised from the sale of these items are retained by the drugs task force and are used for the funding of undercover operations.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Can the Honourable Member say where the Drugs Task Force retains these funds? Who has control of them and who decides what the funds are to be used for and when they are to be used?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** The funds are under the control of the Chief Superintendent of the Drugs Task Force, Mr. Haines. The disbursement and management of the funds fall under the supervision of the office manager. Superintendent Haines has just assured me that detailed records are kept of disbursement and receipts and these records are made available to the Auditor General on an annual basis.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Can the Honourable Member say how long has this practice been in operation, that is, not using the established account that was set up pursuant to the memorandum from which he read earlier? How long has the Drugs Task Force been effectively operating in relation to confiscated funds out of the back pocket of the superintendent or other members of the Drugs Task Force?

**The Speaker:** I do not know if that phraseology is appropriate. Would you please rephrase that?

**Mr. Alden M. McLaughlin, Jr:** I tried to establish my two questions where these monies are held. The Member has been unable to answer. So, I had no choice but to describe it in the manner I did.

If the Honourable Member is able to say where these funds are held, then he can substitute an appropriate terminology to that which I was unfortunately forced to use.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I have been made to understand from Superintendent Haines that the funds are normally kept in a secure safe within the offices of the Drugs Task Force.

He further points out that the practice to which the Second Elected Member for George Town has made reference to started about six and one half years ago by Superintendent Haines. He mentioned that if a large amount of funds are received, such

funds would be paid into the Commissioner's account. Also, I am further advised that all funds received from overseas US Treasury Department, have been paid into the Commissioner's Account.

So, from the information given I have deduced that only small amounts are retained and used directly by the Drugs Task Force. (Inaudible interjection) According to Superintendent Haines, the movement of funds in and out of the account has averaged about \$23,000 annually over the past three years.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Can the Honourable Member confirm that this unauthorised practice is going to cease and that these funds are going to be dealt with according to the memorandum from which he earlier read?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** As I mentioned earlier, I will be asking the Assistant Financial Secretary, Mr. Ken Jefferson, to write to the Commissioner of Police today, advising that all funds received from this date forward should be paid into this special account. Therefore, rather than having a separate account maintained by the Drugs Task Force, that all funds be managed through this special account that has been authorised under the memorandum issued by the Financial Secretary in 1990.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Member provide the House with the justification for moving away from the authorised procedure six years ago, to this new method of keeping it in a safe?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Superintendent Haines has asked me to submit his apology for this procedure. He said he was not aware of the special account that had been put in place under the direction of the Commissioner of Police. He was only made aware of this about three years ago. The practice that was started six and a half years ago has continued up until now. As of today it will cease.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I am sure that every Member in this House is as outraged as I am over what has been revealed here this morning.

In the Member's reply, I think he said the office manager and the superintendent are responsible for

the disbursement of these funds. My question is who is responsible for them? We have a situation where we hear of the CIA that has to be scrutinised. Why do we have a situation where cash is in and out and unaccounted for in this fashion? Who really is responsible for it? Particularly, in light of the fact that we hear even now of someone who is supposed to be a fall guy in connection with similar stuff that has occurred with monies and funds being handled in this fashion.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Superintendent Haines has assured me that he is responsible for the accounting of the funds that come into the possession of the Drugs Task Force. He said it is not unaccountable from the aspect that a full accounting is provided to the Auditor General and to the Commissioner of Police of all funds received and disbursed.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Earlier in an answer to a supplementary question, the Third Official Member said that proper accounting is kept of these funds and is reported to the Auditor General on a yearly basis. Can the Honourable Member say as the Financial Secretary—

**The Speaker:** The Third Official Member.

**Mr. V. Arden McLean:** Mr. Speaker, I am asking the Third Official Member if he knows if the Financial Secretary can say with any degree of certainty that all monies are accounted for, and if the Auditor General has audited all monies going into this supposed account. If he cannot, will he give a commitment to this House and this country that it will be investigated immediately and dealt with in accordance with the Finance and Stores Regulations?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I have been assured by Superintendent Haines that all funds received by his department have been receipted. Receipts would have been issued to persons purchasing vessels and boat engines. These receipts are made available to the Auditor General and the Commissioner of Police to support funds received by the department.

In addition, in regard to disbursements, records are kept of amounts disbursed and to the officers receiving the sums of monies disbursed and they are accountable for the funds received by them.

The anomaly in this situation is that first of all, the funds upon receipt, all funds, should be paid into this special account that falls under the control of the Commissioner of Police. Disbursements should be made from this account to the drugs task force or any other agency of the police department.

What is going to happen as of today is that instead of funds being maintained by the drugs task force or any other agency of the police department, that the Commissioner of Police will be advised to issue instructions to all agencies that all funds received should be paid into funds received . . . and let me qualify that . . . from convicted drug dealers and also the sale of assets relating thereto to be paid into this account. Where it is said there is a \$20,000 limit against this account, this limit should be observed, which would mean that any amount in excess of \$20,000 must be paid into the Treasury Department immediately.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Member provide this House with the information as to what happens now with the unsold items from such advertised sales?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** The unsold items are being re-advertised. Upon the sale of those items, the funds will be paid into the Commissioner's Account. If the monies received take the account over the \$20,000 limit, the surplus will have to be paid into general revenue.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say when was the last time the office of finance did an audit on that account with a limit of \$20,000?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I cannot give an immediate answer to that. I will have to speak with the Accountant General at the Treasury Department.

I have been advised by the Assistant Financial Secretary that a review of this account will be carried out by the Auditor General quite likely during the course of the Audit of the annual accounts of government.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say if the Financial Secretary has ever received any funds coming from that account because it was over the \$20,000?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I would have to get verification of that from the Treasury Department. As you would appreciate, remittance of these funds would not

necessarily be to the Financial Secretary's office, but would go directly to the Treasury Department. I cannot give an immediate answer to say whether amounts in excess of \$20,000 have been paid, or when. I will have to check with the Accountant General and get verification of that.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Can the Honourable Member confirm that he is satisfied that the safe in which these confiscated funds are held is safer than the safe in which confiscated drugs are held at Central Police Station?

*[applause]*

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, as the Member can appreciate, I am not in a position to provide an answer for that. I have not seen either the safe where the funds are held, or the safe where confiscated drugs are kept.

**The Speaker:** Two additional supplementaries.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Member be willing to solicit a report by the Auditor General on this account for the past six years, and provide this House showing the receipts and expenditure on any transfers to Treasury?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** The extent of the commitment I can give is that I can check with the Auditor General and see what verification procedures have been carried out on this account. Hopefully, to the extent that he has records of the accounts and movement of funds into and out of the account, to ask for a copy of that to be provided; that will then be given to Members of the Legislative Assembly.

**The Speaker:** Any further final supplementaries? If not, we move on to question 98. The Elected Member for East End.

#### QUESTION NO. 98

**No. 98: Mr. V. Arden McLean** asked the Minister responsible for Community Development, Women's Affairs, Youth and Sports, if there are any plans to employ a coach/sports coordinator for the eastern districts.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Thank you, Mr. Speaker. Provision will be made in the 2002 Budget for the provision of coach/sport coordinator for the eastern districts.

#### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I wonder if the Minister can say if there are any reasons why this was not done previously.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Thank you, Mr. Speaker. As the Honourable Member is aware, I only became the Minister of Sports in November and with the Budget constraints I was unable to put this position in the Budget for 2001.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. I hear the Minister, but I was specifically talking about prior to her beginning her tenure when George Town and West Bay have always had people from the Sports office. So, I am just wondering why this has never been done before, where the eastern districts would have a sports coordinator.

**The Speaker:** The Honourable Minister for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Thank you, Mr. Speaker. I will undertake to look into the reason why the eastern districts were not given a coach/sports coordinator previously and get back to the Honourable Member in writing.

**The Speaker:** Are there any further supplementaries?

If not, we move on to question 99, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

#### QUESTION NO. 99

**No. 99: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture if he could say when a school security guard would be employed for the Cayman Brac High School.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The post for Security Officer at Cayman Brac High School was advertised in the Caymanian Compass with the deadline for submission being 31 July 2001. There were two applicants from Cayman Brac which were submitted to the school. These two applicants will be interviewed as soon as possible.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I appreciate the answer provided. I was hoping he would be able to provide a timeline when he says *'as soon as possible'* so that we could better advise our constituents as to when they will be expecting a security officer.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** As I understand it, interviews for the applicants for the security posts at the schools on Grand Cayman are now in process. As soon as they have been dealt with, the staff members will then deal with the two applicants for the Cayman Brac High School position.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate what hours of the day a security officer will be positioned at the school?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I regret that I am unable to provide that information. However, I will say that it will be one of the points up for discussion in the interview.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister say how the supervision of this officer and the reporting structure will be? Will he be reporting to the Education Department or the Education Centre in Cayman Brac, or some other form of supervisory control?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** It would seem logical that this person would first be responsible to report to the Prin-

cipal and thereafter to the person who occupies the Education Centre on Cayman Brac.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether or not it is envisaged for the security coverage to be provided during school hours or during the night time hours?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I would hope it can be arranged for the presence of a security officer certainly during school time. It remains to be seen if it will be necessary to go beyond this time. However, I think the concern of the authorities is that coverage is done while school is in session.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I would ask that if it is deemed necessary in the initial phases to only cover the day hours, if there could be some close scrutiny and analysis for after school. It has been our understanding that this is when most of the problems arise, not necessarily with the students, but after hours with vandalism on the property.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I am sure that if it is necessary to have it exclusively at that time arrangements will be made for that to be done.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister indicate if there is only one position available and if so, what happens when that officer is off on vacation?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Unfortunately there is only one position available. I might also say that we are operating under budgetary constraints. It remains to be worked out what will happen on that person's day off. I do not know if some kind of satisfactory alternative arrangement can be made. These are things I hope will be discussed during the interviewing process.

**The Speaker:** Are there any further supplementaries?

If not, we move on to question 100, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

#### QUESTION NO. 100

**No. 100: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, what is the Education Department's policy in respect of qualified teachers having access to and/or being awarded scholarships from the Education Council in order to pursue a Master's Degree.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** I can say it is the department's policy to encourage and entertain the aspirations of qualified teachers wishing to pursue a master's degree. In such cases where such aspirations dovetail with educational policies, the objectives of the department and where they meet other requirements, the Education Council made the following recommendations for the granting of such scholarships. These state that the candidate should:

- Be Caymanian or possess Caymanian Status.
- Have an undergraduate cumulative grade point average of at least 3.0 or an Honours Degree.
- Have at least one year's post – graduate work experience or at the Council's discretion.
- Be accepted into an institution which is rated at least "Highly Competitive" according to the Barron's or some other reputable guide or any institution deemed acceptable by the Education Council.
- Complete the programme in the normally prescribed time for full-time studies.
- Sign a bond for the amount of the scholarship to return to work on the Island for at least three years.
- All applicants must be interviewed.

#### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say how long the policy, as it relates to teachers being awarded (if so qualified and desirous for a scholarship) to pursue their masters [has been in place]?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** The guidelines I read were only drawn up last year. As the Member will appreciate, I was entrusted with this constitutional responsibility

only last November. I cannot speak for what transpired before that time.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say if a teacher has a master's degree will his salary reflect that?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** I am informed that the present structure allows for a promotion in post, but does not allow for an increase in salary that could accurately be described as resulting from the acquisition of the master's degree.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister give an undertaking to look into this area because several complaints have been made by various teachers who either wish to pursue a master's degree and were unable to do so, or those who have it but were in no way compensated.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** I am most sympathetic. I give the undertaking that indeed, we have begun. I hope when we craft the new Education Law we can make these provisions for persons who acquire postgraduate degrees, that they are compensated accordingly.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister tell us from where postgraduate studies for teachers are funded through? Is it Personnel or Education Council?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** It is my understanding that postgraduate studies are funded through both the Education Council and Personnel.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** In point 4 it indicates that according to Barron's or some other reputable guide . . . I wondered if Peterson's was accepted by Education Council as one of these reputable guides.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Peterson's serves as a source of reference, but the council members prefer Barron's, is my understanding. That preference is also borne out by the fact that members wish to avoid any confusion by having to refer to a multiplicity of sources.

**The Speaker:** Are there any further supplementaries?

If not, we move on to question 101, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

### QUESTION NO. 101

**No. 101: Mrs. Y. Julianna Y. O'Connor-Connolly** to ask the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture to give (a) the number of scholarships granted this year by the Education Council stating the areas of study; and (b) the number of applications for scholarships refused during the current year stating the areas of study and reasons for refusal.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** To date, the total number of scholarships granted through the Education Council to students going overseas to study for the undergraduate and postgraduate degrees, as of the Fall 2001 semester is 56.

Total number of the applications for the Fall 2001 is 79. Of these, 56 were granted scholarships. Therefore, those who were not successful numbered 23.

Reasons for refusal were because applicants did not meet the criteria for the granting of the scholarships. For example: some were not Caymanian status holders; some had incomplete applications; some were advised to work for at least one year before undertaking postgraduate studies; some did not have acceptance to institutions accepted by the Council as being competitive; some accepted scholarships from the private sector and some were advised to gain credits from a local tertiary institution before transferring abroad and, once they met the criteria, were granted, or would be granted, scholarships to do so.

Areas of study for scholarships granted and not granted were in business, law, education, accounting, medicine, nursing, videography, graphic design, fine arts, veterinary science, insurance studies, sociology, physiotherapy, medical genetics, computers, et cetera.

### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister confirm whether or not any scholarships were refused based on the reason it was felt that the parents were of financial status to accommodate such requests?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I am happy to give the Member a definitive position that no scholarships were refused on those grounds.

**The Speaker:** Are there any further supplementaries?  
The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** The answer provided specified overseas study. Can the Honourable Minister provide information as to the number of local scholarships granted?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Local scholarships are still in the process of being awarded. I cannot at this time offer any definitive numbers in that regard.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Seeing there were a number of scholarships awarded this year for students going overseas, I wonder if the Minister can say whether the budgeted amounts for 2001 will be sufficient to accommodate the requests for local scholarships as well.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Local scholarships and overseas scholarships are two different votes. However, I can tell the Members that the generosity of the council far exceeded the funds that we had voted. I hope your generosity continues when the Minister comes to Members for additional support.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** One reason for refusal was that applications were not completed. Is that the only reason why an applicant would be turned down, because the application was not completed?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Boddén:** One must appreciate that there are deadlines. If incomplete applications are received on the last day of the deadline, it is well nigh impossible for it to be completed on time.

I think that students sometimes are fully appreciative of the problems and in most cases they comply, but it is a competitive process. It is my information that applicants are given all the assistance that can be afforded. However, sometimes that is not enough and they do not make the deadlines.

Reverting to an earlier question, I am happy to say that up to this point 82 local scholarships have been awarded. We are not finished yet!

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning.

The next item is Statements by Honourable Ministers/Members of the Government. Statement on Immigration Issues by the Honourable Minister responsible for Planning, Communications and Works

## STATEMENTS BY MINISTERS/MEMBERS OF THE GOVERNMENT

### STATEMENT ON IMMIGRATION ISSUES

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I do not believe that a day passes any more without each Honourable Member of this House being reminded in some way, of at least one of the issues related to immigration that face these Islands.

The inaction of the past several years has resulted in these issues forming something of a cloud looming over us. I believe that each of us who sought office has no doubt given his or her constituents some commitment to try to move this cloud.

Most certainly, the Government is fully aware of the need to develop and implement immigration policies that will address the many issues existing. More importantly, the Government fully appreciates that whatever policies it ultimately proposes will not meet with the approval of every Member of this House, and that whatever this House gives its approval to will not necessarily satisfy every member of the community. However, Mr. Speaker, the Government cannot and will not be deterred by these inescapable facts.

I am happy to inform this Honourable House and the listening public this morning, of the current state-of-play and the game plan to reach our goal.

Late last year, and obviously very soon after taking up office, the Government took the decision that it wished for Executive Council to be relieved of the role of serving as the appellate body in respect of decisions of the Immigration Board and the Trade & Business Licensing Board. The Government considered serving in this capacity to be fundamentally inconsistent with good judicial practice and good governance.

I am pleased to advise that the necessary legislative amendments are now being finalised and a Bill to give effect to them will be brought to the next meeting of this House. Subject to legislative support for this change, it is intended that Executive Council will hand over its appellate role to a statutory appellate body very early in 2002. This action will not only address the fundamental inconsistencies mentioned earlier, but it will also allow Executive Council to utilise the time spent on such matters on the many other issues that fall to it for consideration and decision.

More recently, as Honourable Members and the public will know, the Government took the decision to issue a quota for 2001 for the grant of Caymanian status under various sections of the Immigration Law that are subject to such a quota. This is not an annual quota, Mr. Speaker; it is intended to merely address the result of the inaction in this area over the past 10 or 11 years.

Let me turn now to the Government's game plan to achieve the development and implementation of appropriate policies to address the broad range of immigration issues that these Islands face.

Firstly, the Government is cognisant of the substantial public input that went into the development of the Vision 2008 National Strategic Plan, and the strategies and actions proposed in that document in respect of immigration. We are also naturally aware of the even more substantial public input taken by the Select Committee of this Honourable House, on immigration, during its tenure from 1997 to 2000.

That Committee not only received written submissions, but also afforded audiences to individuals and representatives of interested bodies who presented themselves. The Government firmly believes that the public has said all that it needs to say for policy considerations to be made. The Government also appreciates that to give effect to any changes in current policies will require the support of this Honourable House in agreeing to corresponding legislative changes.

Mr. Speaker, while such legislative changes are clearly and unequivocally the ambit of this Honourable House, the Government is of the view that it can most expeditiously arrive at a position where it is able to propose new policies and legislative changes to this House, if it utilises a small group of carefully selected individuals to provide advice on appropriate policy.

I am pleased to announce that the Government has decided to appoint an Immigration Review Team that will be charged with making recommendations to the Government as to appropriate immigration policies to address the current issues.

That Team will be comprised of: Mrs. Sherrie Boddén-Cowan, Mr. Patrick Schmid, Mr. Rolston Anglin, MLA Member Mr. Orrett Connor, Chief Immigration Officer; Mrs. Sheena Frederick-Westerborg, Crown Counsel, Legal Dept.; Mr. Alden McLaughlin, MLA; and Mr. Gilbert McLean, MLA.



The Government is extremely grateful to each of these individuals for having agreed to be a member of this team and to give the time that this initiative calls for.

The Terms of Reference of this Team will be to review the public input of the two major initiatives that I referred to earlier—The Cayman Islands National Strategic Plan 1999-2008 (Vision 2008), and the records of the Select Committee of this House, and produce recommendations as to appropriate immigration policies by early November (2001).

In working towards this, the Team will be required to provide two interim reports to the Government and these will be shared in confidence with all Honourable Members of this House who, in turn, will be afforded the opportunity to give their feedback to the Team.

I wish to acknowledge that obviously the availability of the records of the Select Committee will be dependent on the approval of this Honourable House. To this end, the Government will be bringing a motion today to seek the approval of the House to lay those records on the Table.

Without wishing in any way to appear to be preempting the decision of any Honourable Member, I would simply wish to take the opportunity to express my appreciation for the support that I believe the Motion will receive.

The Team will also be required to produce a document for public distribution explaining in clear terms its policy recommendations. This document is to be distributed to the public before the end of November. This will enable the public to have a full and clear understanding of the direction that the Government will consider taking on immigration.

By mid-December, the Government will take the decision as to the recommendations it wishes to accept, and will initiate the process of developing the necessary legislative changes to give effect to its desired policies. The Government will present these proposed policies to this Honourable House during the first meeting of 2002, and seek the approval of the House of any legislative amendments necessary to give effect to these new policies.

The Government is committed to clearing this cloud I mentioned at the beginning. It must be done, Sir, and God willing, it will be done.

In closing, Mr. Speaker, I wish to first express the Governments appreciation to the public for the patience that has been shown so far in understanding that everything cannot happen at the same time. To all of my colleagues in this House, I would urge each one to avail themselves of the opportunities for input that will be afforded, keeping in mind at all times that the paramount importance of bringing this matter of immigration is for a timely conclusion. I thank you, Sir.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I crave the indulgence of the Chair to ask a short question.

**The Speaker:** Certainly.

## SHORT QUESTIONS

### *Standing Order 30(2)*

**Mrs. Julianna Y. O'Connor-Connolly:** Would the Honourable Minister be so minded as to consider, by way of Government, the inclusion of a chairperson from the Cayman Brac and Little Cayman Immigration Board seeing that there are two from the Board here for the very necessary and relevant reasons?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I appreciate where the Member is coming from and can assure her that there was no attempt to be exclusive. The Government will bear in mind the request in conference with the necessary parties and do whatever we can to round the situation off.

**The Speaker:** Moving on to item 6, Government Business, Motions. Government Motion No. 8/01: Laying of Records of the Select Committee to review The Immigration Law, 1992 (1997 Revision), The Local Companies (Control) Law (1995 Revision) and The Trade and Business Licensing Law (1996 Revision).

The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** First, I move the suspension of Standing Order 24(5) to allow this Motion to be dealt with since it has not had the required five-day circulation.

**The Speaker:** I think it has been circulated, not in sufficient time, but it has been circulated. Do you all have it? I waived the five-day approval, but out of an abundance of caution, we can suspend Standing Orders.

**Hon. Donovan W. F. Ebanks:** My apology, Sir. I was not aware you had waived the five-day requirement.

**The Speaker:** Please continue.

## GOVERNMENT BUSINESS

### MOTIONS

#### GOVERNMENT MOTION NO. 8/01

LAYING OF RECORDS OF THE SELECT COMMITTEE TO REVIEW THE IMMIGRATION LAW, 1992 (1997 REVISION), THE LOCAL COMPANIES (CONTROL)

**LAW (1995 REVISION) AND THE TRADE AND BUSINESS LICENSING LAW (1996 REVISION)**

**Hon. Donovan W. F. Ebanks:** I beg to move Government Motion No. 8/01, which reads:

**“BE IT RESOLVED THAT this Honourable Legislative Assembly lays upon the Table of the House the records of the Select Committee, established with the passing of Government Motion No. 1/97 on the 21<sup>st</sup> day of April 1997, to review The Immigration Law, 1992 (1997 Revision), The Local Companies (Control) Law (1995 Revision) and The Trade and Business Licensing Law (1996 Revision), with exception of the confidential proceedings of oral hearings, and made available subject to completion of printing.”**

**The Speaker:** Government Motion No. 8/01 has been duly moved. Do you wish to speak to it?

The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** This Motion recognises the valuable work done by this 1997-2000 Select Committee, in particular the contributions the public made to that committee. It merely seeks to make this information available in the formulation of policies in respect of immigration and in particular to assist the Government in developing and being in a position to present to this Honourable House—in accordance with the statement made just a few minutes ago by the Honourable Minister for Planning, Communications and Works—the policies the Government wishes to implement in respect of immigration. It would be an unfortunate waste of excellent and well-intended information provided, and it is hoped it will be utilised if this information could now be put to this appropriate use.

I would simply urge all Members to support this Motion.

**The Speaker:** Before opening the Motion for debate, out of an abundance of caution, I would like a motion to suspend Standing Order 24(5).

**SUSPENSION OF STANDING ORDER 24(5)**

**Hon. Donovan W. F. Ebanks:** In accordance with Standing Order 86, we move the suspension of Standing Order 24 (5) in order that this Motion can be taken with less than five days prior to the commencement of this meeting.

**The Speaker:** The question is that in accordance with Standing Order 86, Standing Order 24 (5) be suspended in order that this Motion can be taken with less than five days prior to the commencement of this meeting.

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

**AYES.**

**AGREED: STANDING ORDER 24(5) SUSPENDED.**

**The Speaker:** Government Motion No. 8/01 is open for debate.

Does any Member wish to speak?

If not, does the Mover wish to reply?

**Hon. Donovan W. F. Ebanks:** Only to thank Members for the understanding of the intent of the Motion and for their support.

**The Speaker:** I shall now put the question on Government Motion No. 8/01. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**Hon. Roy Bodden:** Can we have a division?

**The Speaker:** Certainly.

**The Clerk:**

**DIVISION NO. 16/01**

**AYES: 8**

**NOES: 0**

Hon. Donovan Ebanks  
Hon. David Ballantyne  
Hon. D. Kurt Tibbetts  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Edna M. Moyle  
Mr. Alden M. McLaughlin, Jr.  
Mr. V. Arden McLean

**ABSENT: 10**

Hon. George A. McCarthy  
Hon. W. McKeever Bush  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden Jr.  
Dr. Frank S. McField  
Mrs. Julianna Y. O'Connor-Connolly  
Mr. Lyndon L. Martin  
Mr. Gilbert A. McLean  
Mr. Anthony S. Eden

**The Speaker:** The result of the division is 8 Ayes, 0 Noes, and 10 Absent. The Motion is passed.

**AGREED: GOVERNMENT MOTION NO. 8/01 PASSED.**

**The Speaker:** This concludes the business on today's Order Paper.

I will now entertain a motion for the adjournment of this Honourable House.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, because we would like to have a presentation to Members of the upcoming Public Finance Bill by the team that put the Bill together, I move the adjournment of this Honourable House until 10 am Monday.

**The Speaker:** The question is that this Honourable House adjourns until 10 am Monday.

**Mr. V. Arden McLean:** Mr. Speaker, just for clarity, are we coming back here on 10 September? I thought it was to be adjourned until the end of the Human Rights Symposium.

**The Speaker:** No. All day Monday, but the symposium commences on Tuesday, September 11.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Monday, 10 September 2001. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 12.32 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM MONDAY, 10 SEPTEMBER 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**10 SEPTEMBER 2001**  
**10.31 AM**  
*Fourth Sitting*

**The Speaker:** Good morning. I will invite the Elected Member for East End to say prayers.

**PRAYERS**

**Mr. V. Arden McLean:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth II; the Queen Mother; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

**Proceedings resumed at 10.33 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable Second Official Member, the Third Elected Member for George Town and the Fourth Elected Member for West Bay who are presently attending a Commonwealth Parliamentary Asso-

ciation Conference in Australia, Apologies for late attendance from the Second Elected Member for West Bay who will be arriving later this morning.

Questions to Honourable Ministers/Members. Question No. 102 standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

**QUESTIONS TO HONOURABLE  
MEMBERS/MINISTERS**

**QUESTION NO. 102**

**No. 102: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports whether or not plans have been prepared and costed for the proposed Women's Shelter.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** As the Member is aware, there were funds approved in the 2000 Budget for a Project Development Document (PDD) for the Crisis Centre Facility (Women's Shelter). The draft PDD was completed in 2000 for a central facility and the total cost of this project was \$2,178,825. The Ministry has reviewed this document and intends for changes to be made, as it is the intention of the Ministry to get value for monies spent on any project for which we hold responsibility.

**SUPPLEMENTARIES**

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Is the Minister in a position to say what the outcome was as a result of this review?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I am not in a position to say what the outcome of that review is because it has not been finalised. However, I will say that the Minister has taken a decision to discontinue a section of the facility, which is the proposed swimming pool.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Minister say who was actually responsible for making recommendations for the project document?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Mr. Speaker, is the Member speaking about the proposed development document that is in the Ministry at this time?

I cannot say the company that proposed the project with the swimming pool, but the Member may be in a position to as she was the Minister responsible at that time who requested the PDD for the project.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister give an undertaking to ascertain who was responsible, when in fact I never ever did have an opportunity to see the project done. I will, however, still give the project my full support when she brings it to this House, whether or not it is revised.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Definitely. I will do that.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 103, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

### QUESTION NO. 103

**No. 103: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports what progress has been made in acquiring additional working space for the Ministry of Community Development, Women Affairs, Youth and Sports.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** There has been no progress regarding acquiring additional working space for the Ministry.

### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether it is still an issue her Ministry still intends to pursue?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The answer to that question is 'no'.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if the answer to the last question suggests that there is adequate space in the Ministry?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The answer to that question is 'yes'. The reason additional office accommodation was being sought for the Ministry was due to the seamen's exgratia payment. The majority of those have now been put into a database and the pressure of work is no longer there regarding the seamen's exgratia payments.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether she is fully satisfied that each individual staff member, including the Minister, has sufficient working space taking into account the background of the public reception and filing areas within the said Ministry?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The entire Glass House could say 'no' to that question. However there is an office accommodation committee which falls under the Minister responsible for Lands and Survey. In September 2000 the former Minister of Community Affairs took a request to Executive Council to request office accommodation for the Ministry. At that time a decision was taken that the Ministry should look elsewhere than the West Conference Room and on the same date the Minister then responsible sent back and in-

structed the Ministry to use a part of the West Conference Room.

The Minister in charge of planning is in the process of preparing plans for a government administration building. However, if it is dependent upon the filing cabinets and the entire staff at the Glass House the entire building is without space, Mr. Speaker.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** In an earlier response the Minister suggested that the reason extra space was being sought was the processing of the seamen's exgratia payment which has now been put on a database. As the Minister is aware, there are still certain batches of these applications to be processed and approved. Can the Honourable Minister suggest from her answer stated that there is no more need for the space, the processing of these applications are now completed?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I cannot say the processing of all applications have been completed because they come in on a daily basis. I am saying that the officer who is handling the seamen's exgratia payment has sufficient working space and I will not be seeking further office accommodation for that particular officer.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 104 standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 104

**No. 104: Mr. Gilbert A. McLean** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs if there is a policy in place that all retiring permanent secretaries will receive one year's pre-retirement salary.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** In 1970 a written policy was put in place that senior civil servants, upon retiring, would be granted one year's pre-retirement leave to compensate for lost leave during their years of service.

Over the past ten years or so, in particular, within the last four years, senior civil servants have been called on to work on week-ends, holidays and often at nights to complete work on schedule; this has been done without compensation.

Frequently, they have been asked to go overseas without compensation. It was accordingly decided to

put more specific conditions in the policy as follows: Officers qualifying for pre-retirement leave would be in Grade C or above (Permanent Secretary or its equivalent). The Officer must have in at least thirty years of pensionable service with at least ten years as Permanent Secretary or above that level. The pre-retirement leave would be inclusive of all accumulated annual leave.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Was it the case that the 1970 policy was specific to officers then, namely such persons as Mr. Harry McCoy, Mr. Desmond Watler, Mr. Wentworth Bodden, Sr. Vassel Johnson, and so on, or was this policy to be carried on until now, 30 years later?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I think the answer to that question is both. In 1970 it named the senior civil servants by name and as years have gone by, senior civil servants who fell into that category were added to that list. The only difference at this time is that instead of naming civil servants by name, they are putting them in a category, accomplishing the same thing without pointing them out by individual name.

**The Speaker:** Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Would the Member agree that the reason pre-retirement was given in 1970 (indeed I think it was two years for some of the senior civil servants who virtually had no leave and it was because these were unable to take their leave unlike more modern times) was done specifically to allow them to get the benefit of the leave they had?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The Member may be correct. As a former civil servant he would probably know that what the records in the files show is 12 months' pre-retirement leave which was approved for those individuals. It was approved to compensate for lost leave.

In today's civil service it is worse in many instances than it was then, despite the fact that the service has expanded considerably. There are many civil servants that have a very large number of days from annual leave and they have not been compensated in any other way for additional time over and above the normal civil service hours they work.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Is it the case now that the Personnel Regulations require civil servants to take whatever leave they earn according to their particular category within the calendar year and only in exceptional cases it should be carried over?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** In theory, civil servants are supposed to take their leave earned in a calendar year. Unfortunately, because of the pressure of work this has not been possible and there are many, many senior civil servants that have not been able to take their allotted annual leave in the calendar year earned.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell us what was considered the lowest level of senior civil servant in 1970?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** As the Member will know, we re-designated posts. In those days titles used did not always equate to today's titles. However, by and large, from the names in the file it equated to that of permanent secretary. I do not have the actual list here, but that was what it would equate to by and large in today's service.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Would the Member say that all civil servants in that category, as he just explained, since 1970, upon retiring have received the pre-retirement pay?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** As I mentioned, what the file shows is that persons who retired later on sometime after 1970, but before . . . sort of between 1970 and, say, 1998, a few names were added to that original list as people came to retirement age and it was felt they qualified or were eligible.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell us if civil servants who were expatriates in those positions also received this payment upon retirement?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** To my knowledge they did not because they would have to be on the permanent pensionable establishment to have qualified.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say if the Government intends to continue extending this policy to senior assistant secretaries and/or heads of departments?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** In addition to what has been set down here, heads of departments who worked for 30 years or more on the permanent and pensionable establishment will be considered on a case by case basis for pre-retirement leave up to a maximum of six months. However, each will be dealt with on its own merits.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Based on the justification set forth in the policy, would it not be deemed prudent to move the discretion or mandate for consideration of senior assistant secretaries and permanent secretaries to that of an entrenched policy?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The matter can be revisited even though senior assistant secretaries generally succeed to the post of permanent secretary and would then likely qualify, in any event. The matter is not cast in stone; it can be reviewed.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Member say if it is not the case that as a permanent secretary one is expected to work on weekends and often holidays without compensation, as that is part of what is expected of higher management in the civil service? Can the Member also say if being able to access value for leave not taken is based as pre-retirement leave?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The policy is based both on leave not taken and also on the fact that senior civil

servants at the level of permanent secretary and above are often called to work over and above their normal hours, weekends, nights, holidays, and are frequently called upon to go overseas on official business with no compensation. The Member is quite right that senior civil servants are not compensated for that as more junior civil servants would more likely be. The pre-retirement leave is based on all those things.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** In the substantive answer the Member said that it was "accordingly decided to put more specific conditions in the policy" and he refers to these specific conditions as "Officers who qualify for pre-retirement leave would be in Grade C or above (Permanent Secretary or its equivalent). The Officer must have in at least thirty years of pensionable service with at least ten years at Permanent Secretary level or above."

Since this written policy the Member referred to appears to have begun in 1970, I wonder if the Member could say when these specific conditions were promulgated and came into effect.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The specific conditions set down were brought into effect in March of this year.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member explain to this House how this policy was developed and upon whose authority it was implemented?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I had the original policy researched. I consulted with senior civil servants and then put the proposal to His Excellency the Governor. He consulted with the other Caribbean Overseas Territories and subsequently made a decision to bring the policy into effect.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** As this policy clearly has significant financial ramifications, can the First Official Member can say how it was determined that the country would pay for this significant expense, and, specifically, were funds identified by His Excellency the Governor to ensure that this financial commitment, particularly in these times, could be carried

out without extra additional unbearable strain on the country's purse?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I do not believe the matter was raised, for the sake of argument, with Members of the Legislative Assembly, but the policy could simply have continued by adding individual names to the list, as had been done over the years, instead of dealing with it by post. The country has funded this cost in past years, perhaps in times when the country was not even as well off as it is today. The decision was taken and I cannot say if there was any consultation in regard to identifying funds for it.

**The Speaker:** I would ask for a motion to suspend Standing Order 23(7) &(8).

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

*[Moved by the Honourable First Official Member]*

**QUESTION PUT. AGREED: STANDING ORDER 23 (7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable First Official Member say whether or not His Excellency the Governor bears in mind when determining policies such as this, that ultimately the decision as to whether or not that policy will be funded is a matter entirely within the remit of the Finance Committee of this Honourable House?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am sure this is very well known. In fact, that goes for any line item in any area of the Budget.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** In answer to an earlier supplementary, the Honourable First Official Member indicated that the reason for the continuation of this policy since 1970 was because permanent secretaries and persons above them often had to work excess hours. Can the Member outline to this House what the command structure is within a ministry so that we are better able to determine whether or not these ministries are sufficiently staffed, therefore, this sort of extra burdens are not placed on permanent secretaries?



**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The permanent secretary in the ministry is the head civil servant and the person who works very closely with the Minister on the formulating of policy and the implementation of policy. There is in each ministry a senior assistant secretary and depending on the size of the ministry there may be an administrative officer as well as a senior assistant secretary.

The makeup is not consistent across the board because it depends on the size of the ministry. However, the permanent secretary is generally the civil servant called upon to go overseas with his or her minister and often they give up weekends and holidays if there is one falling during that time overseas. There will also be times when it is necessary for the permanent secretary to be there and personally responsible for dealing with matters at the high level for his or her minister.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member say whether or not the senior assistant secretary stands in for the permanent secretary whenever he or she is absent?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Yes, that is the case.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I wonder then if the Member can explain why permanent secretaries regularly and consistently seem unable to take their annual leave.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Despite having other staff there because of the work pressure in ministries, it is sometimes impossible to take their annual leave.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Alden M. McLaughlin, Jr.:** Is the Member perhaps saying that we need two or more permanent secretaries per ministry?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I believe my colleagues on Executive Council could easily use more persons. There is a tremendous amount of work. I think, with all respect, the questioner would actually have to be in the ministry to appreciate how much work has to be done and how much the Ministers are called upon to do and how much permanent secretaries are called upon to do.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Member confirm that pre-retirement leave means that a civil servant, particularly a permanent secretary would be paid for one year's salary after he or she has left the job, no longer working for government?

Is it not the case that if there is accumulated leave when a permanent secretary or any other person retires they are paid that in a lump sum payment?

Would he agree that it is outstandingly unfair to pay a permanent secretary in such an instance, except for leave not taken, to the exclusion of all other civil servants who could rightly look to similar treatment?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** That was really a triple question. I will try to answer as much of it as I can.

I do not think it is unfair to the rest of the service that permanent secretaries and above are paid for, or given 12 months pre-retirement leave for the reasons I have already stated.

Permanent Secretaries and other senior civil servants above Permanent Secretary's level are not paid for outstanding annual leave on retirement and the outstanding annual leave is inclusive in the 12 months pre-retirement leave.

Can the Member refresh my memory on the third part of that question?

**Mr. Gilbert A. McLean:** I asked why other civil servants should not expect to be treated similarly in that regard.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Thank you.

Admittedly, the Civil Service is a fairly large organisation, in fact a very large organisation by Caymanian standards of the 1950s, 1960s and 1970s. However, it is likely that most career civil servants will advance to at least head of department if they spend their entire career in the service. If it is felt that the policy is unfair to other civil servants, the matter can be revisited as necessary. However, by the time an individual has put in 30-plus years in the service, it is

likely that he or she will have reached head of department. If not, the matter can be revisited.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert McLean:** Would the Member give an undertaking that this policy which has just been instituted apparently be reviewed with the view of discontinuing this proposed practice or ceasing it, and in place of that making arrangements for permanent secretaries to take their leave when required so that this additional year's pay is not required, which places a new strain on the budget of the country when persons are not in place working on the job?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** Mr. Speaker, I am not prepared to give such an undertaking. What I am prepared to do is discuss the matter with the Governor.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The First Official Member said in a previous answer concerning other civil servants, that when a civil servant stays in the job for 30 years he should at least reach head of department. I do not know if that is necessarily so because I can think of two individuals from Public Works Department (PWD) who are very hard workers, John Edward and Legan Dixon and the possibility of them reaching director of PWD would be slim; no disrespect to them. If those individuals were working in the private sector under the law, they would have to be given one week for every year they have worked, up to three months. Can the Member comment on the comparison between the public and private sector and whether any consideration would be given to looking at what the public sector people get?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** For group employees there is a procedure in place whereby a group employee leaving the service can be given severance pay. It is a week for each year up to ten years.

In the specific case the Member cited, I think he is right. There will be some people, particularly group employees, who will not reach the level of HOD and there are only so many HODs. However, I think, the policy can be reviewed and those situations looked into.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say why government has up to ten weeks and the private sector has to provide up to 12 weeks?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am going from memory from my days as HOD when persons in that category would have. . . Well, what simply happens is that where the Labour Law differs from General Orders, the Labour Law succeeds. It is likely, while I do not want to stand here publicly and say that is the case, that normally the public service would be guided by the Labour Law.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 105, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

#### QUESTION NO. 105

**No. 105: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs to give (a) the number of drains that have been put in place since January of this year on Cayman Brac; and (b) to say whether or not there are any plans to put in place proper drainage for the Watering Place/Bight areas.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** To date, nine drains have been installed in some of the flood-prone areas on Cayman Brac, and three drains are to be added in the Watering Place area. It is hoped that these will be completed by the end of September.

#### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Am I correct to presume that to date no drains have been put in place in the Watering Place/Bite areas?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I am speaking based on information supplied to me and I assume that at the time this information was given no drains were put in in that area during 2001. The Member may be more up to date in her information but from the information given to me, three drains are proposed to be put in that area later this month.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I wonder if the Member would give an undertaking to have a meeting with the parties concerned. We are of the view that one drain would be sufficient if it is done where it is actually piped to the sea as opposed to the types of drains already put in place throughout the island.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** That was initially the plan, as the Member probably knows. However, the machine that would have carried out this work was moved to Little Cayman for a project there. Knowing that October is the rainy season the District Commissioner was of the view that instead of waiting until the equipment was available to cut a trench to the sea he would put in three drains. Certainly, if the matter has not yet been dealt with and if one drain can suffice by cutting a trench to the sea, then obviously that is the way to go.

I was also told there was some problem with the drilling rig, which is privately owned, and that has held the matter up. I will be happy to discuss it with the Members for Cayman Brac and Little Cayman and the District Commissioner to have the matter dealt with to the satisfaction of all concerned.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Member indicate if there are any plans to put a drain in the Bight area?

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** The answer did not mention the Bight area, only the Watering Place area. I do not have an answer for that. Again, that is something we can discuss, particularly if we go the route of putting a single drain.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I note that nine drains have been installed so far this year and the plan is to install three and possibly a fourth. Can the Member indicate what is used in determining the priority as to where these drains are located? It would appear from observation that the Watering Place area is the heaviest area subject to flooding.

**The Speaker:** The Honourable First Official Member responsible for Internal and External Affairs.

**Hon. James M. Ryan:** I have to say that I was not involved in the discussions on where the priorities were given for the drains, but I suspect that why the Watering Place area did not get the top priority may have been because of not having the piece of equipment. I believe that particular area was delayed with the expectation of trying to get the piece of equipment back to the island to cut the drain to the sea.

Knowing that October is the rainy season and knowing that that area is prone to flooding at that time, I believe the decision to move ahead with drains, putting in three drains, was taken because the equipment to do the necessary trench to the sea might not be available in time for that. Beyond that, I am really not able to comment on the priority.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 106, standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 106

**No. 106: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport if the recently announced George Town Port development will require a government guarantee and, if so, will a presentation on the project be made to Members of the Legislative Assembly prior to such guarantee being issued.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** The first phase of this project is expected to involve the enhancement and beautification of the existing north and south cruise ship terminals, the repair and strengthening of the existing cargo finger pier and the construction of an additional cruise ship terminal and public transport area to the north of the existing cargo area in the vicinity of the old Watler Building.

Phase II, a long-term project, would be the construction of a new cargo dock between the new cruise ship terminal and the existing north and south cruise ship terminals.

Phase III would involve the conversion of the existing cargo finger pier to a cruise ship tendering facility and the extension of this pier into the George Town Harbour to create berthing for at least two cruise ships.

I am currently in discussions with the Florida Caribbean Cruise Association (FCCA) concerning their funding of this first phase of the project. As I have said before in this Honourable House, I gave the FCCA two options: they could either fund this phase of the project or we would increase the fees in order to finance it.

In the event that the FCCA decides not to fund the first phase of the project, the Port Authority, with the Executive Council's approval, will have to finance it through borrowing. In this event, it is likely that a government guarantee will be required by the lending institution and, if this is the case, a presentation will be made to the Finance Committee of the Legislative Assembly prior to the guarantee being issued.

In any event, I intend to make a presentation to Members of this Honourable House once the detailed drawings have been completed and the project costed.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Minister say if any consideration has been given to the enhanced use of the dock at Spotts or the much advertised area in the eastern district for a possible cargo dock?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I should say also that Spotts is intended to be enhanced in the first phase of development. I do not know how much can be done up there because of the size and type of the area, but it can be enhanced and we certainly intend to do that.

As far as the East End project is concerned, I have seen some first impressions of the project, but I have not been handed any letter to consider it. If the private sector is going to do a project, there would be no need for government to do so.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In the present planning of phase I, has any drawings, serious study or examination been done on improving the Spotts dock where it could possibly be used in parallel to what is happening in George Town? In other words, if there are four ships, maybe one could come to Spotts and the other three to George Town. Would the Minister give some serious consideration to finding out if something could be done in relation to the Spotts dock, and discover what might be possible in the East End area. If such should occur in those eastern districts, it would give some much needed commerce and opportunity for trade, as is occurring in George Town.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** As I said, the Spotts jetty will be upgraded and we intend to do as much enhancement as we can. I was told that we have had opposition in the past to the Spotts area for cruise ships from the environmental section of government. I understand they do not particularly like anchoring at Spotts. It is one out of two safe harbours in the country when the weather is rough on this side; therefore, Spotts is utilised. The other area being the North Sound and of course, no one wants to do anything as far as development is concerned in the North Sound. So, Spotts will have to be enhanced and we intend to do that.

I have seen first impressions of the project in East End and I certainly support the idea. If I can help, or my Ministry, I will certainly do so. As of yet, I have not been asked anything as the Minister of transport. However, I think it is a good idea. If the private sector is putting in facilities, there is no need for government to do one. All government has to do is monitor the situation to ensure it is a proper project.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** At a recent public meeting, which the Minister of Tourism held at the George Town town hall, it was reported that two alternative development schemes were being considered in relation to the George Town port and, in particular, the cruise ship landings. Can the Minister say if the Port Authority and/or the Cayman Islands Government have now determined which of these schemes it proposes to proceed with?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Executive Council has been appraised of each step that I have taken in regard to the port development. I have showed them the different phases, the various sketches that have been shown to me, the proposals each step of the way. When I get the projects costed, what I think are realistic costings, Executive Council will have to give the first go ahead; that is where I would begin. So, as soon as I have proper costings and proper drawings then I will appraise Executive Council to get direction.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I take that answer to mean a decision has not yet been taken as to which of the options to proceed with.

At that public meeting it was also reported that the Minister had indicated the cost of either of these options being in the range of CI\$12 million. Am I now

to understand the Minister to be saying that costings have not yet been carried out?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** As far as the Member's first remarks about Executive Council's approval, as I said, Executive Council has been appraised of each step I have taken. I did not hear any dissent or else I could not go out publicly to say what has been said.

As far as the costing is concerned, there have been all kinds of figures thrown around, and some that I am not satisfied with. In fact, there was no firm costing. Port engineer at the time said \$12 million, \$10 million, but a lot of things were not considered. Where they said ten acres to be dredged, there are 12 acres. I suspect it would cost more to dredge 12 acres than to dredge ten.

So, all the figures that have been given to me thus far have been just preliminary figures, which is the best word I can use for it. I am trying to get a costing that is firm and decisive.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Honourable Minister say whether or not these proposals generally, or one proposal in particular, has the general support of the waterfront merchants?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Mr. Speaker that is a good question.

Trying to please all the people is a hard thing to do. The Almighty God could not please everybody and they crucified him! I suspect that I will not fare any better. However, there are two factions in George Town talking about the port facilities. There is the present facility, what we term the north and south terminals. Both of them cannot handle the capacity we have, and that we have committed to; therefore, there needs to be facilities to the north. That is my opinion!

The north people say that if we put the terminal at the Watler building, it might give them more opportunity for business. I can understand the people at the present site saying that if we take all the ships away from them they have something to quarrel about. However, no such thing is happening.

The present facilities are going to be enhanced to better cope with what we have and the added capacity or new capacity for additions will expect to go to the north. There are no firm decisions on this yet. This is just looking at the whole thing and trying to please the two sides while at the same time trying not to over-

commit the country or the Port Authority with money we do not have.

Yes, there are some factions with the much talked about sea option that included a new cargo facility. Why should we commit to a new cargo facility at a time when the country is down and the income of the Port Authority is down, in fact, not in a good position at all, and the country itself cannot find money to pay its bills?

Why should I commit this country to such expenditure? If any Member of this House from George Town or elsewhere wants this done, then they can make the commitment, but this Minister of tourism will not be making that recommendation. Long term development—yes—a new cargo facility can be looked at. However, I do not see the need for it. In fact, the port is under-utilised. I have asked from January, in fact from December for a plan so we could look at operating the port at night. I have not received that plan as yet.

It is hard to try to please everybody, but that is what I am ending up having to do, and at that, I doubt when the port facility is done everybody is going to be pleased. However, I can assure Members of the House of one thing: present business operators, where they are at the south and central terminal (actually south and north) will not lose any business. In fact, more capacity is being added to that area.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** In a previous reply the Minister touched on a port in the East End district, or that is what I believe he meant. I wonder if he can give us an undertaking that before any decision is made that the people will be consulted and their input sought on the placing of a dock in that area if that is within the electoral district of East End.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** It is proposed as a private sector project. As far as the Port Authority or my responsibility as Minister of transport, environment and responsibility for commerce in general is concerned, certainly from our responsibilities the Member, people from East End, and the public at large . . . we would talk to them. I should say that all the planning requirements would have to be adhered to as well. Certainly that would include consultation with members of planning, the Minister with responsibility for planning and the public.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Referring back to the Minister's response to my last supplementary ques-

tion, I sense that the Minister gets a bit incensed about some of these issues between the various factions in George Town, and I really do not want to provoke him and cause an emotional reaction.

I wonder if the Minister would be so kind as to assure us humble Members on this side of the Floor, that he will consult with us in relation to which decision is taken. The matter is a matter of grave concern within the district of George Town and wider because the merchants come from all over the Island. I would certainly appreciate having assurance that the Minister will consult with Members on this side of the Floor prior to the port authority or government making this critical decision.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** I thank the Member for his consideration in not provoking or causing any provocation this morning. As far as being incensed, I am only incensed when I see responsible people making greed take away rationality.

I would say to the Member to read the answer again because in the very final sentence I said "I intend to make a presentation to Members of this House once the detailed drawings have been completed and the project costed."

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** In the substantive answer, the Minister spoke about the funding for the proposed project. He has stated that the FCCA has been invited to fund the first phase, and, if not, the alternative would be to increase fees.

Can the Honourable Minister give us an indication of how he would expect the situation to work if the cruise ships funded it and, in the alternative, if government did, what fee structure does he refer to as having to be increased?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** In discussion with FCCA we discussed it generally because as of yet there are no detailed drawings or final costing. What I put to them was that they build and pay for the building. Of course, Cayman Islands Government through the Port Authority, Environment Department and the various departments connected would monitor. The other option is that we increase the fees.

When the loan is completed, short-term or long-term loan, then if we increase the fee by \$4 we keep a portion of the fees. If the fee was increased to \$2.50

or \$4.50, we would keep \$2.00 or \$2.50 and retire the balance.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Are the fees the Minister is referring to what we commonly refer to as the travel tax, or is he speaking of other fees? The other point I am asking for clarification on is that if the cruise ship companies built the dock, would they be charged a reduced fee, or simply be allowed to use it free of cost with a costing attached each time they came until the money they paid had been covered or utilised?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** There would be no reduction in fees. The alternative is in the place of an increase, but there would be no reduction. They would pay the same way.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Honourable Minister indicate if there is a parallel Cayman Brac port development programme?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** On my first visit to Cayman Brac it was obvious that some work needed to be done to the dock. I asked for some preliminary costing on what it would take to do that needed repair work.

As far as getting cruise visitors to Cayman Brac, I am in discussion with FCCA to see how we can utilise and improve the cruise ship scheduling for Cayman Brac.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Minister spoke about the two options for FCCA. I understand that if they take the option of financing the dock, the CI Government would increase the rental rates to use the dock, and then we would pay them back the financing through that manner. I also understood from what he said that if the Government financed it, then we would have to increase the cost to the cruise liners. Now, if they finance it, how much would be coming back to the Cayman Islands? Would we increase the cost for using the dock? If not, would the Minister say that if we are not increasing it based on FCCA financing it and we have to pay them back, would there be a reduction

in fees from a total at the end of the day from the cruise liners?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Let me repeat what I said earlier as to the way forward. We are in discussions with FCCA. The discussions, so far, have focused on FCCA building facilities. If they build, all the relevant departments would do the monitoring here. If they do not want to build, then we increase the fees. If we increase the fees by let us say \$4 and we borrow the funds (we would have to borrow funds) part of the \$4 would be reduced at the end of the loan period; let us say \$2.50, \$2.00 would be retired. The Cayman Islands Port Authority would keep \$2. If we borrow the money, after the loan is paid, then the Cayman Islands Government would keep a portion of the increased fee.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister explain if FCCA finances the dock, and rightfully we would have to pay them back, how would we pay them back for that financing of the dock?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Can the Member repeat that question?

**The Speaker:** The Elected Member for East End, please repeat your question.

**Mr. V. Arden McLean:** If FCCA finances the dock, and rightfully we would have to pay them back, how would we pay them back for that financing of the dock?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** There is no intention of repaying them if they build.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Minister can tell us how that would work because the last figure I heard was \$12 million and there is a possibility we are speaking about \$12 to \$20 million, I am not sure but somewhere in that range. If FCCA puts that kind of money into this country to build us a dock that will hopefully last another 50 or 60 years, how are they

going to recoup that kind of money, or are they that generous to just throw that kind of money in because of the amount of profit they are going to get off the passengers coming to our country?

Pardon me, Mr. Speaker, but I think I am a little bit confused here.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Yes, Mr. Speaker, I agree that the Member is very much confused.

I am trying to explain to the Member that if we borrowed funds, I would increase the fee to FCCA. If FCCA builds, we are not paying them. I think the Member got the wrong impression that the facilities were going to cost \$12 million. The \$12 million figure thrown around was not just for the cruise facilities; it included the cargo facility also.

We are talking to FCCA in regard to cruise facilities only. That would not cost \$12 million. Okay?

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I am glad the Minister is now getting to the point where I am no longer confused because he will recognise that it was his answers that confused me.

**Hon. W. McKeeva Bush:** Yeah?

**Mr. V. Arden McLean:** Regardless of how much the passenger liner docking facility is going to cost, if FCCA finances that, is he saying that the Cayman Islands will not have to pay them back?

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

*[long pause while the Hon. Minister had discussion off microphone]*

**Hon. W. McKeeva Bush:** All I can say to the Member in addition to what I have said is that if FCCA builds there will be no increase to them. That is the partnership between the public and private sector we have been talking about. If we have to build, we will increase fees to them. That is the investment in the whole thing.

I would say to Members that we are fresh in negotiations. We do not have final costing, drawings or any final agreement. We are still in negotiation. I do not think it will do us any good to continue in this line. I have said everything in every way, shape or form that I could say.

**The Speaker:** That concludes Question Time for this morning.

Item 4, Government Business, Bills. Before calling for First Reading I would appreciate in accordance with Standing Order 86 the suspension of Standing Order 46(1) and (2) to proceed with these Bills as the gazetting process has not been completed.

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. This is to facilitate First Readings, and I will move the suspension in a second, but if you will permit me . . . recognising that Members may not have had sufficient time to debate the Bills is why we are only asking for First Readings today. So, Members will have time between now and when we resume to be able to debate or discuss issues surrounding these Bills if necessary.

As per your instructions, Sir, I move the suspension of Standing Order 46(1) and (2).

### **SUSPENSION OF STANDING ORDER 46(1) AND (2)**

*[Moved by Hon Minister for Planning, Communications and Works]*

**QUESTION PUT. AGREED: STANDING ORDER 46 (1) AND (2) SUSPENDED.**

**The Speaker:** Bills, First Reading.

## **GOVERNMENT BUSINESS**

### **BILLS**

#### **FIRST READINGS**

##### **THE STAMP DUTY (AMENDMENT) (NO.2) BILL 2001**

**The Clerk:** The Stamp Duty (Amendment) (No.2) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

##### **THE PUBLIC MANAGEMENT AND FINANCE BILL 2001**

**The Clerk:** The Public Management and Finance Bill 2001

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

##### **THE EXEMPTED LIMITED PARTNERSHIP (AMENDMENT) BILL 2001**

**The Clerk:** The Exempted Limited Partnership (Amendment) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

##### **THE PARTNERSHIP (AMENDMENT) BILL 2001**

**The Clerk:** The Partnership (Amendment) Bill 2001

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.

##### **THE HEALTH INSURANCE (AMENDMENT) BILL 2001**

**The Clerk:** The Health Insurance (Amendment) Bill 2001

**The Speaker:** The Bill was deemed to have been read a first time and set down for Second Reading.

That concludes the business on the Order Paper. I would appreciate a motion for the adjournment of this Honourable House.

## **ADJOURNMENT**

**Hon. D. Kurt Tibbetts:** Mr. Speaker, in order to be able to attend the various topics to be discussed and the discussions that will ensue during the course of the rest of the week at the Human Rights Symposium, I think it is by consensus the wish of all Members that the adjournment take place until Monday morning. I therefore, move the adjournment of this Honourable House until Monday 17 September at 10 am.

**The Speaker:** The question is that this Honourable House do now adjourn until 17 September at 10 am. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 12.07 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM MONDAY, 17 SEPTEMBER 2001.**





**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**17 SEPTEMBER 2001**  
**11.04**  
*Fifth Sitting*

**The Speaker:** Good morning. I will invite the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture to say prayers.

**PRAYERS**

**Hon. Roy Bodden:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth II; the Queen Mother; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

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

**Proceedings resumed at 11.07 am**

**The Speaker:** Proceedings are resumed.

Item number 2 on today's Order Paper, the Administration of Oaths or Affirmations. Oath of Allegiance to Mr. Donovan W. Ebanks, MBE, to be the Acting Temporary Honourable First Official Member responsible for the Portfolio of Internal and External Affairs.

Mr. Ebanks, would you come forward to the Clerk's table, please? Would all Members please stand?

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**

*(Mr. Donovan W. F. Ebanks, MBE)*

**Mr. Donovan W. F. Ebanks:** I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

**The Speaker:** Mr. Ebanks, on behalf of all Honourable Members I welcome you to this Honourable House for the term of your service. Please take your seat as the Honourable Acting First Official Member.

Administration of Oath, Oath of Allegiance to Mr. Samuel Bulgin, Solicitor General, to be the Acting Honourable Second Official Member responsible for the Portfolio of Legal Administration.

Mr. Bulgin, would you come forward to the Clerk's table? Would all Honourable Members please stand?

**OATH OF ALLEGIANCE**

*(Mr. Samuel Bulgin)*

**Mr. Samuel Bulgin:** I, Samuel Bulgin, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

**The Speaker:** Mr. Bulgin on behalf of all Honourable Members I welcome you to this House for the time of your service. Please take your seat as the Honourable Acting Second Official Member.

Please be seated.

Item number 3 on today's Order Paper, Reading by the Speaker of Messages and Announcements.

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

**COMMERCIAL AIRLINE ATTACKS IN THE UNITED  
STATES OF AMERICA ON TUESDAY  
11 SEPTEMBER 2001**

**The Speaker:** On behalf of all Honourable Members of the Legislative Assembly of the Cayman Islands, we join Nations of the world to express our shock and deep sorrow at the most tragic loss of lives and suffering of the people during the terror attacks of New

York, Washington DC and Philadelphia, in the United States of America on the morning of Tuesday, 11 September 2001. The loss and suffering of all innocent lives is an intolerable act of human kind. The terror lingers on for loved ones who have lost family members, friends and those who live with the hope that some may still be found.

Would all Members please stand? As we stand in a moment of silence, let us pray for the repose of the lost souls, for those still unfound and for the family members of all. Through the grace of God may the living overcome this enormous tragedy and bring peace to the hearts of all mankind. We shall observe one minute of silence.

### **THE HOUSE STOOD FOR A MINUTE OF SILENCE**

**The Speaker:** Please be seated.

Item 4—Statements by Honourable Ministers and Official Members of the Government. Statement in regard to the four Commercial Airline Attacks in the United States of America on Tuesday 11 September 2001 by the Honourable Minister responsible for Planning, Communications and Works.

## **STATEMENTS BY MINISTERS/MEMBERS OF THE GOVERNMENT**

### **STATEMENT IN REGARD TO THE FOUR COMMERCIAL AIRLINE ATTACKS IN THE UNITED STATES OF AMERICA ON TUESDAY 11 SEPTEMBER 2001**

**Hon. D. Kurt Tibbetts:** Six days later, the entire world is still reeling from the shock of the wicked and dreadful act of mindless hostility inflicted on the people of the United States of America and, indeed the world.

I know, Sir, my colleagues in this Honourable House would like to join the Government in publicly expressing the profound horror experienced by the people of the Cayman Islands since learning of these terrorist attacks. Our thoughts and prayers are with the people of the United States of America at this time, and indeed the many families who have lost loved ones and friends. It appears, Mr. Speaker, that there may well be some six thousand lives lost between the passengers in the four aircrafts which were hijacked and used in the attacks along with occupants in the buildings and the brave souls who rushed to their aid.

It is interesting to note that of the souls lost are individuals from some forty countries, and this is clear indication of the far reaching effects of this terrible chapter in World History. We know that President Bush and his chain of command will have the judgment, the strength and the resolve to do what is necessary to correct this heinous wrong to civilization.

The Government and people of these Islands stand ready to assist in righting this grievous wrong in any way we can, and we fully associate ourselves with the larger goal of eliminating terrorism.

I know that the Caymanian People have already taken the initiative to set up tangible means by which financial contributions to the valiant firefighters and police of the State of New York can be made. There have been many church services and other signals of support shown here on our Islands over the past few days.

I would like to express my gratitude to the Cayman Ministers Association for organizing the prayer service to be held on the lawns of the Courts Building at 12.30 today. This will be a real opportunity for our office workers and people from all walks of life in the Cayman Islands to come together and show our true support for our neighbours, an opportunity to grieve with them.

Mr. Speaker, just as we find imperfection in ourselves and our fellow man, we may also find imperfection in the United States, but the truth is she is a beacon of idealism, democracy, and prosperity to a world that still has many dark places. We trust her to lead the way relentlessly, but not recklessly, because adherence to her founding principles is what will seal her greatness.

We must all stand with her and say to the dark forces of terror, injustice and inhumanity: "You cannot and will not prevail; we will not yield or surrender, and we shall overcome."

So from these "Dear verdant Islands set in blue Caribbean Sea," this short but fervent prayer: "God keep us safe here in the Cayman Islands, God save the Queen, and God bless the United States of America".

**The Speaker:** A statement in regard to three Afghanistan nationals living on Grand Cayman since 22 August 2000, by the Honourable Temporary First Official Member.

### **STATEMENT IN REGARD TO THREE AFGHANISTAN NATIONALS LIVING ON GRAND CAYMAN SINCE 22 AUGUST 2000**

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, I certainly endorse the remarks that you and the Leader of Government Business have just made. I would like to expand slightly on the Government's commitment to assisting in any way possible the investigative efforts of the US authorities as they seek to determine all those who may have played a part in these tragic events.

Mr. Speaker, the Government issued a statement on Thursday last in relation to the three alleged Afghans who remain in the Cayman Islands, and specifically in light of an unsigned letter that had been passed to me as Acting Chief Secretary on 6 September.

Over the weekend, some US media picked up on the issues of these three individuals and that letter. A more detailed statement was released yesterday morning. This statement was released both locally and overseas. At our request, a copy was also forwarded yesterday by the UK Embassy in Washington to the US State Department.

Turning more specifically now to the matter of the investigations of the US authorities who were on Island, and as communicated in our statement of yesterday morning, I can reiterate that those US individuals left the Cayman Islands on Saturday afternoon.

While here, they received complete cooperation and were provided with all documents and relevant information regarding the three men. It is expected that this information will be conveyed to the relevant US authorities investigating Tuesday's tragic terrorist attack on the US.

The Government remains committed to assisting, in any way possible, in the establishment of whether there was any connection between those events and the three alleged Afghans currently being held here.

It is hoped that, at the very least, these investigations will result in a definitive identification of the three individuals, thereby aiding local efforts to make a determination on their status in these Islands. It should be pointed out however, that it is not known how quickly the US investigating authorities will give the Government a determination on the information that has been gathered, nor is it reasonable to expect an immediate indication, given the thousands of leads which have been reported to US investigators. The Government stands ready to provide any further assistance in this matter.

Finally, Mr. Speaker, on a personal note, let me say to Honourable Members and to the public that I acknowledge the undesired publicity my decision has generated. I do not consider the fact that the writer of the letter has been adamant that its suggestions were mere speculation on his part as vindication of my decision.

Having said that, Mr. Speaker, I would obviously be the first to acknowledge that had I had the benefit of the 20/20 vision that only hindsight brings, I certainly would have made a different decision. However, life cannot be lived in hindsight.

I am grateful for those who appreciate and respect the decision I took, and I also respect the views of those who differ. Life, and in particular the roles that I have been afforded the opportunity to fill in service to the people of these Islands, consistently requires the making of judgements and decisions. I have always made those, and will continue to do so, to the best of my ability. Thank you, Mr. Speaker.

**Dr. Frank S. McField:** Mr. Speaker, may I ask a brief question on the statement made by the Honourable Acting First Official Member?

**The Speaker:** A very short question please, Third Elected Member for George Town.

### SHORT QUESTIONS

*Standing Order 30(2)*

**Dr. Frank S. McField:** Mr. Speaker, I guess we must be in a hurry to get someplace.

I would like to ask the Member if the British Government is, at this time, playing any role in trying to ascertain if the position the Afghans have been presenting to the Cayman Government about themselves is correct.

**The Speaker:** The Honourable Temporary First Official Member.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, the British Government has been aware of the presence of the three individuals since their arrival. They have consistently been involved in our effort to arrive at an identification of who these individuals are.

**The Speaker:** I do not wish to prolong this.

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I appreciate that we are dealing with situations which are important to our people. Since the Member has been so kind to give us an opportunity to ask a question, I would like to know if the British Government is approaching this issue with the same amount of seriousness the US Government has approached it, by actively sending persons from the Embassy in Kingston to interview the three Afghans here. Are any follow up visits from Interpol or the relevant services in Britain expected that would do this sort of investigation?

**The Speaker:** The Honourable Temporary First Official Member.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, I am not currently aware of any intention on the part of the British Government to do anything that parallels the recent visit of the individuals from the US Embassy in Kingston. That does not mean that something may not develop during the course of this week. However, as I speak, I am not aware of any intention on their part to do a similar visit.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, these three individuals have been on our shores for over one year now. The efforts to ascertain their identity has not met with much success. As this is a matter that affects foreign affairs and international security, can the Acting Honourable First Official Member say

why the UK has not assumed responsibility for these individuals?

**The Speaker:** The Honourable Temporary First Official Member.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, while there has been involvement and support from the UK, there has been no offer and I would not anticipate one, by the UK to take responsibility for the three individuals, as the Member referred to. We are hopeful that the current circumstances will expedite the identification of the three persons and in turn our ability to take a decision in respect of their continued presence here.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr:** Mr. Speaker, Can the Honourable Member say whether or not this is a matter for which the UK has responsibility; a matter within the reserve powers of the UK kept by the UK when they granted us our current Constitution?

**The Speaker:** The Honourable Temporary First Official Member.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, the matter of the three individuals is certainly a matter that falls under the Governor's responsibility.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker. In a response to one of the questions, I think I am correct in saying that he said the UK has not offered to take responsibility for these three Afghans. My question is has the Government of the Cayman Islands initiated a request to the UK Government through His Excellency the Governor, and if so, at what time.

**The Speaker:** The Honourable Temporary First Official Member.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, I know of no request to the British Government to take responsibility for these three individuals. I think that most of us are aware of the arrangements which have applied in the past in respect of other persons who have arrived here through inappropriate or not proper means. In the past they have been solely to our account to deal with. The British Government has afforded assistance in making arrangement in providing information, but certainly to my knowledge, has not offered to go beyond that. I know of no request that has been made that would seek to take the arrangement or responsibility any further.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, since it can be implied by his response that the Cayman Islands Government has to date taken and had financial responsibility for these three Afghans, I wonder if he is in a position or would care to say if the aggregate cost to the government of the Cayman Islands and whether or not such expenditure was budgeted for.

**The Speaker:** The Honourable Temporary Acting First Official Member.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, I am in no position to say what the aggregate cost is. I am relatively confident in saying that no budgetary provision was sought in relation to these three individuals in particular, having arrived here last August. Certainly the expectation that we have been living with is that we would be able to move them along.

We would not have been planning for their long term presence including making budgetary provisions to facilitate a long term presence.

**The Speaker:** No further questions?

Moving on to statements by the Honourable Minister responsible for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Taking cognisance of the overwhelming uncertainty existing in the tourism environment since Tuesday 11 September, we are moving forward taking short and longer term plans to deal with the possible economic fallout and have agreed to set up a committee of which the terms of reference are as follows:

- 1) To assess the current local and international socioeconomic environment impacting our tourism industry and the broader economy;
- 2) To identify expected implications for the Cayman Islands; and
- 3) To recommend initial response action plans as appropriate within seven days of the first meeting derived from the outcome of 1) and 2) above and on a regular basis until such time as the economic conditions have stabilised.

The appointed membership would be as follows: the Commissioner of Police, all utility companies Caribbean Utilities Company (CUC), the Water Company, Cable and Wireless (C&W) and the Water Authority, the Contractors' Association, media, airlines, banking, Mr. Tim Ridley, a lawyer; Government's Finance and Development Department; the Chamber of Commerce, Mr. Burns Connolly; Insurance, Mr. Donnie Scott; and from the Tourism Industry, Martin Van Der Laan from the Marriott; Randy Pringle, from the Treasure Island Resorts; Mark Bastiste, of the Hyatt; Derrigton Miller, who would chair the committee; Miss Pilar Bush, from the Department of Tourism; Rod

McDowell, from the Cayman Tourism Association; Ron Kipp who chairs the Government's Tourism Action Committee; Mr. Ronnie Anglin, Mr. Donnie Smith, Mr. Richard Smith, Civil Aviation Authority; Mr. Paul Hurlstone of the Port. Thank you.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. Would the Minister of Tourism be willing to accept a member from the Sister Islands?

**The Speaker:** Honourable Minister?

**Hon. W. McKeever Bush:** Mr. Speaker, we omitted to say Cayman Brac, although we have it through the chairman of Cayman Islands Tourism Association (CITA).

**The Speaker:** No other questions?

A statement by the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport. Amendment to the Marine Conservation Regulation.

**Hon. W. McKeever Bush:** Mr. Speaker, do you wish for me to do that now? I think I am down for later, on the Presentation of Papers and Reports.

**The Speaker:** I have it here as a statement and as tabling of the Report laying on the Table. Whichever you prefer, we can also defer it until later.

**Hon. W. McKeever Bush:** Mr. Speaker, I prefer to do it as a Presentation of Papers because it is not a Report and I will make my statement at that time. Thank you, Mr. Speaker. Is that all right?

**The Speaker:** Fine.

## READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

### APOLOGIES

**The Speaker:** I would like to tender apologies for absence from the Honourable First Official Member responsible for Internal and External Affairs and from the Honourable Second Official Member responsible for Legal Administration who are off the Island.

Presentation of Papers and Reports. The Health Insurance (Amendment) Regulations 2001 by the Honourable Minister responsible for the Ministry of Health and Information Technology.

## PRESENTATION OF PAPERS AND REPORTS

### THE HEALTH INSURANCE (AMENDMENT) REGULATIONS 2001

**Hon. Linford A. Pierson:** I beg to lay on the Table of this Honourable House the Health Insurance (Amendment) Regulations 2001.

**The Speaker:** So ordered. Do you wish to speak to it?

**Hon. Linford A. Pierson:** Mr. Speaker, there is a Government Motion 9/01 that deals with the Health Insurance Law 1997 and the Health Insurance (Amendment) Regulation 2001. I will reserve my comments until we get to that Motion. Thank you.

**The Speaker:** Item No. 2 - White Paper - The Health Practitioners Bill 2001 to be laid on the Table by the Honourable Minister responsible for the Ministry of Health and Information Technology.

### THE HEALTH PRACTITIONERS BILL 2001

**Hon. Linford A. Pierson:** I beg to lay on the Table of this Honourable House a Bill for a Law to provide for the establishment of a Health Practice Board and Councils for doctors and dentists, nurses and midwives, pharmacists and professions allied with medicine to provide for the registration of members of those professions and for regulating their professional education and conduct to appeal the Health Practitioner's Law (1995R) and for incidental and connected purposes.

**The Speaker:** So ordered. Do you wish to speak to it?

**Hon. Linford A. Pierson:** Mr. Speaker, today I wish to present to Members of this Honourable House the Draft Health Practitioners' Bill, 2001. It is intended to be for wide and open discussion by Members of the Legislative Assembly, health professionals and members of the public.

Mr. Speaker, a Draft Health Practitioners' Bill was first tabled in the Legislative Assembly in 1998 for discussion and feedback. That draft bill was significantly revised due to the feedback received and has resulted in the current Draft Health Practitioners' Bill, 2001.

It is just about ready to be passed into law due to the wide consultation and revision that has taken place in the intervening years. However, I am taking one further opportunity to invite input for final revisions to be made before I present a Bill to the Legislative Assembly in November 2001 to be passed into law.

At this time the Draft Health Practitioners' Bill, 2001 is being reviewed by the following groups:

- ◆ The Health Practitioners' Board;
- ◆ The Cayman Islands Medical and Dental Society;
- ◆ The Cayman Islands Nurses Association;

- ◆ Senior Managers of the Government's Health Services; and
- ◆ Other professionals who have asked to see the Draft Bill.

The Ministry will consider the feedback received and make necessary revisions to the Draft Health Practitioners' Bill, 2001 before presenting it to the Legislative Assembly to be passed into law.

It is intended that the new Law will replace the Health Practitioners' Law (1995 Revision) which was passed in 1974 and is no longer effective to regulate the provision of health care services in these Islands.

The new Law will ensure that the health of the public is protected and promoted through more detailed and sophisticated regulation of health professionals and institutions in which health services are provided.

Under the new Law there will be a Health Practice Board, which shall be responsible for, among other things, advising the Minister on policy relating to health practice in the Islands; the supervision of four new Councils; the licensing and supervision of health care facilities; the periodic inspection of hospitals and clinics and the hearing of appeals from the Councils. The Government's health care facilities will also be subject to inspection.

There will be four Councils who shall be mainly responsible for regulating the professions. Doctors and dentists will be registered by the Medical and Dental Council; nurses and midwives by the Nursing and Midwifery Council; pharmacists by the Pharmacists Council and all other health professionals, such as physiotherapists and osteopaths, will be registered by the Council for Professions Allied with Medicine.

Each of the four Councils will be responsible for ensuring that only properly qualified and experienced health professionals are permitted to provide health care services in the Islands.

As well as regulating who can provide health care services the Councils will be responsible for promoting professional education and ensuring that good professional conduct is maintained. Professional misconduct could result in suspension or removal from registration. Rights of appeal will exist in respect of decisions taken by the Councils.

After this Bill is passed and the new Councils are established there will be a period of time, of approximately 6 months in which the Councils will formulate and set criteria for recognition of qualifications acceptable for practice in the Cayman Islands.

In this regard Mr. Speaker, I am fully expecting that a wider and more relevant set of criteria than those presently applied will come into effect, as it is essential that we in the Cayman Islands keep up-to-date with modern trends in the provision of healthcare. Thereafter all applicants for registration will be expected to comply with the criteria set by the relevant Councils. Practitioners who are currently fully registered for practice under the present Law and who meet, in full, the requirements for registration in force

immediately prior to the enactment of this Law will be eligible for registration. Each Council will keep one register for each of the different health care professions for which the Council is responsible, and every register will contain four lists.

For example, the principal list of the Medical and Dental Council's register will contain the names of the doctors and dentists who are judged by the Council to be properly qualified, and who are Caymanian or otherwise able lawfully to work as doctors in the Islands. The visiting practitioners list of each register will contain the names of the health care professionals who visit the Islands for short periods to supplement the normally available range of health care services.

The two other lists in each register will be the overseas list and the provisional list. The overseas list will contain the names of the expatriate doctors, nurses and so on who are judged as being properly qualified and experienced to work in their profession and who want to do so but cannot work in the Islands as they have not obtained a work permit. The provisional list will contain the names of all persons who are registered to complete internships in the Islands and this list will allow the Councils to identify future Caymanian doctors, nurses and so on.

The Bill also provides for the certification and regulation of private health care facilities by the Health Practice Board. Clause 42 of the Bill contains provisions to protect the public from people falsely or fraudulently claiming to be registered health practitioners. It will be an offence to practise as a health practitioner unless properly registered by the appropriate Council. It will also be an offence to obstruct a Council by refusing to give documents or other information required by the Council to carry out its registration functions under the Law.

The details of the Constitution of the Councils, the manner in which they will operate and the rules governing their supervisory and disciplinary functions over practitioners will be set out in regulations made pursuant to the Law.

Mr. Speaker, I would once again remind Members of this Honourable House that this Draft Bill has been the subject of wide professional and public consultation in the Islands, including with members of the current Health Practitioners Board and representatives of the health professions. It is part of the framework for the better provision of health care in the Islands and necessary in order to keep abreast of modern times.

I am therefore inviting Honourable Members, health professionals and the general public to give the proposed Bill close scrutiny, and to let the Ministry of Health have your concerns and suggestions as soon as possible. All feedback received will be considered by the Ministry, with the able assistance of medico-legal consultant Dr. Roy Palmer. Thank you, Mr. Speaker.

**The Speaker:** The Report of the Agricultural and Industrial Development Board for the year ending 31 December 1998, 31 December 1999 and 31 December 2000.

The Honourable Minister of Tourism, Environment and Transport.

**THE REPORT OF THE AGRICULTURAL AND INDUSTRIAL DEVELOPMENT BOARD FOR THE YEAR ENDING 31 DECEMBER 1998**

**THE REPORT OF THE AGRICULTURAL AND INDUSTRIAL DEVELOPMENT BOARD FOR THE YEAR ENDING 31 DECEMBER 1999**

**THE REPORT OF THE AGRICULTURAL AND INDUSTRIAL DEVELOPMENT BOARD FOR THE YEAR ENDING 31 DECEMBER 2000**

**THE AUDITED FINANCIAL STATEMENTS OF THE HOUSING DEVELOPMENT CORPORATION FOR THE YEAR ENDED 31 DECEMBER 2000**

**Hon. W. McKeeva Bush:** I beg to lay on the Table of this Honourable House the following documents: The Report of the Agricultural and Industrial Development Board for the year ending 31 December 1998; The Report of the Agricultural and Industrial Development Board for the year ending 31 December 1999; The Report of the Agricultural and Industrial Development Board for the year ending 31 December 2000; and The Audited Financial Statements of the Housing Development Corporation for the year ended 31 December 2000.

**The Speaker:** So ordered.

Do you wish to speak to them?

**Hon. W. McKeeva Bush:** No, Mr. Speaker, but I would like to say for the years 1998, 1999 and 2000 the Government at the time forgot that they had to table these Reports.

**The Speaker:** Do you wish to speak to the Housing Development Corporation?

**Hon. W. McKeeva Bush:** No, Mr. Speaker.

**The Speaker:** White Paper – The Information and Communications Technology Authority Bill 2001 to be laid on the Table by the Honourable Minister responsible for the Ministry of Health and Information Technology.

**THE INFORMATION AND COMMUNICATIONS TECHNOLOGY AUTHORITY BILL 2001**

**Hon. Linford A. Pierson:** I beg to lay on the Table of this Honourable House a Bill for a Law to establish the information and Communication's Technology Author-

ity, to divest properly in the Authority and for incidental and connected purposes.

**The Speaker:** So ordered.

Do you wish to speak to it?

**Hon. Linford A. Pierson:** Thank you, Mr. Speaker.

The way we do business as a government and as a country, has forever been changed. We now live in a digital age. Hence there is the need to review and amend or produce legislation to keep pace with the changing technology. Take for example the Telephone, Broadcasting and Radio Laws. After reviewing these Laws I am now recommending that they be subsumed under a new Law to be called the Information Communications Technology Law.

In anticipation of this, a draft Information Communications Technology Bill, 2001 has been prepared. This Bill would replace the laws previously mentioned, which have proven ineffective in regulating the provision of modern information and communications technology (ICT) services and networks for the Cayman Islands.

The draft Bill establishes a single, independent regulatory body, which would be called the Information Communications Technology Authority. This Authority would be responsible for the licensing and regulation of all Information Communication Technology services defined in this draft Bill or in the Electronic Transactions Law 2000. This would include all telecommunications, radio and broadcasting matters, together with E-business related matters such as information security service providers, data protection, codes of conduct for E-business service providers, and the administration of the Cayman Internet domain 'ky'. The draft Bill would amend the Electronic Transactions Law accordingly.

There is such an overlap between the various technologies involved that a single authority, staffed by specialists from each area, would provide more coordinated and consistent regulation. In addition, a single authority would operate more efficiently and cost-effectively than a number of separate regulatory bodies. This approach is fully consistent with that currently in the process of being adopted in the United Kingdom and other jurisdictions. It was recommended in the National Strategic Plan (Vision 2008), and has been strongly endorsed by the e-Business Advisory Board, which was appointed under the Electronic Transactions Law, 2000.

The responsibilities of the Authority as detailed in Section 9(3) of the draft Bill would be:

- (a) to advise the Minister on ICT matters;
- (b) to investigate and resolve complaints from consumers and service providers concerning the provision of ICT services and ICT networks;
- (c) to determine the categories of licence to be issued;
- (d) to license, manage, and regulate ICT services and ICT networks;



(e) to collect all fees, including licence fees, and any other charges levied under this Law or the Electronic Transactions Law 2000 or Regulations;

(f) to resolve disputes concerning the interconnection or sharing of infrastructure between or among ICT service providers or ICT network providers;

(g) to promote and maintain an efficient, economic and harmonised ICT infrastructure;

(h) to act on any matter referred to it by the Minister or the Managing Director; and

(i) to carry out such other functions as are conferred on the Authority by or under this Law or any other Law.

The Authority would comprise a Board and a full-time managing director appointed by the Governor in Council, together with such staff, as the Board considers necessary.

The Bill provides for, but does not mandate, the introduction of competition throughout the Information Communication Technology sector. Individual licences would be required for the operation of each type of information communication technology service or information communication technology network rather than the present requirement for a single licence for each operator. The emphasis would be on delivery method rather than content. This would result in a simplified and unambiguous licensing regime as the various technologies continue to converge.

The interests of consumers will be protected by specifying standards for the delivery of ICT services and ICT networks, providing a complaints procedure, and introducing measures to ensure their privacy when using ICT services and ICT networks.

The Legislation Subcommittee of the E-Business Advisory Board has drafted the Bill. The Subcommittee consists of representatives of the public and private sectors, and includes representatives of ICT service and network providers.

This draft Bill is therefore being presented to the Members of the Legislative Assembly as a White Paper for the purpose of getting comments from the general public. All responses will be taken into account when finalising the Bill.

Thank you, Mr. Speaker.

**The Speaker:** The Marine Conservation (Amendment) Bill 2001 to be laid on the Table by the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

#### **AMENDMENTS TO THE MARINE CONSERVATION LAW, REGULATIONS AND DIRECTIVES**

**Hon. W. McKeeva Bush:** I beg to lay on the Table of this Honourable House The Marine Conservation (Amendment) Bill 2001.

**The Speaker:** So ordered.

Do you wish to speak to it?

**Hon. W. McKeeva Bush:** Mr. Speaker, the proposed amending legislation, which I am laying on the Table of this Honourable House today, was the subject of a press conference which I held earlier this year, when I announced Government's intention to bring amendments to the Marine Conservation Law to provide further protection for our fragile marine life and environment.

Mr. Speaker, there are four separate pieces of proposed amending Legislation and these are:

- ◆ A Bill to Amend the Marine Conservation Law (1995 Revision);
- ◆ The Marine Conservation (Marine Parks) (Amendment) Regulations 2001;
- ◆ The Marine Conservation (Amendment) (Fish Pot Licence) Regulations 2001; and
- ◆ The Marine Conservation (Amendment) (Fish Pots) Directives, 2001.

Mr. Speaker, the amending legislation will, among other things limit the taking of conch to five per person or per boat; fish pots will be traditional Caymanian, limited to two per person. The legislation sets a ban on the taking of lobster until the end of 2003 and sets a timeframe on the taking of the Nassau Grouper. A closed season is also set.

There has been some consultation with the people of these Islands on these amendments, and we have concluded it is imperative that we enhance the provisions of our current Marine Laws which have served us well over the years. With the increased number of people in our country comes the increased use or demands on our Marine resources. Mr. Speaker, I am sure that I do not have to remind Honourable Members of this House, how important a healthy marine environment is to the success of our tourism industry and the welfare of our people.

Mr. Speaker, I intend to formally present this amending legislation to this Honourable House during the November Meeting, and the Government would welcome additional comments from the Public on these proposals in the meantime.

I should also advise Honourable Members that I have met with the Cayman National Water-sport Operators and have additional representation from the North Sound operators with respect to specific issues relating to the North Sound. I intend to discuss these matters with the wider public, Government Executive Council and Members of this Honourable House before the committee stage of this Bill to determine the best way forward with respect to addressing concerns of the North Sound operators.

Mr. Speaker, their specific concerns are as follows:

- ◆ Snorkel boats should be required to maintain a certain distance from the reefs and there should be no fishing on specific reefs which are used for snorkeling;
- ◆ The activities on our reefs should be regulated;

- ◆ There should be a maximum speed limit of 7 knots for boats operating in the vicinity of Fisher-man's Rock and the Sandbar;
  - ◆ The operation of boats over shallow reefs such as Coral Gardens, the Barrier Reef, the Aquarium, and the reefs to the east of Coral Gardens and the Aquarium should be prohibited;
  - ◆ The need to establish carrying capacities for the Sandbar and Stingray City;
  - ◆ Close the Sandbar to commercial operations;
  - ◆ Prohibit the feeding of stingrays on the Sandbar and open up another area which is known as "Horseshoe Bar" for this activity;
  - ◆ Consider a ban on the use of spearguns;
  - ◆ Institute a ban on shark feeding; and
  - ◆ Institute a system of licensing of boats operating in the North Sound.
- Thank you, Mr. Speaker.

**The Speaker:** Do you wish to table the White Paper? (*Inaudible response*). So ordered.

Do you wish to speak to it further?

**Hon. W. McKeeva Bush:** No, Mr. Speaker. I only ask Members to read the amending legislation and make representation to me. I will hold a meeting with them on the matter before presenting the Bill. I am asking the public to also make representation on these matters, particularly the North Sound concerns.

Thank you, Mr. Speaker.

**The Speaker:** Moving on to Item No. 6 on today's Order Paper. Questions to Honourable Ministers and Official Members, but before doing so, according to Standing Order 86 I would ask for the suspension of Standing Order 23 (7) & (8) in order to take question time after 11 am.

The Elected Member for East End.

**Mr. V. Arden McLean:** I just wondered if I could ask a short question based on that statement he read, which was not a part of the presentation of the Marine Conservation (Amendment) Bill, 2001.

**The Speaker:** Yes, you may.

#### SHORT QUESTIONS

*Standing Order 30*

**Mr. V. Arden McLean:** The Minister said he has representation from the operators within the North Sound. He discussed the banning of shark feeding. Does that also apply to the East End area as well?

**The Speaker:** The Honourable Minister for Tourism.

**Hon. W. McKeeva Bush:** We have had much representation and this issue has been raised in the media locally and internationally. The policy would not be just for the North Sound, but for the entire country. As

soon as we can discuss it, we will include Members in the matter and all Members will have the opportunity to give their input.

**The Speaker:** I would appreciate a motion for the suspension of Standing Order 23 (7) and (8) or is it the wish that we go on for 10 minutes and then adjourn, or suspend proceedings for lunch? Could I have a motion?

**Hon. Linford A. Pierson:** Mr. Speaker, I so move that the relevant Standing Order be suspended so that question time can continue.

**The Speaker:** In accordance with Standing Order 86 we ask to suspend Standing Order 23 (7) and (8) in order that Question Time will continue after 11 am. Those in favour, please say Aye. Those against, No.

**AYES**

**The Speaker:** The Ayes have it.

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

*[Moved by the Hon Minister for Health and Information Technology]*

**QUESTION PUT. AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** Question 107 standing in the name of the Second Elected Member for Bodden Town.

#### QUESTIONS TO HONOURABLE MEMBERS/MINISTERS

##### QUESTION NO. 107

**No. 107: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Health and Information Technology what has been done in regard to enacting legislation to prevent invasion of privacy over telecommunication equipment, as per Private Member's Motion No. 2/93 passed by the Legislative Assembly on the 25<sup>th</sup> day of March 1993.

**The Speaker:** The Honourable Minister responsible for the Ministry of Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, first I would like to say that a motion this important was not dealt with before. However, as the responsibility for telecommunications did not fall under my Ministry until last year, I cannot comment on what took place in this connection between March 1993 and August 2000.

As Honourable Members are aware, computer and telecommunications technology has converged to

the extent that we must address both when seeking to prevent invasion of privacy by electronic means. The Computer Misuse Law 2000, passed by this Honourable House in August 2000, created a range of offences covering the unauthorised access to, or modification of, information held on a computer system. It also makes the unauthorised use or interception of any function or output of a computer a criminal offence.

The Information and Communications Technology (ICT) Bill 2001, which was just laid on the Table of this Honourable House, will address the questions of invasion of privacy over ICT services, including telecommunications equipment.

Section 44 of this proposed ICT Bill provides that with certain exceptions, a person who intentionally intercepts, alters, replicates, monitors or interrupts any message during its transmission over an ICT network, or by means of an ICT service, is guilty of an offence and is liable on summary conviction to a fine of \$10,000 or an indictment to a fine not exceeding \$20,000, or to imprisonment for up to two years, or both, for each such message.

The exceptions referred to are contained in section 44(2). The actions have been taken in the following list:-

- ◆ In obedience to a warrant issued by a Judge;
- ◆ Pursuant to a Court order;
- ◆ With the express consent of the originator or recipient of the message;
- ◆ By the ICT Authority for purposes connected with the execution of its functions under the ICT Law (e.g. confirming that a radio station is using only its allocated frequency);
- ◆ For the sole purpose of preserving the technical integrity of an ICT service or ICT network.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** It is most encouraging that after eight years the Minister who now has the subject of information technology is acting on doing something about maintaining the privacy of telecommunications.

Presuming that the Bill he presented to the House today will be passed in the next one or two weeks, does the Minister envisage that its implementation of these good legislated sections of that Law will take effect shortly thereafter?

**The Speaker:** Honourable Minister responsible for the Ministry of Health and Information Technology.

**Hon. Linford A. Pierson:** I am hopeful that as soon as this Bill is passed into law that the sections the Member referred to will come into effect also.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister say if he is also looking at criminalising the taping of private conversations without consent?

**The Speaker:** Honourable Minister responsible for the Ministry of Health and Information Technology.

**Hon. Linford A. Pierson:** The taping without consent or any such interference will be criminalised. As said earlier, and I quote "Section 44 of this proposed ICT Bill provides that with certain exceptions, a person who intentionally intercepts, alters, replicates, monitors or interrupts any message during its transmission over an ICT network, or by means of an ICT service, is guilty of offence and is liable on summary conviction to a fine of \$10,000 and on indictment to a fine not exceeding \$20,000 or to imprisonment for up to two years, or both, for each such message."

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I understand and thank the Minister for that answer, however, that is in regard to ICT networks and ICT service. I was specifically addressing private conversations between two individuals, not necessarily on the telephone or computer, but recording personal conversations between two individuals when permission has not been given.

**The Speaker:** Honourable Minister responsible for the Ministry of Health and Information Technology.

**Hon. Linford A. Pierson:** I see what the Member is driving at. This Bill specifically speaks to the question of the information and communication technology, computers, telecommunications and so on. However, I know the Member is looking further a-field—if you are having a private conversation that should not be taped without permission; this is what the Member is looking into.

We will be looking further into that question. If it is not a matter that can be properly brought under this Bill, I would ask the Second Official Member to take note of this query and perhaps look into this matter.

**The Speaker:** At this time we shall suspended proceeding to enable all Members to attend the Prayer Service organised by the Cayman Ministers' Association at 12.30 pm on the lawns of the Courts Building.

**Hon. W. McKeeva Bush:** If I may, I would like all Members and the Speaker, as is usual, to have their photograph taken with the lovely Miss Cayman who is here for that purpose, on the steps of the Legislative Assembly.

**PROCEEDINGS SUSPENDED AT 12.21 PM**

**PROCEEDINGS RESUMED AT 2.40 PM**

**The Speaker:** Proceedings are resumed. Please be seated.

Continuation of supplementaries on question No. 107. Are there any further supplementaries on question 107 standing in the name of the Second Elected Member for Bodden Town?

If not, we move on to question number 108, also standing in the name of the Second Elected Member for Bodden Town.

**QUESTION NO. 108**

**No. 108: Mr. Gilbert A. McLean** asked the Honourable Acting First Official Member responsible for the Portfolio of Internal and External Affairs what progress has been made by the Police in acquiring equipment to measure the decibels of noise, referred to in the Towns and Communities Law (1995 Revision).

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The Royal Cayman Islands Police (RCIP) has acquired the following equipment to measure the decibels of noise referred to in the Town and Communities Law (1995 Revision), section 13(2).

(1) EMCO make analogue decibel meter. This machine relies on human sight recording the peak movement of a finger across a dial. There is no permanent record of the maximum or minimum noise level achieved. Cost is about CI \$200 including shipping and duty.

(2) Chauvin Arnous Sonometre, DC830, is a more scientific and professional meter. It has the advantage of time, date and reading over any period of time to be recorded and then evidenced by computer printout; very influential as evidence before a court. Cost of such a unit is approximately CI \$1,100 including shipping and duty.

The Royal Cayman Islands Police has recommended that the Chauvin equipment be prescribed for use in the Cayman Islands.

**SUPPLEMENTARIES**

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** How long ago did the RCIP recommend that this instrument be used in the Cayman Islands?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** That recommendation was made to the Portfolio of Internal and External Af-

fairs approximately two to three weeks ago, certainly less than one month ago.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** It seems clear that the second option is the better type of equipment to use seeing that it can give the date, time reading and a print-out. Now that a recommendation has been made to the Portfolio, will it be bringing to this House, any time soon, legislation to make it possible to put this equipment into use?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** As I recall, a week and one half ago while responding to a Private Member's Motion on the matter of noise levels, it is intended that Executive Council will very shortly be asked to prescribe the level of noise, method of measurement and the machines for measuring this as the Law currently allows Council to prescribe.

I also indicated then, and will reiterate now, that Council will be asked to consider the unique requirement of the Towns and Communities Law that someone offending is required to be warned initially and an offence is only committed if the person persists. Council will be asked to consider whether that provision of mandatory warning should remain. If the view is that it should not, then as a requirement of the Law a Bill will have to be brought here to seek the approval of the House to amend the Law in that regard.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Given the obvious inadequacies of the first analogue meter to comply with the legislation, can the Acting First Official Member indicate why it was acquired?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The Member refers to it as the obvious inadequacy. I think it is fair to say the other unit is superior, and certainly the unit the RCIP would prefer, but I would not accept that it is inadequate. I think it is possible for us to use it and seek to rely on the evidence as provided by a police officer. To the extent we can provide the court with more substantial evidence we would prefer to go that route.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Member say how many of the second type of units the police

have and if money is now provided for the purchase of these units? If not, would the Member consider making a request for such money so that the matter could be addressed as quickly as possible?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** At the moment the police have acquired one of each. They recommended the second machine (Chauvin Arnous Sonometre), and subject to Council's decision when the recommendation is put to it as to whether that is the machine which should be used. The view of the police is that they should obtain at least four of those units.

There is still a role for the first machine, the EMCO. Certainly at the cost of it we could be more widely issued and provide some backup. However, the view of the police is that as a base they should at least have four of the other units for distribution at various police stations in the Islands.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 109, standing in the name of the First Elected Member for Cayman Brac and Little Cayman

#### QUESTION NO. 109

**No. 109: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Acting First Official Member responsible for the Portfolio of Internal and External Affairs to say what progress has been made by the Government in regard to the establishment of "back office" work on Cayman Brac.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** A Report was prepared last year for advancing the "back office" work initiative in Cayman Brac. However, it was predicated by two conditions: (1) the creation of posts for additional staff; (2) the availability of additional office space.

In light of Government's decision to curtail the creation of additional posts in the service and because there was no space available in the District Administration Building, the initiative remains on hold. Whenever the two above-mentioned conditions can be met the initiative can move forward.

#### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Is the Member in a position to say if there was private sector

commercial space available whether or not government would entertain the utilisation of such space?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** It is my understanding that consideration had been given to the securing of such space, but fiscal considerations prevented that option from being taken up. Certainly, that is another means by which the space aspect could be met.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Member give us some idea as to when this project would be re-initiated?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan Ebanks:** I cannot give a definitive timeline. It is obvious that both conditions which need to be met revolve around fiscal or financial considerations. I expect that the matter will be revisited perhaps during the upcoming budget process. If there are prospects for those conditions to be met then the project will commence. However, I am unable to give anything more definitive than that.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate if the Report covered only government back office work, or the potential of government encouraging and providing incentives for the private sector to utilise Cayman Brac for back office work?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I have not seen the Report myself. I have been able to ascertain who did the Report and I will undertake to find out that information and provide it to the Member.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I wonder if the Member is in a position to say who prepared the Report and to whom it should have been directed to.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** My understanding is that it was prepared by the Deputy Financial Secre-

tary. I am not certain who it was circulated or directed to, but I will determine that when speaking to the Deputy Financial Secretary to get the information I have undertaken to provide. I will provide that information to the Lady Member asking the question, if she so wishes.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I would appreciate that undertaking. I also wish to ask if he is in a position to say, since the Deputy Financial Secretary was responsible for preparing the Report, whether or not it was copied to the Chief Secretary's office since the responsibility lies therein, and if not, would he undertake to find out why?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** In determining who the Report was circulated to, I will be cognisant of that and if it is a case that it was not sent to the Chief Secretary I will enquire. I would expect that it was, but I will enquire if that was not the case.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 110, standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 110

**No. 110: Mr. Gilbert A. McLean** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works if any major capital works have been initiated this year and, if so, which are they and which are presently outstanding.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** There are 87 line items in the Capital Budget 2001 which are funded and have Grand Cayman Public Works Department involvement. Twenty-nine of these are financial commitments from projects that were physically completed prior to 2001. This leaves 58 projects and of the remaining 58, ten have been completed in 2001, 28 have construction underway, 14 have work proceeding at a pre-construction stage, that is project definition, design, costing, tender invitation, ordering etc. Six projects have not started.

The list and their categories are attached to the answer and I will take advice as to whether I need to read them.

**The Speaker:** I would consider that the list is sufficient. Are there any supplementaries? The Second Elected Member for Bodden Town.

#### SUPPLEMENTARIES

**Mr. Gilbert A. McLean:** Would it be correct to say that these are relatively small projects that have yet to be, or are currently underway, and were such things as extensions and alterations to buildings, but there is no real large capital projects as such?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I want to take the Member's supplementary without reading anything into it except what it says exactly. If I may try to answer: of the 29 projects actually completed prior to 2001 there were some outstanding funds to clear the projects up and get them all sorted which had to be included in the 2001 Budget, I do not have that information about all 20 projects in front of me, but I think some of this might be like retention fees, and monies of that nature.

We have some other projects which were started prior to 2001, but actually were major projects and completed in 2001. For instance, when we look at the ten projects completed in 2001 we see the Lighthouse School, the Red Bay Primary multipurpose Hall. Those were started prior but not all the funding was in the 2000 Budget and a fair portion of the funding was into the 2001 Budget. So, it is a bit difficult to simply categorically say they are all small projects, simply because several projects can be ongoing and there is the odd occasion for funding over a three-year period for the entire project. Therefore, it is a bit difficult to categorise generally, as we say.

If the Member wants to speak to brand new projects, one might want to simply say that the majority of those were smaller projects, for instance the four new classrooms in Bodden Town and the two in Red Bay; those were smaller projects. It is difficult for me to categorise and I hope the Member will understand. If you look at the list, you will probably have a better feel for the magnitude of the projects we are speaking about.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The year is almost ended and quite a number of the projects are not completed. Can the Honourable Minister say if there is a problem with financing? It is my recollection that some of these were to be covered from some of the money from a loan the Government was supposed to have taken. Has it been secured and is there money for these?



**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** With the capital works programme there is absolutely no problem with funding. The Member will appreciate that the Budget this year did not come until the first quarter was up. We did not have a full year of work to complete some of the projects. However, it was not and is not a situation going through year end where there is not adequate funding. In fact, if there are funds unspent, certainly they will go forward into next year's Capital Works Budget to see the completion of it.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Under the 28 line items currently under construction, budget line item 124, development roads programme Crewe Road Bypass, can the Minister tell us why that construction seems to have been halted or suspended on that project?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

The Elected Member for East End do you wish to clarify your question?

**Mr. V. Arden McLean:** Yes, Mr. Speaker.

**The Speaker:** Please do.

**Mr. V. Arden McLean:** Mr. Speaker, I was asking the Minister if he could explain the reason why work seems to have been suspended on the Crewe Road Bypass, since he said that there are funds available for the project. Why has construction been suspended or ceased?

**Hon. D. Kurt Tibbetts:** Perhaps there seems to have been some inactivity for a while at the Crewe Road Bypass. There were some difficulties with settlements of claims. During that time the workforces were diverted rather than to waste time and effort. In fact, many of the PWD crew, the vast majority, if not all of them, were placed on various district projects. That has been ongoing during the interim.

We are at one impasse now and if the matter is not settled this week we will have to deal with it in the manner in which I do not especially like, but will have no choice with regards to moving on with the Crewe Road Bypass. As soon as the district programmes are complete, which are nearly done now, the rest of the year will be spent on the Crewe Road Bypass.

There is plan A and plan B. Plan A is definitely to have it to the intersection of Lyndhurst Drive. Hopefully we will be able to get it to Bobby Thompson Way. However it is between Lyndhurst Drive intersection and Bobby Thompson Way where the problems are with the settlements. I am hopeful that we will get something sorted before this week is out, but if not, I

will have no choice but to activate the assessment committee and then whatever the result of that is we will continue.

I am trying to see if settlement can be reached without having to become distasteful in the process. We have the assessment committee ready to be activated, if necessary.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Continuing on item 124, I would encourage him to have this expedited because it is an absolute nightmare coming from the eastern districts in the morning.

It was mentioned in the paper also in regard to a roundabout in the area of Hurley's. Is there any way that can be expedited? I know they are talking about doing it this year, but I know this is one main cause of backup in that area.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I appreciate what the Member has said. I travel that road every day myself. The question is not whether we would like to expedite the situation because we have had many, many meetings trying to resolve the matter. Perhaps I may be seen as one who has too much patience but I do the best given the circumstances to try to bring about amicable settlement. However, we are at the end of the road where it is either going to go one way or the other now.

Just to say, it is not that the crews were not working, the energy was channeled elsewhere. What has to be done to bring it down to Lyndhurst will not be a very difficult task, and it will definitely be done. If this other matter is sorted out this week, it is very possible to get it down to Bobby Thompson Way before the year is out. If we do not get the second stage sorted immediately, it means we have to go through the assessment process, but we will do that as quickly as we can. Hopefully we will not have to go there; we will just have to see what happens.

Regarding the intersection at Hurley's I cannot answer truthfully because I have never been able to find out why it was not a roundabout from the very beginning. I have absolutely no idea why that was not the case because I have seen two or three sets of drawings which all illustrated some type of roundabout. Why it was not done, I have no idea. That was before my time.

I met with the developer of Heron Harbour. We have come to agreement in regard to the usage of the little triangle portion of land left hanging there. He has agreed to make the land available. We have also negotiated payment and sharing the cost and he has met with PWD to discuss the final drawings that have

been done. We expect to be able to deal with that fairly shortly.

Depending on how far we get with one is what happens one before the other. The truth is that if we go to Hurley's first, without other relief, I am not sure it is going to make that much of a difference. So, here we are trying to sort the matter out, but there is no intention to not do that. It is just a matter of seeing how far we get. However, within that whole area, those are immediate with regards to the projects. As fast as we can get the web cleared we will proceed, because it is not a question of funding up to that area.

**The Speaker:** The Fourth Elected Member for West Bay, do you have a question?

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, I will give way.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank McField:** Will the roundabouts be as big as the one by North Sound Road? We have had the experience to see that roundabouts in very large countries are less than half the size of our roundabouts.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I do not believe we have that much land mass to deal with in that specific location. The diameter and circumference of the roundabouts are basically decided on by the technicians involved.

Certainly with the experience of other countries, if any advice needs to be heeded, those technicians would be willing to take that on board to make any reassessments. I do not think that will be a problem with this specific situation.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I note there has been some activity on the eastern end of the Crewe Road Bypass by the Lions' Centre. Has there been a design change? If there is a change to a roundabout, what additional cost will be incurred?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The area I think the Member is speaking to is by Silver Oaks on Old Crewe Road. Depending on what timeframe the Member is referring to, there has been a slight design change which when all worked out and traffic flows calculated, especially with the change to occur up a Hurley's, there is a slight design change. The paving has not been completed in that area yet. The only cost that might reflect is a little bit of time shifting material; it is not a major

cost. It is not tens of thousands of dollars or anything of that nature, but geared towards an improved traffic flow.

As soon as they start working they will complete that and move down, at least to the intersection of Lyndhurst Drive.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** My question is on the six projects that have not started in 2001. I noted with interest line item 103, Sunrise Centre renovation programme, for some reason there is no clarification for not starting that one. All the others were given a reason for not being started except for that particular project. Can the Minister clarify that?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** My understanding is that this is one of those subjects that switched ministries this year. It was under the Education Ministry and has now switched to the Ministry of Community Development. There may be a new thinking as to what was being done. My understanding is that the Minister may have to resort temporarily to finding space to rent until the new facility is created. I am not 100 per cent sure if the intention was to spend major money on renovations of the old facility if that was not going to be the permanent location in the medium to long term.

Needless to say any further information which may be required, I am certain the Honourable Minister would enlighten the Member further, if he so desires.

**The Speaker:** Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Reverting to the question of the Crewe Road Bypass; can the Minister say when will the work be completed and when is it expected to be opened?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** In earlier supplementaries I put forward two scenarios. One will be by year end, possibly the second depending on how quickly we get the matter regarding compensation claims and settlements done.

From Old Crewe Road to Lyndhurst Drive will definitely be completed by year-end. If the other matter is settled we will get as far as Bobby Thompson Way by year-end.

If I am not mistaken, they are gearing up to begin work on the Bypass while we are trying to settle the other matter. They were diverted to district programmes and those works will be completed.



**The Speaker:** Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Under the heading of the 28 projects currently under construction, item 91 and 115, could the Minister say if small contractors in the district of Bodden Town are given the opportunity to bid on the smaller projects like classrooms? If not, why are they excluded? There are at least two in Bodden Town. For item 115, which roads are being fixed? Where do they exist?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** My understanding is that the Bodden Town classroom project was advertised. There was only one entity that showed an interest in the bidding process that was not pre-qualified to bid. Everyone else was allowed to bid on the project. One of the very important factors was that there was a very strict timeline because of the budget approval and the opening of school for the completion of the September term. My understanding is that that had to be borne in mind in the tendering process. I believe it is safe to say there was no prejudice in allowing people to bid on the projects.

I cannot remember the roads right off hand, but if the Member will remember when we discussed it with the three Bodden Town representatives and we agreed on the three specific projects, those were the projects. One has been completed and two are being completed now. I think one was in Newlands, down in North Sound Estates, and there were a couple more. I do not have that information available, but it was the same agreed projects between the Bodden Town Members and PWD.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The particular occasion the Minister refers to when the Bodden Town Members viewed the roads, I was absent on that occasion due to another commitment which I could not change, so I am not familiar with the projects he is referring to.

However, not to belabour that point, I would like to ask since the building of the Bodden Town school is still in progress. Are the people who received the contract for this particular building now in default?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** My understanding is that in the very early stages of subcontracting there were some hiccoughs in regard to certain aspects of the pre-construction work which delayed the project a bit. The project will apparently be finished before this week is out. Although they were not able to use the

classrooms up to now they will be able to either later this week or the beginning of next week. That is my understanding.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I noticed that there are at least nine schools listed under renovation programmes. Can the Minister tell us if these programmes are to be completed prior to school restarting on 3 September, and in particular is the East End school completed? If not, why not?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The PWD and various schools through the Education Department established dialogue where whatever the major and important projects are creating disturbance during school time are slotted in during holiday time to make sure, to the best of their ability, that it is done in that manner. It is physically impossible to have all of the ongoing works and renovations done simply during holidays. There are spaced out time-wise so that the ones ongoing at present are agreed on by the school, the department and PWD. Those projects are deemed to be the ones which will not create any adverse effects during school hours and can be ongoing. That is why you see on the list a certain number going on now. For instance, every effort was made to construct the classrooms prior to school starting back so there would be no . . . and Red Bay and Savannah were completed, Bodden Town was a week or so out of it. However, those ongoing projects are small renovations to buildings and whatever else.

Regarding the East End situation, those new walkways and the site drainage are ongoing as we speak, and will be completed by early November.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Minister explain how it works when PWD, and for that matter, the whole country knows the dates that school is out for the summer? When does renovation work start on the schools? Does it not start the following day the schools close as opposed to one month later in order to have all renovations completed before time?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I hear what the Member is saying, but he needs to understand it is not just one school in the Islands. PWD does not have the staff complement to complete every list of projects for each school, even if they started at each school from the day after school closes.

The fact is that the work has to be scheduled given the manpower available. I will not stand here and say that this may not be able to be coordinated a little bit better, simply because I have not had the opportunity to physically walk through the process myself to say Aye or Nay. What I do know is that in meetings with PWD I have had discussions of this nature. The Department is quite aware of the necessity to deal with the process in the manner the Member is trying to put forward, and the principle of which I agree with. Obviously, not every one of the projects can be started immediately after school. That would mean deploying staff, perhaps to all of the schools and they just do not have the staff complement simply because they are needed all year round for other reasons. It makes no sense having a certain amount of people for peak period on a temporary basis.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I am quite aware that East End is not the only school on the Island. Having said that, can the Minister say if it is PWD employees who do all the work, or are small contractors contracted to go in and do the majority? When I say the majority, 90 per cent of the work is done by small contractors. So, why is it small contractors cannot be mobilised earlier during the summer holidays to effectively do all of this work and complete it before the schools are open?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I am assuming the Member speaks to this year and I come back to my original point. I hear what the Member is saying and I would like for that to happen. However, when you have a late budget and those works are done by subcontractors where you have to go through a tendering process, you have to go through the design process before going through that tendering process. I believe it is safe to say that a year like 2001 would be an extraordinary year because of the time when the Budget was approved and the projects specifically approved, and also because of having to go through design and tendering. Perhaps by 1 July when school was out all of this was not completed on each project. They simply tried to farm everything out as quickly as they could.

Under normal circumstances you would find that coordination is done as best as possible to allow what the Member seeks to have happen, happen. However, for this specific year, I believe, it is fair not to suggest a great level of inefficiency on the part of the Department. That is not to say that everything is as perfect as I would like, but I believe it is safe to create a defence.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Just to say that this year, since the Budget was late, which I do not totally accept from the Minister's reply, but we shall give him the benefit of the doubt, and his departments, this year. Next year please put the Minister on notice that we will be watching the efficiency.

Can the Honourable Minister say if the completion of the Bypass to Lyndhurst Drive also includes the road from the eastern end that is now under construction by Silver Oaks over to Hurley's supermarket?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** First of all, let me assure the Member that it is physically impossible for him to spend any more waking moments trying to get the best value for money for the country than I. I do not doubt he could come close, but I am sure he has other diversions that would not allow that to happen! I said that partly in jest, but not totally, because I know the Member is, regardless of how we banter, has a real point and he knows how strongly I feel about it. So, we do not have any problems in that area. He is saying that we will, meaning if he does not see the results. At that point and time he will have to beat me and I will know who I have to beat. So, it will be the way life is supposed to be.

Regarding the Crewe Road Bypass, let me make sure we are not mistaken. The road does not go straight up to Hurley's. There is an entrance below the Lion's Centre that goes into the roundabout into Silver Oaks. If that is what the Member is speaking to, that will have to be completed otherwise everything becomes dysfunctional.

I am not 100 per cent sure what remedial road-work has to be done in the area of the Lion's Centre, but I believe those works are minor because it is just creating another lane which is already there, just not raised and paved. I would think that would be included, but I will ensure that is the case because as soon as the district works are completed, unless traffic flows are negatively affected, it may as well get started from the furthest eastern point going all the way down to Lyndhurst Drive. However, I take the Member's point and will follow it up to make sure it is done.

**The Speaker:** Honourable Members, are we in agreement to waive the afternoon break and continue until approximately 4.15? Thank you.

Moving on to Question 111 standing in the name of the First Elected Member for Cayman Brac and Little Cayman

#### QUESTION NO. 111

**No. 111: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Tourism, Environment and Transport to provide a progress report on the Little Cayman airport.

**The Speaker:** The Honourable Minister responsible for the Ministry of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Clearing of the site began on 17 April 2001 by the Cayman Brac Public Works crew and equipment. To date, 1,400 feet of the proposed runway site has been cleared as well as the area that has been identified for airport terminal and ancillary facilities construction. The site clearing will continue until the entire site has been cleared to facilitate the appropriate engineering studies for the construction of the runway, taxiway, apron and passenger terminal facilities. The project has cost \$257,000 to date and it is expected that the engineers will determine the total project cost during this phase.

Work has been suspended over the past few weeks as machinery being used had to be relocated to Cayman Brac to complete scheduled capital roads' projects. While clearing works is suspended, required survey works are being undertaken to identify areas to be blasted and also to determine the probable amount of fill that will be generated on site.

**The Speaker:** Are there any supplementaries? If not, we move on to question 112, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

**QUESTION NO. 112**  
*Deferred*

**No. 112: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports Whether or not the Convention of Elimination of Discrimination Against Women has been extended to the Cayman Islands.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Under Standing Order 23(5) I seek leave of this Honourable House to defer the answering of this question until Wednesday, due to the fact that the Ministry called parliament but was told there were no questions for me to answer this morning. I would like to have it deferred until Wednesday.

**QUESTION PUT. AGREED: QUESTION NO. 112 DEFERRED UNTIL WEDNESDAY 19 SEPTEMBER 2001.**

**The Speaker:** Item 7, Government Business, Bills, Second Reading.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READINGS

##### THE LEGAL PRACTITIONERS (AMENDMENT) BILL, 2001

**The Clerk:** The Legal Practitioners (Amendment) Bill, 2001.

**The Speaker:** The Honourable Temporary Second Official Member.

**Hon. Samuel Bulgin:** I beg to move the Second Reading of a Bill entitled The Legal Practitioners (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. Samuel Bulgin:** Briefly, Mr. Speaker.

What has happened up until now is that the current state of the Law creates an anomaly in respect of persons who are a graduate from the Cayman Islands Law School. The persons who pursue the LLB course and graduate after three years, if one of those persons decides to proceed to the UK to do the UK Bar, such person would be required to do one year in the UK and having completed that one year can return to the Cayman Islands and be admitted to practice immediately. He would in effect end up doing a period of four years before he could be eligible to practice in the Cayman Islands.

If another person who also graduated from the Cayman Islands Law School decided to stay in the Cayman Islands to undergo further training, that person is required to undergo a period of 12 months of what is called a "Professional Practice Course" and thereafter a period of 18 months of Articles. So, that person would end up doing a total period of five years and six months straight training. That creates an anomaly of approximately 18 months between the two persons graduating from the Law School.

The amendment to the Legal Practitioners Law is seeking to address that mischief and to bring about some uniformity in the period, after graduating from the LLB course leading up to being able to practise in the Cayman Islands.

The other thing I should point out is that the person who returns from the UK after completing the one year Bar is not required to do any other training in the Cayman Islands; he can move straight into private practice. However, if that person, even though he has been called to the UK Bar, decided to return to the UK to practise, he would still have to undergo a period of pupillage of 12 months so that he would have completed five years to be eligible to practise in the United Kingdom; whereas, all he would be required to do is

four years if he were to practise in the Cayman Islands. So, that is also another anomaly and mischief at which the amendment is aimed.

**The Speaker:** The question is that a Bill entitled The Legal Practitioners (Amendment) Bill, 2001 be given a second reading. Does any Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden McLaughlin, Jr.:** Thank you, Mr. Speaker.

I am pleased to be able to support the proposed amendment to the Legal Practitioners Law. The anomaly to which the Honourable Temporary Second Official Member referred to in moving this Bill is one that has existed since the passage of the original legislation, and a situation that has created some concern within the legal fraternity for quite some time.

Since the advent of the law degree being conferred by the Cayman Islands Law School a situation has arisen whereby graduates of the Law School often do not pursue the local practitioners professional practice course, which is administered by Queens Belfast University in Ireland, but instead use their degree to seek admission to Bar School in the UK.

While that is good, and while that underlines the credibility of the University of Liverpool Law Degree conferred by the University through the Cayman Islands Law School, it has resulted in a growing number of graduates returning to these Islands and being admitted to the Cayman Islands Bar without having attained the benefit of the practical course in the law.

The objective, more than any concern about the unfairness of a system that permits one set of graduates to commence practice six months or one year earlier than others who have gone through the system locally, is the very real and important matter of ensuring that those who do practise law in this jurisdiction have had the proper grounding in professional practice. No matter how good the system was which you qualified through, there is simply no substitute for practical training and experience. So, in that regard I am pleased to see that the considerable lobbying done by members of the legal profession, myself included, over the course of many years is now being resolved by dealing with this anomaly placing all who seek to be admitted to the Cayman Islands Bar on essentially the same footing in terms of practical education.

However, having said that, I do not believe that the proposed amendment in its current form actually goes as far as I would like to see it go. While it certainly resolves the situation in relation to those who are called to the Bar of the UK, it does not seek to address a similar situation that arises in relation to those who are called to the Jamaican Bar.

I appreciate that the system of practical education in the Jamaican scheme is somewhat different and perhaps somewhat better than what obtains in the UK, in that the professional practice course run by the Norman Manley Law School, as I understand, pro-

vides two years rather than one, which obtains in the UK. There is still in my view a considerable difference between a professional practice course and a period of articles of clerkship or pupillage. As I understand the situation at the Norman Manley Law School, that is a practical course in every sense of the word in that it teaches the elements of advocacy and legal drafting and opinions and even a certain amount of legal aid work. However, in my experience and in my view that is still not the same as the type of experience in the real world that one gets when one has the benefit of articles of clerkship and pupillage.

The system has developed significantly since my time. When I was in the system I did five years of articles of clerkship. I am not suggesting that modern day students of the law should be subjected to five years of article clerkship. I do believe that you need to seek to ensure that all those who do come to practice before the Cayman Bar have obtained the reasonable level of experience having completed courses of articles of clerkship or of pupillage, periods of at least one year to 18 months.

I submit that the proposed amendment to the Legal Practitioners Law should be extended in its application to cover the situation in respect to those who qualify in Jamaica and in any other system who, as a result of their qualification in that system, become eligible for admission to the Cayman Islands Bar.

There is another issue that I would like to comment on in relation to the Legal Practitioners Law and to submit to the Honourable Second Official Member that this is also a matter ripe for attention and amendment.

One of the proposed amendments in the Bill under consideration deals with the Legal Advisory Council and proposes to redefine the membership of that body to include the Chief Justice of these Islands, the Attorney General and the Presidents of the Caymanian Bar Association and the Cayman Islands Law Society respectively.

The Legal Advisory Council was established under section 18 of the Legal Practitioners Law (1999R), and has within its remit the ability to make arrangements for the provision of a system of legal education and practical training leading to local qualification for enrollment as an attorney at law and a system of law reporting.

Indeed, the duties of the Legal Advisory Council involve oversight of the Cayman Islands Law School and dealings with the questions of exams and exam results among other things, the setting of a syllabus and arrangements for holding examinations and minimum qualifications for admission to service and articles and those sorts of matters.

As Members will know, this whole question of who should be entitled to practice law in this jurisdiction and what minimum experience individuals should have prior to being admitted to the Cayman Bar has been a thorny issue within the profession and more generally for quite some time. There has been a con-

sidered view held by Caymanian Bar Association and we believe, a practice or policy of the Attorney General for many years, that foreign lawyers who are admitted to practice generally in these islands should have a minimum of three years post qualification experience.

The basis for this is twofold: One is that entry level positions should be reserved for those Caymanian lawyers who have been newly qualified and given the number who graduate from the Cayman Islands Law School every year, there should be no real question of there being sufficient entry level applicants to the Cayman Islands Bar every year; and two, those who come to these Islands to be admitted to practice should have a sufficient level of experience that they are able to work largely unassisted and are able themselves to provide training instruction and direction to the young Caymanian lawyers who are in the respective firms.

It seems to me that matters with governing issues such as the one to which I have just referred, are matters that should properly be within the remit of a body such as the Legal Advisory Council who can decide what minimum standards in terms of experience are required, prior to the admission of a foreign lawyer to the Cayman Islands Bar. As things currently stand, although I have been unable to find any basis in the law or regulations for it, a practice has developed whereby the Honourable Attorney General seems to be the one individual who has the ability to determine whether an individual has the requisite experience and qualifications to be admitted to the Cayman Islands Bar. He so advises the Immigration Board, as I understand it to be.

As I have said, Mr. Speaker, I believe this is a matter that should properly be within the remit of the Legal Advisory Council and I am urging the Honourable Second Official Member to consider an appropriate amendment at committee stage to the Bill currently before the House to give effect to the concern I have just articulated.

Thank you, I believe I have said all I wish to say on this important amendment.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? If not, does the Mover wish to exercise his right of reply?

The Honourable Temporary Second Official Member.

**Hon. Samuel Bulgjin:** Thank you, Mr. Speaker.

I would like to thank the Second Elected Member for George Town for his very useful contribution. He raised a number of issues, some of which require policy consideration. As for the issue of students from the Norman Manley Law School, he is correct in observing that the training is a bit more intense than students who have done the Bar course in the UK and the period of Articles in the Cayman Islands. Indeed, the

course itself requires intense training in matters such as trial advocacy, legal aid work, drafting, among other things. However, the point he made is that even with that training it would still create a difficulty, or at least an anomaly, with people coming back from the UK being required to do a period of Articles and those remaining required to do a period of Articles as well.

It is something that will have to be examined very carefully. I am not sure whether it is something that can be addressed at committee stage. I will give an example why: If a simple amendment was to be made to state that students qualifying from the Norman Manley Law School and returning to the Cayman Islands to practise would be required to do a period of Articles of 18 months, it would create a further anomaly in that those students would be required to undergo a period of six and one half years training before they would be eligible to practise in the Cayman Islands, whereas those returning from the UK remaining in Cayman would be required to do five years.

So, it is going to create a further anomaly and is something that needs to be carefully looked at, to ensure that whatever amendment is made is in line with the proposed amendment whereby students returning from the UK are going to be required to do a period of 18 months articles as well. I intend to have some discussions about it in the next couple of days to see if a consensus can be arrived at.

In respect of the other amendment proposed by the Member, that the Legal Advisory Council be given the remit to make decisions as to who should be permitted to practise in the Cayman Islands, the law as it currently stands, as I understand it, and the practice is that where a person is going to apply for a work permit to practise in the Cayman Islands, the Immigration directions requires consultation with the Attorney General. I think it is a similar requirement for doctors who wish to practise in the Cayman Islands under the Health Practitioner's Law. The Health Practitioner's Board is required to be consulted before the work permit can be issued.

The practice has evolved over the years between the Attorney General's Chambers and the Immigration Board whereby a minimum standard of post qualification period is set. I think in the last two years it was crystallized and it is three years, I think.

The issue as to whether it should be the Legal Advisory Council or not, is not a matter I can unilaterally decide on. I would have to consult with other interested parties. However, I do take the Member's observation that given the general legislative framework it might be more appropriate for such a decision to be made by a body as opposed to an individual. I will also have that looked into and report back as to whether or not it is something that can be dealt with at committee stage. I have my doubt about that, given the far-reaching effect of such an amendment. In any case I undertake to look at it and discuss it further with Honourable Members, hopefully before the Bill comes on for Third Reading.

Thank you.

**The Speaker:** Before you take your seat, would you prefer that we adjourn in order to further deliberate on this on Wednesday, or whatever sitting it comes back to?

**Hon. Samuel Bulgin:** Mr. Speaker, I would be grateful for an adjournment at this stage to allow me some time to have consultations. Thank you.

**The Speaker:** I will now entertain a motion for the adjournment of this Honourable House.

### **ADJOURNMENT**

**Hon. Edna M. Moyle:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am Wednesday morning.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am Wednesday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.17 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM WEDNESDAY, 19 SEPTEMBER 2001.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**19 SEPTEMBER 2001**  
**10.25 AM**  
*Sixth Sitting*

**The Speaker:** Good morning. I will invite the Third Elected Member for West Bay in the absence of the Second Elected Member for George Town to say prayers.

**PRAYERS**

**Capt. A. Eugene Ebanks:** Let us pray:

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

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

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

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

**Proceedings resumed 10.28 am**

**The Speaker:** Please be seated.

Proceedings are resumed. Item No. 2 on Today's Order Paper, reading by the Honourable Speaker of messages and announcements.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs and from the Honourable Second Official Member responsible for the Portfolio of Legal Administration, both who are off the Island.

Moving on to Item No. 3 on Today's Order Paper, Questions to Honourable Ministers and Official Members. Deferred question number 112 is standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

**QUESTIONS TO HONOURABLE  
MEMBERS/MINISTERS**

**QUESTION NO. 112**

*Deferred Monday 17 September 2001*

**No. 112: Mrs. Julianna Y. O'Connor-Connolly** to ask the Honourable Minister responsible for the Ministry of Community Development, Women Affairs, Youth and Sports whether or not the Convention of Elimination of Discrimination Against Women has been extended to the Cayman Islands.

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The convention has not been extended to the Cayman Islands. The Honourable Minister and Ministry Personnel have been in contact with the Foreign and Commonwealth Office, in reference to having the convention extended. When this is achieved, there will be a public launching.

**SUPPLEMENTARIES**

**The Speaker:** First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say when the contact was made?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** I made the contact on a visit to the Foreign and Commonwealth Office (FCO) back in



January or February. I do not remember the exact date.

**The Speaker:** First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say if any timeline has been indicated and, or agreed between her Ministry and the FCO?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** The answer to that is 'no'. We have to research our laws to see those that have to be changed and will become compatible to the convention. I have put in place a review of those laws.

**The Speaker:** First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Honourable Minister say whether the FCO is awaiting for further construction or briefing on completion of the review of those laws from the Cayman Islands jurisdiction?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** If this is a requirement by the FCO, one would assume they would await the decision of the Cayman Islands Government as to legislation that has to be amended.

**The Speaker:** First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Perhaps in an effort to get clarification, am I to understand that the Minister is saying it is a requirement for the FCO to first review the laws just for the sake of clarity?

**The Speaker:** The Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports.

**Hon. Edna M. Moyle:** Yes, Mr. Speaker.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 113, standing in the name of the Second Elected Member for Bodden Town.

#### QUESTION NO. 113

**No. 113: Mr. Gilbert A. McLean** asked the Honourable Third Official Member responsible for the Portfo-

lio of Finance and Economic Development if any progress is being made in drafting a law to replace the Confidential Relationships (Preservation) Law (1995 Revision).

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The Confidential Relationships (Preservation) Law (1995 Revision) (CRPL) has served the Cayman Islands very well and a valuable body of jurisprudence has developed around it. Therefore, care has to be taken in modernising it. However, it is considered that there is merit in moving to modern privacy legislation which would retain and incorporate the key features of the CRPL, while also complementing the Electronic Transaction Law by addressing the privacy issues relating to electronic transactions and data protection. It will take detailed research to develop such legislation. We would also need to ensure that such privacy legislation would be compatible with the freedom of information law that has also been mooted. Therefore, progress in developing drafting instructions with a view of replacing the CRPL has been necessarily slow and considered. It is anticipated that it will be several more months before draft legislation is available for public consultation.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Honourable Member say if removing our CRPL or repealing it is one of the things we have been ordered to do by the Organization for Economic Co-operation and Development (OECD), and if so, have they given any timeline?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The Honourable Member is aware of the commitment letter given to the OECD. The Member is also very much aware that quite a number of developments have since occurred. We have to look very carefully in terms of the matters outlined in that letter of commitment. More importantly, while we made reference to the CRPL, the OECD itself has recognised that certain privacy legislation is very much in order. If we are going to be replacing the CRPL notwithstanding the commitment to the OECD, we have to ensure that we have able and appropriate legislation in place which will give the necessary protection that the CRPL presently gives.

I will expand a bit further for the benefit of the Honourable Member. The Member is very much aware, as well as other Members, that there are several initiatives riding side by side. We have the OECD; the Financial Action Task Force (FATF); and KPMG;

We know that the European Union has been in dialogue with its members on exchange of information; and at one time we had the Financial Stability Forum, which I do not think that has died a complete death as yet, because this may be integrated into the other initiatives.

What is very important for protecting Cayman's economic interest is, rather than dealing with these initiatives individually, we will have to put them together in order to look at the impact in terms of our economic infrastructure. Whatever legislation is developed to address the concerns or issues raised by one agency will have to be relevant to the overall picture that is emerging in terms of what needs to be done; in terms of complying with international standards while at the same time safeguarding Cayman's financial industry.

**The Speaker:** Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I am aware of what the Member has said and wish to assure him that I am not one who thinks we should dismantle our Confidentiality Law at all simply to please the various entities he named. However, in light of that, is any effort being made by the Government to appoint anyone to work or develop, an outline that will suffice our needs and fall within the ambit of what we could be reasonably be called upon to do from an international perspective on banking confidentiality?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** I will say this in regard to the Member's question: I know he is a patriotic Caymanian and he would not do anything by his actions to put our financial industry at risk. I did not construe from his question that he was suggesting anything should be done in order to put our financial industry at risk.

However, he (along with other Members of this House) is very much aware that we have in place the Secretariat. This Secretariat is headed by an executive director. This is an area the executive director has now turned his attention to in terms of consultation with the financial industry. This is amongst the other international initiatives being looked at. Consultation will be taking place as to what would be an alternative to the CRPL, but whatever emerges as an alternative will have to embody the relevant features from the CRPL and also give the necessary protection as required under common law. The other developments occurring, such as the electronic transaction requirements or the others mentioned in my substantive answer given earlier will also be taken into account.

**The Speaker:** First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say if this proposed modernisation of the CRPL will allow for the automatic exchange of information?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The way forward on this is in the initial stages at this time. Whatever is done, there has to be a linkage, or compatibility with whatever other pieces of legislation or other arrangements in place. At this time I cannot say what the specifics of the CRPL will be. Before we get to the stage of drafting instructions thought will have to be given in terms of what exactly the alternative legislation should be like.

So, at this point in time I cannot say what the specifics are, but I can assure the Honourable Member that wide consultation will take place within government with Members of the Legislative Assembly and our financial community, in looking at this in tandem with the other international initiatives. The reason for this is to make sure that what we are doing does not remove the protection provided at this time in terms of the privacy protection by the CRPL.

When we look at the CRPL, I think if we maintain the focus that the purpose of the CRPL is to facilitate guided disclosure, and not to shield criminality, this will have to be the approach taken in terms of looking at any alternative piece of legislation to replace that. Whatever is put in place will have to facilitate guided disclosure and protect legitimate interest and should not shield deviant activities.

**The Speaker:** First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Could the Honourable Member say if the United Kingdom Government and Cayman Islands Government are singing from the same hymn sheet as to the merits of keeping as much as possible of the CRPL?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** I am not in a position to respond to that question at this time with a definite answer. At the end of the day we will have to determine what is best in terms of protecting the interests of the Cayman Islands and will also have to convey that by way of understanding to the UK and the wider international community.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for today.

Moving on to item 4, Government Business, Bills. Second Reading. Continuation of the reply to the Legal Practitioners (Amendment) Bill, 2001.

The Honourable Temporary Second Official Member.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READINGS

##### THE LEGAL PRACTITIONERS (AMENDMENT) BILL, 2001

**Hon. Samuel Bulgin:** Thank you, Mr. Speaker.

When we took the adjournment which you so kindly agreed to on Monday afternoon, I was in the process of responding to the observations of the Second Elected Member for George Town. You will recall that he had raised two specific issues in his valuable and insightful contribution to the passage of this Bill. I have used the opportunity in the intervening period to take further advice on the matter and to also have consultations. I have also discussed the matter with the Leader of Government Business.

As I said on Monday, the issues raised by the Honourable Member are of the utmost importance. Given this premise, it is the considered view that it may not be the best thing to seek to encompass his proposed amendments by way of committee stage amendments. This is regrettable, but I will seek to explain why. I hope Honourable Members will appreciate the explanations.

First, on the issue about graduates returning from the Norman Manley Law School to the Cayman Islands to practise, it is a requirement that they undertake a further period of articles. The current position on that is: students who attend the Norman Manley Law School would have completed, upon graduation, a period of five years legal training. If they are to return to the Cayman Islands and are required to undertake a further 18 months of articles, it means that the students will be required to do a total period of six-and-one-half years training.

This would create a further anomaly for students graduating from the Cayman Islands Law School who pursue further studies to be called to the Bar in the UK. On returning to the Cayman Islands, the new amendment would require students to do an additional 18 months of articles. That would add up to a total period of five and one half years training.

The students who choose to remain in the Cayman Islands after graduation from the Law School and pursue the professional practice course and the period of articles would also end up doing a total of five and one half years training. Right away we realise that it would create a further anomaly where the Norman Manley Law School student would be required to do six and one half years.

I take on board the Member's view that it does not matter where the person is trained; there should

be some period of practical exposure. What I am proposing to do is to seek the indulgence of the House to proceed with the Bill in its current form. I also give an undertaking to the Member that as soon as we are out of here we will take this matter up, giving immediate attention and necessary discussions to arrive at a formula ensuring some sort of uniformity for graduates from whatever institution. So, I am hoping that the House will agree to this proposed course.

The second point raised by the Member has to do with who should be consulted when a work permit application for an attorney at law is made to the Immigration Board. The current position is governed by the Immigration Direction 13, which provides that when an application for an attorney at law is made for a work permit, the Board shall consult with the Attorney General and also notify the Attorney General of any work permit applied for or granted.

I just pause here to make the observation that there is a similar provision in the Immigration Directions for health practitioners. It is worded slightly different and although the Immigration Board is required to consult with the Chairman of the Health Practitioners' Board, the reading of the section in the Directions seems to imply that any response therefrom should be on behalf of the Health Practitioners' Board rather than from the Chairman per se. So, it is really a body as opposed to an individual who makes that decision. What the Honourable Member, the Second Elected Member from George Town, is asking, would also bring about a broad consensus rather than an individual view.

To get back to the lawyer's position, Mr. Speaker, the problem there is that for this to be effected, ideally what is required is really an amendment to the Immigration Direction 13. However, the Member's position is that he is aware of the provision in the directions, but would like to see that policy have the force of law. So, he would prefer it to be in the legislation itself, the enabling law, which is the Legal Practitioners Law. The appropriate way may be to amend section 19 of the Legal Practitioners Law which deals with the establishment, among other things, of the Legal Advisory Council.

Given the scope of what is contemplated by this amendment, given the policy implications as well, it was felt that it is an issue which requires more discussions. It requires consultation with interested parties. Regrettably the period of adjournment between Monday and today did not allow for that breadth of discussion.

The position this morning is: it is the hope that the House will agree for this issue to not be dealt with merely by a committee stage amendment. It is too significant an amendment to the law. So, a further period of consultation would be appropriate and it is also the wish that this House agree for the Bill to proceed as is, in its current form, and that this issue also be dealt with immediately thereafter by way of a substan-

tive amendment to the Immigration Law after the necessary consultation has taken place.

Thank you, Sir.

**The Speaker:** The question is that the Legal Practitioners (Amendment) Bill 2001 be given a second reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE LEGAL PRACTITIONERS (AMENDMENT) BILL 2001 GIVEN A SECOND READING.**

**The Speaker:** Bills, second readings.

### **THE STAMP DUTY (AMENDMENT) (NO.2) BILL 2001**

**The Clerk:** The Stamp Duty (Amendment) (No.2) Bill 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I beg to move the Second Reading of a Bill entitled The Stamp Duty (Amendment) (No.2) Bill 2001.

The main aim of this Bill is to correct an error in the Schedule in the Stamp Duty Law under the duty head of "Mortgage." A previous amendment deleted the word "moveable" from section A of the mortgage head to avoid conflict with section B which also deals with moveable property. However, the proviso dealing with moveable property was left in error under section A to which it no longer relates. This renders the stamp duty provisions in respect of mortgages legally uncertain which is a significant deterrent to business. Therefore, clause 2(b) of this Bill seeks to restore certainty and coherence by moving the proviso to its correct position.

As noted in paragraph 2 of the Memorandum of Objects and Reasons, in addition to the repositioning there are two other improvements made to the proviso. First, legal or equitable mortgages, or charges granted by an exempt trust have been added as a logical extension; and secondly, it is made clear that legal or equitable mortgages; or charges over shares in exempted companies; or ordinary non-resident companies are covered by the proviso.

Aside from the changes to sections A and B, no more is required. Therefore, the rest of the original duty head "Mortgage" is simply repeated in the Bill.

The opportunity is also being taken to correct a minor sequencing error in the Schedule to the Law under the duty head "Agreement", or "Memorandum of Agreement," which is the object of clause 2(a) of the Bill. Also to repeal the provisions on timeshares in clause 3 in preparing for a different treatment of this

head of duty to be dealt with, quite likely in the November meeting of this House.

On 1 June 2001, the Stamp Duty (Amendment) Law 2001 was gazetted. Part 2 of the law allowed for the stamp duty on the sale of timeshare contracts to be levied at a rate of 7.5 percent or 9 percent depending on the physical location of the timeshare accommodation.

Extensive feedback was received from all timeshare industry operators to the effect that such a duty would cause future sales on timeshares in the Islands to come to a standstill. The Government is responsive to such comments because the industry is an important and growing one with occupancy rates normally in the region of 80 percent throughout the year.

Government therefore intends to repeal that part of the Stamp Duty (Amendment) Law 2001 which relates to the timeshare industry. Discussions with the industry operators revealed that a much more palatable method of imposing a levy on the industry is to introduce a fixed nightly charge equivalent to US\$10.00 per night. Legislation, as I mentioned, is currently being drafted in order to address this alternative arrangement. As soon as it is approved by Executive Council it will be sent down to the Legislative Assembly for circulation.

With that explanation as to why the initial provision dealing with timeshare is being repealed, I commend this Bill to this Honourable House.

**The Speaker:** The question is that a Bill entitled the Stamp Duty (Amendment) (No.2) Bill 2001 be given a second reading.

The Motion is opened for debate. Does any other Member wish to speak? Does any Member wish to speak?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I know that this attempt to defer any kind of stamp duty payments on timeshares has been ongoing for some time and it looks like the lobbyists out of the real estate industry, in particular, those persons connected to timeshares seem to have succeeded with this Government in being able to get this postponed.

I understand that the Third Official Member is proposing to deal with this question of stamp duty in some different form by causing it to be on the rooms instead. Basically the Island is still being, I feel, deprived of money it needs because we should not only be getting money from the transfer of property, we should also be getting money from the occupancy of the properties after they are sold.

It is of interest to see how quick the Government was to put duty back on foodstuff, and now again we find that the Government seems to be able to deal with the timeshare industry in this particular manner.

I know there are certain persons involved in the timeshare industry that would be thinking 'Yeah, there goes that troublemaker again.'

Mr. Speaker, we would be pleased if we could take the morning break so I may have the opportunity to consult with the Honourable Third Official Member.

**The Speaker:** It is a bit early, but if it is the wish of the House we shall take a 15-minute suspension.

We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.01 AM

#### PROCEEDINGS RESUMED AT 11.26 AM

**The Speaker:** Please be seated.

Debate continues on the Second Reading of the Stamp Duty (Amendment) (No.2) Bill 2001.

The Third Elected Member for George Town continuing.

**Dr. Frank S. McField:** Mr. Speaker, I would like to thank you for allowing us to pause to consult with the Third Official Member in regard to this Amendment, particularly the part where it says: **“the Bill also repeals the stamp duty on documents relating to the grant, assignment or transfer of timeshares as the Government proposes to deal with timeshares in a different manner.”**

At this particular point, I feel that the Government brought, and correctly so, the stamp duty as a part of their revenue enhancement measures in March. This also had entailed replacing duties on a number of food items and for them to now come and attempt, so early thereafter, to repeal the stamp duties on documents relating to the grant, assignment or transfer of timeshares is a little hasty and needs to be better explained what the motives behind this change would entail.

I believe that the Third Official Member attempted to give us an idea during the pause in proceedings as to why he felt it would be better to repeal this stamp duty which is in the vicinity of 10 percent and 7.5 percent, depending upon the area where the timeshare properties are found.

I remain dissatisfied with this particular change in government policy and hope not to sound too political. I think, this again, is where we need to become a little bit clearer in drawing the divisions between parliament, as elected members, and government, as an extension where it goes into the many government advisory groups. These advisory groups are sometimes not necessarily, in my opinion, representing the general good, but in fact representing specific interest groups in this country. I think this might be a clear case where the information that has been submitted needs to be examined thoroughly, making sure there is no bias and selfishness involved in making these strong recommendations to the Government which has caused them to bring this Bill to repeal this duty on the transfer of property.

I know the Government also realises that at this particular time it is not easy to make money for the

purposes which government needs to spend. There are those who can justify the theory or the assumption that the less tax which is put in place on real estate properties, at the end of the day you will sell more and therefore be better off. However, running society is a balancing act. There are many costs the Government in this country, as in others, will incur. We have to find the resources to pay for the services we need to provide to the community, which helps in the long run to maintain the value of property.

The value of property is not just something concluded as a result of an investor putting money in to building or someone who wants to buy will buy. The value of property is ultimately determined by the value of the society. So, a society which is properly and fairly maintained will cause property to be more valuable than in a society that is allowed to deteriorate simply because sufficient funds are not there to do the servicing needed to keep the society in a particular state. This is also true when society shows that its government is much more interested in taking away the tax concessions from normal people and removing it from the foodstuff, and at the same time the Government is anxious to satisfy certain interest groups or investors by removing it from property transfers.

I think it is not just a right for persons to own, but also a privilege and that privilege should be paid for.

I am sure the case I have made is understood by the Government and that they will want to postpone this decision to a later date. I thank those Members who have assisted in bringing this deficiency in the Bill, to the attention of the House.

I will now sit down.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I join voice with the Third Elected Member for George Town in his expression of concern about the repeal of this particular head of duty entitled “Timeshares” without having had the benefit of seeing what the replacement provision is going to entail. The Memorandum of Objects and Reasons of this particular Bill does indicate that government intends to repeal the stamp duty on documents relating to the grant, assignment or transfer of timeshares as it proposes to deal with timeshares in a different manner.

In these times of austerity I believe that a very good and careful explanation is necessary before we seek to repeal the provision which will have the result of increasing the monies paid to government.

In the Budget this House passed in April of this year, the timeshare fee estimate was placed at some \$700,000. Prior to that time, as I understand, no fee whatsoever was paid to government in respect of timeshares. Neither was a fee paid for accommodation tax, stamp duty on the transfer grant, or an assignment which differed significantly from the situation

in relation to other guest houses and hotels which pay an accommodation tax on each room.

During the break, Members did have an opportunity to speak with the Third Official Member to obtain some explanation. It appears that, certainly as far as the Third Official Member is concerned, what is being proposed as a replacement to this particular fee will have the result of a net increase in monies paid to government under this head. I believe it is proper and necessary for the Honourable Third Official Member to explain that in his reply to the debate on this Bill. Perhaps in the process of so doing, he could advise this House what has been the result in financial terms of the imposition of the timeshare fee as set out in the Budget and how the receipts compare with the projected amount.

Again, from discussions with the Honourable Third Official Member, it appears that government is minded now, having heard Members' concerns, to defer the repeal of this provision until they are in a position to bring the replacement legislation proposal to this Honourable House. That is, I believe, the way this matter can best be dealt with. So, I look forward to hearing what the Third Official Member will say in reply and will reserve my position in relation to the Bill until I understand what government's position is in relation to the repeal of the head of duty entitled Timeshares.

Thank you.

**The Speaker:** Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** I rise to make a short contribution to the current Stamp Duty (Amendment) Bill 2001. My concern is the same as that of the Second and Third Elected Members for George Town.

Like other Members, I sat here in March when this Bill was brought to include taxes on timeshares. I agreed with it then, and today it is no different after having heard the Third Official Member explain. The country may very well be better off by possibly applying \$10 per person per night, as opposed to asking for 7.5 percent to 10 percent; this depends on where the condominium is located on the Island. Not having the benefit of the average per occupancy or the average family that stays in these condominiums, it is difficult to look at this and support it.

My biggest concern is the administration of applying \$10 per head. We know that we currently have an accommodation tax in this country. Without pointing fingers at any establishment, it is my humble submission that a lot of accommodation taxes are not collected in this country. I recently visited St. Kitts with the Commonwealth Parliamentary Association (CPA). I can assure you that while St. Kitts has gambling, et cetera, there was always a government official or representative nearby to ensure that government taxes

were properly collected and accounted for—from the gambling too!

To my knowledge this country has never had proper accounting of accommodation tax. I would like to know how we are going to do proper accounting of \$10 per head in the timeshare. Besides that, there are a number of these timeshares in this country that may very well collect gratuities, but I know, they do not share gratuities how they should. If they cannot do that amongst the lower wretchulances in the workplace, then I would like to know how the Government could trust them to pay \$10 per head for every person who sleeps under their roof.

The Third Official Member is the person responsible for monies in this country and the collection of revenue. I would challenge him to show this House what mechanism is going to be put in place. It is all well and good for us to stand here and pass laws and amendments which, when enforced, will give this country more revenue and ensure that the proprietors should be conducting themselves in such manner. If we do not have the mechanism in place it is useless to pass these amendments and laws.

I have no reason to point my finger at anyone. However, we know that the country is ripe with rumour that these people are not paying government its rightful accommodation tax. Government would have to allay some of my concerns by proving, beyond a shadow of a doubt, that the Government is collecting accommodation tax from every visitor in hotels and condominiums in this country. I think that is a daunting task for the Government. I do not think they will ever be able to do that because there is no mechanism in place. Now, here we are, wanting to put \$10 on every head. I trust that it will bring more money than applying the transfer tax on timeshare. I challenge the Government to also account for any timeshare and the protection of Caymanians who work there; the people who work there, whether or not they are Caymanians.

I challenge the Government to look into the accusations and rumours that these timeshares are also collecting gratuities and not distributing them accordingly, particularly now when we are going through this economic downturn and worse, since the recent incident in America. We all know that if America sneezes, we catch a cold. Government must pay attention to these areas—even more so now. It does not make sense to be receiving visitors and have these properties collecting these fees that are supposed to be paid to government, and, in the case of gratuities, to be distributed amongst staff; it is not being done. It does not make sense for government to spend millions of dollars on tourism to attract tourists and then there is no return, or the return is not what it should be, or it is spent by others too.

I just want to reiterate that I am not pointing my finger, but we know the old adage, whenever you throw a stone in a pigpen, the one who squeals the loudest got hit. It is like what the Third Elected Member for George Town said: *'I guess they will say the*

*troublemaker is up again!* Well, that means there are two troublemakers then.

I would like to hear what the plans are to administer the new proposal, what I trust is forthcoming from the Third Official Member. I suspect he will also let us know what kind of mechanism is in place to ensure that the new accommodation taxes are also collected by government and that the Government is assured of every cent that is supposed to come into government is currently being collected.

Thank you, Mr. Speaker.

**The Speaker:** The Motion is opened for debate. Does any other Member wish to speak?

The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

Sometimes when attention is drawn to a particular topic in this Honourable House, we find ourselves wondering why we had not concentrated efforts in certain areas prior to the point being brought up. I am certain that that is not uncommon. Perhaps that is part of the business of the House so that exactly what I just described will happen.

This Legislature is the place where legislation is passed or denied. This morning is very typical of the way the exercise should be completed. I believe with this particular issue of timeshares, after hearing debate from Members I for one take the point whereby we perhaps need to look at this situation very carefully.

The Bill was brought as explained by the Honourable Third Official Member who moved the Bill with the idea to deal with the issue of timeshares in the November meeting. Some Members are not fully convinced that the situation is very clear and I think Members have the right to have a clear understanding. So, with the committee stage amendment the Third Official Member has proposed and circulated, I believe withdrawing that section of the Bill will allow for safe passage of the rest of the Bill. However, I think it is pertinent to give some background information on the timeshare issue at this time and I propose to do that as quickly as I can.

When we were looking at this issue, there were different thoughts of how best to deal with it. Those of us who were here prior to 2000 will remember that on at least one occasion there was a proposal via a Bill to deal with the issue of timeshares and as the Third Elected Member for George Town pointed out, there was some pressure put and the Bill was withdrawn.

When the Third Elected Member for George Town said that whoever put that pressure on before seemed to have succeeded in doing so again; he may not believe me, but I can assure him, that is not the case. It is simply a matter of looking at it with a view of how to deal with it in a different manner. That is what I wanted to explain.

Originally, when the thought was simply to look at a one time fee that would align timeshare purchases with regular purchases of property, which would attract either 7.5 percent or 9 percent transfer tax (depending on where the property was located), there was a proposal put. Let us take one timeshare property and assume that each owner owned one week out of every year. For the entire property there would be 52 owners. The proposal was that each owner pay \$50 per year which would mean that the gross annual income would be 52 x \$50, which is \$2,600. The thought was that while they were not paying actual stamp duty, the annual fee of \$50 (which was not considered onerous) would bring more revenue for government, but be more palatable for the industry when looking at the bigger picture.

Since then, other thoughts have been extended and there has been a proposal, assuming the 80 percent occupancy which the Third Official Member spoke to. If we again take one unit and look at 365 days per year at \$10 per night, and calculate 80 percent of 365 x \$10 each night, the gross annual income brings \$2,920, a little more than the \$50 per year for each week. So, there have been different ways of looking at it and try to determine exactly what way to go forward.

I think where the problem has arisen is the collection of this \$10 per day. There have been questions raised about the government's ability to ensure that this money is collected. Mention was made of condominiums and the room tax. Many people are of the view that government is not getting the full benefit of this revenue.

I propose that we agree to the committee stage amendment. I also agree with those Members who aired concerns that the Third Official Member utilising whatever section of his portfolio, and whoever else he needs to help champion the cause, give a commitment to have a full look at this situation and do everything physically possible to ensure that after consulting with Members who will have to approve the legislation, make sure that we have it in a satisfactory way. I am certain that Members will be prepared to give their opinions so that we can come to consensus as to the way forward.

It is certainly in the interest of the Government, in my view, and I think everyone will agree, if it means a dedicated person specifically, to ensure that a proper system is set up within the industry, with the ability to do spot checks to ensure government collects what it should, then I believe that situation warrants it.

While I am satisfied that the Bill brought is simply asking for the situation to be corrected with a view to bringing legislation in November, I believe we should have a closer look at the entire situation and sit down with Members, take input and agree on a way forward. Get it all path out the right way and simply get it to where there are no questions marks on a daily basis as there are now with regards to the way we are able to collect these funds.

Mr. Speaker, for example, I have heard on many occasions where we have owners of condominiums who do not have their units in the rental pool, which if it was in the rental pool you are supposed to be able to see everything by way of books kept, but those owners privately rent their units. People come in and stay and the income is not recorded; there is no 10 percent accommodation tax attracted. The truth is that while those owners may be smiling and it may be common practice, it is evading paying government its just due. I cannot call any names as to who the owners may be, but the truth is the way this world is today, I do not believe that we can simply put legislation in place and trust all parties for it to happen right because it does not just happen like that nowadays.

Without trying to pre-empt the Third Official Member, I just wanted to make it clear that the Government takes on board the position that has been brought forward. I believe safe comment is that we all agree we should have a thorough look at it. I am certain the Honourable Third Official Member would be twice as happy if there was more revenue coming in through it, like all of us would be at this point in time, given the circumstances. If we can agree for that committee stage amendment, look at it very carefully and do the best we can to make sure we employ a system that is as foolproof as possible, which in this day and age should not take a rocket scientist to put together, and once we can get it on track we can move on.

Thank you, Sir.

**The Speaker:** The Floor is opened for debate. Does any other Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Thank you, Mr. Speaker

What I have to say will be brief and it falls in line with what other colleagues on the Backbench have said about this particular Bill. I think that rather than government bringing piecemeal amendments to the situation with stamp duty tax or any kind of tax or fee to derive some money from the business of timeshare and condominiums, it ought to be a comprehensive review and a proper and complete Bill.

There are few businesses in the world that by their share nature generates as much money as a hotel. There is accommodation, food and beverage, and if it is done 365 days a year they generate immense amounts of money. The timeshare business has become international. People use it because they can actually purchase a timeshare, which is in most instances purchasing a week of vacation in a building in some part of the world. They have further developed that in doing that you can exchange a week in the Caribbean, let us say, to spend a week in Colorado.

I have cause to believe, especially now, since I have come into possession of certain documentation from a condominium, that clearly shows government's

revenue being robbed. I have been reluctant to bring it forward for the simple reason that I do not know if an investigation will be carried out as should be. I am not sure the persons who are doing so may not be alerted through inept efforts. So, I am just keeping what I have at this stage and thinking about it.

The people in the travel and accommodation world have certain expertise and ability in wheeling and dealing and adjusting prices, which is necessary for them to do business. However, what I personally object to, and it has been this way from the time I can remember Cayman as a society and government as a necessary entity, is that if there is a product being sold in Cayman for \$500 to the private sector, and if government wants to buy it, immediately that price becomes \$1,000. I cannot understand that mentality. To me it is a wicked, evil, ignorant mentality. If the Government can save money, it means the person being taxed also saves money. Unfortunately that is the way it is and there are numerous instances where this can be proven to have taken place.

If government wants to build a road or a bypass that would make life easier for everybody, and an individual has two orange trees on the piece of land, they want government to pay them \$1 million. This is the kind of ridiculous situations we find. We also find that the business of government, in the building of the road, is slowed. The ability of PWD to build; the public at large to use the road; and traffic to flow easier is hampered while the Government plays around with these types of ridiculous situations. It seems that government is ever reluctant to use the authority and the power given it by law to subscribe to that type of situation, not to say that government should be devoid of negotiation.

Mr. Speaker, people in the tourist accommodation industry who would be led to not pay government its taxes, fees or its duties, as the case may be, only do so because they know it is an inbred quality of character of government not to sue them or take legal action against them. Now, reverse the coin and no one hesitates to sue government. I really do not understand that but this is how it is here in Cayman.

I have heard of instances where Mr. Jones comes down and occupies room 4B in condominium X. He is a "guest" of the owner. He is no guest of the owner, but then again may be he is, because he has paid in the US or elsewhere. They collect and government gets nothing out of the whole deal. Instead of trying to piecemeal little fees, we ought to recognise that condominium and timeshare units are spread across the Cayman Islands right now and are there because people are making money on them. They come to the Cayman Islands, a safe environment, a place where people can relax. It is only fair that the government try to collect a fee for and on behalf of the people. I do not see why that is so hard to accept.

There is always this fear and trembling in the Cayman Islands, that if we charge them \$5 they will take their business elsewhere. Why can we not just



get real? Is there a place in the US where there is no property tax assessed, be it \$50 or \$200 on every house in every state? What is the great mystery?

We have reached the point where we have sung the song so often to ourselves that we are a jurisdiction with no taxes, which is causing us to miss the boat and the OECD is trying to tell us that we are abnormal because we do not have any taxes and that we should. I do not agree with what the majority of what they are saying, but perhaps we could learn a little by understanding that taxes and the state are real things around the world.

I think it is good that the Member is deciding to withdraw or repeal the paragraph in this Bill. While there is nothing wrong with doing that now in order to appease this situation in the House, I suggest to the Member and Minister responsible for this business of accommodation and tourism, that the Government should appoint persons who can look at the situation and come up with hard facts and figures. These hard facts and figures should include the number of rooms and tourists here to determine a realistic assessment and how best to guarantee we will collect the money if a fee is put in place. That is another serious problem—government is not collecting all the fees it should be collecting from these entities.

I understand the requirement of attaching the actual paperwork to the money sent in monthly for accommodation tax is no longer required. If that is the case, I would tell this House that we are certainly being damned because of that. How do we know what is the case if there is no supporting documentation? I heard that it was too much paperwork and they were told they did not need to do that. If that is the case, we had better start worrying because that is one means by which we are being robbed!

I do not have any problem in assessing a fee in this area of commerce. However, taking off taxes at this time in this field, while we have applied it to milk and eggs in November, I cannot support. With the amendment, I am inclined to support the Bill in its present state.

Thank you.

**The Speaker:** Does any other Member wish to speak? (Does any other member wish to speak?)

If not, does the Mover wish to exercise his right of reply?

The Honourable Third Official Member.

**Hon. George A. McCarthy:** Thank you.

Taking into account the concerns raised by Members, the Government has taken a decision to defer the repeal of the section dealing with stamp duty on timeshare until the amendment to the Tourism Accommodation Tax Law can be simultaneously considered. This will be dealt with by way of an amendment during the committee stage.

As Members are aware, the current provision in the Bill being repealed is that stamp duty should be

payable at 7.5 percent and 9 percent on timeshares, depending on the location of the property. If we take a property with a value of \$14,000 for the timeshare, at 7.5 percent, this would yield stamp duty of \$1,050. At 9 percent it would be \$1,260.

The data we have gathered indicates so far that the timeshares are normally occupied at a rate of approximately 80 percent. If we take this on an annual basis and let us say for example, 52 owners at 100 percent occupancy would be 3,640, at 80 percent that works out to \$2,912. If we assume that the average family is comprised of two persons, at \$10 per night, then that works out to approximately \$5,824. It can be seen that this alternative arrangement, based on \$10 per person, will yield a higher level of revenue. However, the specifics of that will be provided to Members when the amendment is brought to the Tourism Accommodation Tax, together with the repeal of the stamp duty component now being sought to be addressed.

Honourable Members raised some very good questions, and I take on board the challenge that has been given by the Elected Member for East End. I will say that I know for a fact that the Government is not collecting 100 percent of the tourism accommodation tax. That is known to me, and throughout the entire country. This is not in the area of the hotels, as such, this has to particularly do with the area of timeshares.

We have information that there are quite a number of owners of condominiums units. A person who buys a condominium unit are not required to pay any tourism accommodation tax because this attaches to the ownership in that the stamp duty element would have been paid already. However, where this condominium is put into a rental pool, the occupants are required to pay the 10 percent accommodation tax.

There is an arrangement whereby owners are allowed to have their friends use the condominiums, and normally wherever a payment is not made, obviously the tax is not payable. We have information (not from any specific source) that amounts are often paid by persons purporting to be friends of the owners outside of the Cayman Islands and there is no evidence or record of any amount paid. In that case, the Government is not in a position to make a demand for the tourism accommodation tax element that would otherwise be payable on the accommodation rental sum payable to the owner, for that amount to be paid.

The Tourism Accommodation Tax Law is quite clear. In section 3 it says: "**The proprietor of any accommodation shall pay to the Government a tax equal to 10 per cent of the amount of the charges made by him in respect of each tourist accommodated therein.**"

In section 7 it states: "**Every proprietor of accommodation shall, no later than twenty eight days after the end of the month in which the proprietor has provided accommodation and service for tourists, submit, under section 4, to the Collector of Taxes a copy of each statement delivered by**

him to tourists during the month.” Failure to comply with this will result in a surcharge. I know that the surcharge is levied by the Treasury on a regular basis. The only time that is not levied is when it can be demonstrated that every attempt was made to have the tax paid within the 28-day period, but for circumstances such as delays at the post office and other justifiable reasons when it can be one or two days late, there is often a request for the waiver of that penalty. If the circumstances are viewed as justifiable, the waiver may be allowed, not that it is guaranteed to be allowed.

The Law also provides for unrestricted access to the premises providing tourism accommodation and to inspect records. If there are no records or evidence of payment for accommodation rental, there is no basis on which a demand for payment of tourist accommodation tax can be made.

The Government has been looking into this matter for quite some time. Research has revealed that in one country in the Atlantic, they have decided to address this. It is not a decision that was taken a long time ago but it sets a very useful precedent. With the exception of the owner who should be the owners of record, any other person or persons occupying the condominium unit will be assessed at what is determined as the market rate for the property. This is payable to the government irrespective whether or not this person is a friend of the owner or the unit has been put into the rental pool.

This is the direction the Government is going, and this matter will be brought to this House in the not-too-distant future. I think it will serve as a very useful remedy and as a deterrent for those condominium owners who enter into this arrangement knowing that their properties are not subject to any form of property tax other than the stamp duty component paid. Recognising that both the Government and the country must operate requires a certain level of revenue.

For persons tempted to evade payment of tourism accommodation tax by this process, I would want to believe that this would not be in the majority of instance, but even for those few who may be doing so, Mr. Speaker this will serve as a useful deterrent.

Looking at the situation with timeshares it will provide an opportunity to look at the existing penalties under the current Tourism Accommodation Tax Law. At the end of the day we need our laws to have teeth. The Leader of Government Business alluded to this as did the Elected Member for East End and the Second Elected Member for Bodden Town. There is a benevolent approach taken when it comes to the attitude toward persons who are liable to pay fees and amounts due to government. We have to get to a point (and I am not suggesting that the Government become overly intrusive) because we know there is no system designed that is 100 percent foolproof. We do not have an onerous system in the Cayman Islands that consumes a lot of a person's income through

taxes and other fees payable to government. At the end of the day no one can say that any one government has been unreasonable up to this point in time.

The amount of monies due and payable to government must be paid. We have gotten to a stage where certain demands have to be satisfied. The only way to do this is for government to have funds within its coffers.

It takes time to address changes in any society. Some of the approaches introduced so far have in place a debt collector within the Treasury Department, and Members would have been informed as to the success that this unit is having. Several million dollars have been collected by that unit that would otherwise have been either delayed or avoided over the past recent years. We have to continue to scale up these procedures and arrangements so that monies due to government are paid at the end of the day.

We know that the tourism area has to be looked at. One Member mentioned the amount of money being spent in terms of advertising and promoting the Cayman Islands on an annual basis. What comes back to government in the way of tourism accommodation tax, I think, reflects just a fragment or small portion in terms of what has been spent. This situation has to be remedied.

I will not regard the challenge given to the Government and me to address this area as unreasonable because I know it is reasonable. This is an area that has to be looked at. However, I should mention that Members are going to be receiving complaints from owners of hotel establishments and especially condominium operators when the new procedures and arrangements are put in place. This is an arrangement where everyone will have to be prepared to recognise that the strict requirements of whatever body of legislation is put in place will have to be fully complied with. It is only reasonable that what is due to government should be paid.

Thank you, Mr. Speaker.

**The Speaker:** The question is that a Bill entitled, The Stamp Duty (Amendment) (No. 2) Bill 2001 be given a second reading. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE STAMP DUTY (AMENDMENT) (NO. 2) BILL 2001 GIVEN A SECOND READING.**

**The Speaker:** We shall suspend proceedings until 2 pm.

**PROCEEDINGS SUSPENDED AT 12.37 PM**

**PROCEEDINGS RESUMED AT 3.25 PM**

**The Speaker:** Please be seated. Proceedings are resumed.

Bills, second readings. The Public Management and Finance Bill 2001 to be moved by the Honourable Third Official Member.

### THE PUBLIC MANAGEMENT AND FINANCE BILL, 2001

**Hon. George A. McCarthy:** I beg to move the Second Reading of a Bill entitled The Public Management and Finance Bill 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. George A. McCarthy:** I am sure that Honourable Members recognise that the system used by government in accounting for its finances needs to see significant improvement. The existing system is based on a style of government management that we and most of the Commonwealth inherited from the United Kingdom and which was developed over one century ago.

It is a management system focused on controlling behaviour, not on encouraging the best performance. It is a management system focused on keeping track of what is in the government's bank account, not what the government's real revenue expenditures, assets, and liabilities are. It is a management system that assumes the Government will do the same thing year after year, not a management system which enables the Government to plan and act strategically in response to changes in local and international circumstances.

In short, our current system of managing the Government and finances is no longer suitable for a government that must operate in a dynamic global economy. These shortcomings have become increasingly clear to all of us and for some time we have been working on developing a new result-based management system appropriate to the Cayman Islands.

In the 2001 Budget Address it was indicated to this House that the Government would be introducing legislation to further this reform and replace the existing Public and Finance and Audit Law. The Government is pleased to bring The Public Management and Finance Bill 2001 to this Honourable House today.

The objective of the Public Management and Finance Bill provides the legislative mandate for the Financial Management Initiative (FMI). FMI has been carefully designed to address our own unique problems in our own unique way. It has involved extensive collaboration and dialogue between Members of the Legislative Assembly, Ministers and Members of government and the civil service over a three-year period. The result reflected in this Bill is a Cayman model of management; I will underscore that. It has not been simply copied from another jurisdiction. Rather, we have learned from the strengths and weaknesses of

other countries and developed our own Cayman model.

FMI will fundamentally change the way in which the government manages itself. This will happen in five very important ways: First, it will require government to plan and manage strategically and to debate and agree to strategy with the Legislative Assembly on an annual basis. Amongst other things, this will provide a further way to bring Vision 2008 into the mainstream of governmental activity.

Second, it will require government's strategy to be linked to specific actions. This will be achieved through the introduction of output budgeting. Outputs are goods and services that the government and its agencies provide to the public in order to achieve the government's strategic objectives.

Third, the Bill will require government to budget and account for its finances on a much more complete and accurate basis. This will be achieved through the introduction of accrual accounting. Accrual accounting is a system of accounting used in the private sector and it involves recording all revenues, expenses, assets and liabilities, not just those that go through a bank account. Accrual accounting is steadily being adopted by governments around the world and its use is encouraged by all the international agencies such as World Bank, International Monetary Fund, and the United Nations, just to name a few. Cayman will lead the Caribbean in this change.

Fourth, the Bill mandates a new regime of open disclosure for budgeting and reporting. Honourable Members and the public will have access to detailed performance oriented budget documents, not just for government as a whole, but also for each ministry, portfolio, statutory authority and government companies. Members will also receive quarterly reports on the performance of each of these agencies and on the government as a whole. The reports will include non-financial, as well as financial information and will be publicly available as soon as they are tabled.

Fifth, the Bill allows for the delegation of financial input controls to ministries and portfolios. This is necessary as we move from a centralised input controlled environment to a decentralised output and performance focused management system. It will also create new opportunities to improve the efficiency of government agencies.

Overall, the Bill is designed to modernise the Government's financial management system and to establish an environment for improved strategic and operational performance. This in turn will make government more efficient and effective.

The Bill is comprised of eight Parts and a number of Schedules. Part 1 contains the commencement section as well as defining the terms used in the Bill. Parts 11 to VII are focused on the roles and responsibilities of each of the key parties in the financial management system which are: the legislature; the Executive Council; ministries and portfolios; statutory authorities and government companies; the Portfolio of

Finance and Economic Development; and the Audit Office. Part VIII provides a number of general provisions. For Members' benefit, I would like to provide a brief overview of the key clauses of the Bill.

Part 1—Clause 2 is the commencement provisions clause. This has the legislation coming into force on 1 January 2002. However, it allows for the majority of the Bill to come into force with the effect of the 2004 Budget. This means that the Budget process commencing in 2003 will be run on the new strategic output accrual basis required by the Bill.

The existing Public Finance and Audit Law and regulations will continue in force until the new law comes into effect. This means that during 2003 and 2004 both the old law and the new law will be in force, but in relation to different financial years.

The Bill contains a number of provisions delegating decisions over inputs and banking matters to Chief Officers (that is Permanent Secretaries and equivalents). These provisions will come into force on 1 January 2005. It might appear to some Members that this implementation timeframe is somewhat drawn out. However, I can assure you that this is not the case.

The new skills needed by managers in the civil service are extensive. The timing has been carefully programmed to allow time for Ministries and Portfolios to develop the management systems and skills necessary to operate effectively in the delegated input environment.

Clause 3 contains definitions. These include a number of important distinctions. The first relates to the two different dimensions of performance that will be required of government agencies. These are "purchase performance" and "ownership performance." "Purchase performance" is a performance that a purchaser or customer would expect of an organisation and primarily relates to the delivery of outputs which are goods and services. "Ownership performance" is the performance that an owner would expect of an organisation which would primarily relate to the nature and scope of the organisation's activities, financial performance, maintaining capability, and the management of risk.

The second distinction relates to the different types of government resources and who will manage them. I will start with Executive Resources: Executive Resources are those revenues, expenditures, assets and liabilities that will be controlled by Executive Council. They relate to the government as a whole and include revenue such as customs import duty, payment to ministries and portfolios for the delivery of outputs and assets, over which Executive Council or the Legislative Assembly retain direct control, such as Crown land and roads.

Entity resources will be controlled by ministries, portfolios, statutory authorities, and government companies. These include the revenue earned from delivering outputs, input costs, which are mainly personnel costs and other operating costs, and assets used in

producing outputs such as computers, furniture, plant and equipment.

The distinction between executive and entity resource is important because the Bill provides chief officers with extensive delegated authority to hold manage and control entity resources. In addition, only executive expenses require appropriation. This approach is designed to clarify roles and accountability, and to give effect to the delegated input environment that is an integral part of the new output management system.

Part II outlines the financial management functions that will reside with the Legislative Assembly. These reflect the constitutional role of the legislature to authorise revenues and expenditures of the Government and to hold the Government accountable, accordingly.

Clause 7 requires Legislative Assembly approval by way of a law or resolution for the collection, or change in rates of coercive revenue. Coercive revenue is revenue using government's coercive powers that are not directly related to the provision of services. Customs duties are the most obvious example.

Clauses 8 and 10—to establish a new appropriation system that requires all appropriations be made to the Executive Council rather than to ministries or departments as currently done. In addition, all appropriations must be on an accrual basis. These clauses also require that appropriations be for eight specified categories rather than the current heads. The eight categories are defined in clause 10 of the Bill.

Clause 9 requires the Legislative Assembly to authorise by way of resolution guarantees given on behalf of the government, before they are given. This reflects current practice.

Clause 11 establishes some permanent appropriations that never lapse. These relate to the salary of the Auditor General, public service pension contributions and borrowing expenses. These were previously referred to as statutory expenditure.

Part III outlines the role and responsibilities of the Executive Council. The Executive Council's role includes responsibility for setting the outcome priorities of the Government; ensuring that the actions of the Government are consistent with those outcomes; and managing the financial performance of the entire public sector. The term "entire public sector" means the Legislative Assembly, the Executive Council and all the entities that make up the Government, including statutory authorities and government companies.

Clause 14 requires the Executive Council to make financial decisions in a manner consistent with a set of "principles of responsible financial management." This is a new concept designed to encourage good fiscal management and there is no equivalent in the existing Public Finance and Audit Law.

The five financial principles are:

- 1) running operating surpluses rather than deficits;

- 2) ensuring that the entire public sector assets are greater than its liabilities;
- 3) ensuring borrowing is within defined limits;
- 4) maintaining cash reserves at a minimum defined amount;
- 5) prudently managing financial risk, including contingent liabilities.

Clause 14 allows the Executive Council to temporarily depart from these principles under certain circumstances. This is to ensure that government has adequate policy flexibility in abnormal circumstances such as a large influx of refugees or a significant economic downturn. The Bill allows for a transition from the current financial position to that required by the principles.

Clause 79, in Part VIII of the Bill, specifies a timetable for this transition. The exact transition varies for each principle but the maximum period is eight years.

Clauses 17 through 22 define how the annual budget process is to operate. As part of this new process, two key documents are required. The first is a strategic policy statement. This is to be presented to the Legislative Assembly approximately six months before the Budget each year. It is to outline the government's outcome goals and financial targets for the forthcoming year together with comprehensive economic forecasts. The strategic policy statement will provide an explicit opportunity for the Legislative Assembly to debate the Government's strategic objectives before the detailed budget is developed.

The second document is an Annual Plan and Estimates which will replace the current Budget Book. The Bill requires that this be presented no later than two months before the new financial year begins. The Annual Plan and Estimates will among other things specify the output groups, transfer payment categories, and other policy actions the Government intends to use in the forthcoming year to achieve the agreed strategy. It will also provide multi accrual-based forecast financial statement for the entire public sector.

Clauses 28 and 29 require the Executive Council to table quarterly reports and an annual report on the performance of the entire public sector. These will compare performance against that outlined in the Annual Plan and Estimates. The Annual Report is to be audited by the audit office.

Clauses 30 and 31 require the Executive Council to annually agree with the agency concerning the performance it expects from that agency. In the case of ministries and portfolios this is to take the form of a performance agreement documenting both the output to be delivered and the ownership performance to be achieved. Performance agreements will be tabled with the Annual Plan and Estimates each year and will provide the basis for both Executive Council and Legislative Assembly to monitor that the performance expected is being delivered.

Clause 26 requires the Financial Secretary to gather before each general election a pre-election economic and financial update. This is to obtain an

updated economic forecast financial statement for the government. The contents of the update are defined in the section, as is the period within which it must be gazetted. This clause also has no equivalent in the existing Public Finance and Audit Law. Its objective is to ensure that the voters of this country have access to reliable up-to-date information about the government's finances in the lead up to a general election. It reflects the government's commitment to the principle of transparency.

Clauses 32 to 36 outline the duties and powers of the Financial Secretary. These include the authority to issue financial regulations and a new set of regulations will be issued to replace the existing Public Finance and Store Regulations. The new regulations will, among other things, establish the internal controls that must operate in each ministry and portfolio, and authorise the internal audit group to verify that those controls are in fact operating. This is to ensure that the move to a delegated input authority does not result in a lapse in the financial control or reduction in probity.

As a further protection, Clause 80 in Part VIII of the Bill specifies an interim internal control system that is to apply during the transition from input controls to output controls. This will ensure that input controls are maintained until ministries and portfolios have demonstrated their ability to manage under the new system.

Part IV outlines the role and responsibilities of Ministries and Portfolios. The Bill defines a ministry or portfolio so that it includes the departments, sections and units within it. It also defines a "chief officer" as a permanent secretary or, in the case of a portfolio, an equivalent position.

Clauses 39 to 41 provide the chief officer of a ministry or portfolio with the powers necessary to manage his or her ministry or portfolio in an output base management system. This includes the power to earn revenue by selling outputs; incur entity expenses relating to inputs; buy and sell entity assets; determine the management and production systems of the ministry or portfolio; to operate a bank account provided that it is within the centralised banking system which is to be established by the Treasury Department. As I mentioned earlier, these powers do not come into force until the year 2005.

Clause 41 also requires each ministry or portfolio to pay a capital charge each year. The capital charge reflects the cost of capital invested in the ministry or portfolio. The cost of capital is an input cost of a ministry just as wages are the input cost that reflects the cost of labour. However, because ministries do not pay interest or dividends which are how the cost of capital is recognised in the private sector, it can easily be forgotten. The capital charge ensures it is reflected in the operating cost of a ministry or portfolio.

Clauses 42 through 44 require a ministry or portfolio to prepare a performance agreement, and a quarterly and annual report each year.

Part V outlines the role and responsibilities of statutory authorities and government companies. This includes the requirement to prepare an annual ownership agreement, an annual purchase agreement, a half-yearly report and an audited annual report. All of these are to be tabled in the Legislative Assembly. Any information a Financial Secretary determines is commercially sensitive need not be included in any of these documents.

Part VI contains a number of provisions relating to the Portfolio of Finance and Economic Development. Many of these reflect its current responsibilities including preparing economic forecasts, coordinating the budget process and preparing the entire public sector quarterly and annual financial statements.

Clause 53 also includes some new duties. These reflect the new management system and include:

- 1) establishing the accounting policies to be used by the entire public sector;
- 2) operating the new centralised banking system;
- 3) monitoring the output delivered and ownership performance of the government agencies.

Part VII outlines the role and responsibilities of the Auditor-General and the Audit Office. The provisions of this Part (VII) are primarily a modernisation of the equivalent provisions of the existing Public Finance and Audit Law (1997 Revision). However, an important change relates to the accountability arrangements for the Audit Office. The Bill recognises that consistent with its constitutional role the Audit Office should be accountable to the Legislative Assembly rather than the Executive Council. Consequently, Clause 66 requires that decisions about the budget for the Audit Office be made by a committee of the Legislative Assembly rather than Executive Council. The Audit Office is to be made accountable to the Committee which, in relation to the Audit Office is to undertake the functions that the Executive Council takes in relation to ministries and portfolios.

Clause 68 also requires the Audit Office to be audited by an independent auditor. These provisions relating to the accountability of the Audit Office reflect modern practice in the UK and leading Commonwealth countries.

Part VIII contains a number of miscellaneous provisions. These relate to the management of trust assets, offences under the Bill, and transitional arrangements between the old law and the new financial management system.

Members are aware that there will be some amendments during the Committee stage of the Bill. Dealing with these amendments, the Government proposes to make a small number of amendments to the Bill currently before Members. These will be introduced during the committee stage and are designed to further improve the way in which the government's financial management system operates.

The amendments fall into four categories: The first are a series of amendments to change the Gov-

ernment's balance date from 31 December to 30 June. This will occur from 1 July 2003, with a transitional six-month financial year for the period 1 January 2003 to 30 June 2003. As a result of this change, the implementation of accrual budgeting and reporting, will now take place in the 2003-2004 financial year which is six months later than the timeline in the gazetted Bill.

The second set of changes relating to the ministry or portfolio performance agreements are amendments to the clauses. These changes define who exactly is to sign the agreements.

The third group of amendments are to the clauses relating to the accountability of the Audit Office. These will make the audit office directly accountable to the Legislative Assembly rather than the Speaker, as currently drafted. This will also have the Budget for the Audit Office set by the Public Accounts Committee rather than a special three-person committee, as currently drafted.

The fourth group of amendments is to the commencement clauses. This will bring into force immediately some of the investigatory powers of the Auditor General.

As I mentioned in the introduction, this Bill will fundamentally change the way in which government manages its finances. It will help focus our attention on results, not just on how money is spent. It will help focus more of our attention on strategic matters not just the small details. It will help us achieve a government that is more efficient and one which delivers better value for money services to the people of the Cayman Islands. It will also help us achieve the vision this country has collectively set for itself.

Thank you for allowing me to explain the provisions of the Bill. I commend it to Honourable Members.

**The Speaker:** The question is that a Bill entitled the Public Finance and Management Bill be given a second reading. The Motion is open for debate.

Does any Member wish to speak? Does any other Member wish to speak? Last call. The Floor is opened for debate. Does any Member wish to speak?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Speaker, I beg your indulgence. Two or three of us would like to speak on this but because of the complexity of the Bill, in addition to the new amendments and vast ramifications on the finances and governing of this country, we would seek, through you, to see whether or not the Government would be prepared for us to adjourn at this time and come back tomorrow to debate.

**The Speaker:** What is the wish of the House? Shall we put it to a vote?

The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I do not understand why people are going to try to waste this beautiful day by trying to get more time to consider something that seems to be very long as a Bill. We understand why it has to be long because it obviously takes in so many aspects of financial management into account. However, thank God that we are able to have an overview of the issue we are dealing with. We know the motives behind the Government bringing this Bill and we have a pretty good idea of what the Bill is attempting to achieve for us here in the Cayman Islands.

It is basically a question of whether or not we can agree with the motives and the intention of this legislation, rather than being able to sit here or go home when we should be spending our time doing useful things trying to find ways to come up with technicalities that perhaps will cast doubt on the usefulness of this legislation.

I believe there are certain things that have to be done in this country and there are certain things that should have been done in this country sometime back. The modernisation of the way in which we deal with financial issues is something that was advocated by the Backbench in 1996 to 2000 before this Government that is now in charge of bringing this Bill, came to power.

The previous government always gave me the impression that they doubted the feasibility of this legislation and therefore I am happy that the legislation has had an opportunity to come this far as a result of them no longer being in place.

We all know that I have my reservations about some of the activities of this present Government. However, it will remain that I will always be a little bit more inclined to be critical of their predecessors than I am of those who are trying their best somehow, to give the country the possibility to modernise itself, as a result of the fact that we are all bragging about how global our village has become.

If our village is so global, I cannot see how at this particular point, after having spent so much money in bringing people all the way from New Zealand to work, over a long period of time to perfect this legislation in such a way as to localise it; to allow it to be fit and almost tailor made for our cultural specifics, the way in which decision making takes place in our jurisdiction, and to take into account our unique constitutional position.

I can say at this point, perhaps more so than Members who did not understand the body language and some of the conceit which existed in this Legislative Assembly in regard to this particular legislation, that on one hand the previous government, although funding the development for this legislation, had no intention of ever seeing it survive.

I feel it is important to understand that some of us believe the reason why we need to oppose this particular Finance and Management Bill is because that Bill itself is empowering people within our civil service

to be able to achieve dynamic results, rather than tying them down in the old colonial way, and making them instruments of one or two persons who might have the power. So, rather than trying to control our society, we are trying to motivate and create the legislation for the flexibility and motivation that will result in dynamic outcomes.

If empowering the persons who work within our bureaucracy causes a need for constitutional amendment, the loosening up of the centralisation of power in the hands of one person will spread and become more of a collective power. Therefore, based on our finances in the answerability of Executive Council to the legislative branch, then I believe this is a good development, whether or not it could even be more perfected by certain types of constitutional amendments.

At this moment, the point the Bill is at, is an improvement on the old money management law which reminds me of a kind of medieval way of trading in things that are no longer relevant. If I take my mind back to the period when Jesus was around and recall the way merchants counted things and put heavy things on their shoulders trying to carry those places, exchange might be better done if we did not have to have all the so-called valid variables in place at the time we are doing the transaction.

So, there is a certain amount of trust that has to exist if we are going to implement such a money management system. There is a change in the way in which we make decisions and become accountable for the decisions we make. I believe that this is good for our country. Anyone who comes and tries to talk it down without giving it a possibility to be instituted, and tried, really cannot be fair because we have experience in coming here when Members of Parliament have had to look at a budget.

At the end of the day, I think, what this legislation will also require is for Parliament or the Legislative Assembly to play a more active role in scrutinising the Executive Account for what it spends, and hold them accountable for the result of the monies we allocate to them annually. It will change the period that the executive will report back to the Legislative Assembly in regard to the spending of money. It will also change the fiscal year period for the executive so that rather than reporting at the end of the year, they will report more conveniently in the middle of the year. I think that is a practical management tool that will help improve things.

One issue I seriously like is the fact that the Government will have to account in time before a general election to let the public know what their management qualities have been. The system, at the end of the day, therefore gives us the possibility to talk about prudent fiscal responsibility, which is what the past conservative governments always liked to talk about. However, the prudent economics they talked about could be hidden from the people and by the time you

When we get up to debate this particular Bill, let us remember that this Bill allows openness and transparency to become a real part of the governmental machinery of this country. I believe that is an honourable attempt to put in place legislation which will make it easier for the people to be able to evaluate the performance of their government.

A government is a very important societal institution. Many people do not realise exactly how important a government is to a society. It is like a heart is to a human being—it is the thing that allows us to function, without which we would fall apart and society would collapse. We saw that as we watched the tragedy in the US. We understand the important role government plays and how chaotic and lost Americans would be without a federal government that had the ability to motivate and mobilise the people to preserve their civilisation.

Let us, therefore, not work towards discrediting government, but work towards giving government more credibility by making it more open and accountable to the people. It is only through government becoming more open and accountable to the people that the people will believe government is there to serve them and not itself.

This legislation is welcomed by me because I understood from the very beginning the enthusiasm of a lot of the persons who were the Movers, in bringing this concept to our jurisdiction played, in us being here today. I would like to thank the gentleman from New Zealand. I recognise him as part of the ongoing team that has helped to bring this legislation to a point where, I believe, it fits in, not just with our bureaucracy but it also serves to enhance our psyche.

I think that this is a good time for me to sit down, but before doing so I will again say thanks to Mr. Tony Dale who has helped to bring this particular Bill to the point it is at, and also to Mr. Peter Gough, and all the others. It should not take much time to consider what is to be said about what is right when it is right!

Thank you.

**The Speaker:** Does any other Member wish to speak? The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, it has been mentioned that a number of Members would like to speak and given the complexity of the Bill and in light of Members preparing speeches for debate, I would seek to move the adjournment of the House.

**The Speaker:** I am in the hands of Members. If you wish to move the motion for the adjournment, we will see the result.

The Honourable Minister for Health and Information Technology.

## ADJOURNMENT

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.11 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 20 SEPTEMBER 2001.**





**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**20 SEPTEMBER 2001**  
**11.10 AM**  
*Seventh Sitting*

**The Speaker:** Good morning. I will ask the Second Elected Member for George Town to say prayers.

**PRAYERS**

**Mr. Alden M. McLaughlin, Jr.:** Let us pray:

*Dear Heavenly Father, the world is still aghast and disbelieving the horror and savagery that has characterised the terrorist assault on the United States of America, that international beacon of democracy and modern civilisation.*

*And dear Father, as we stand here today, the drums of war are beating with an ever-urgent cadence. The world totters on the brink of recession and we worry and we worry.*

*Dear Father, war is mankind's oldest weakness. No civilisation has ever been able to abolish it. War creates more problems than it cures. But still, war against evil cannot always be avoided.*

*Those who beget violence, can only respect and understand superior violence. Dear Father as we come now to understand that operation Infinite Justice has been started by the US, we ask for your guidance, your instruction upon those who make these far-reaching and irreversible decisions.*

*Dear Father, we ask at this time of conflict and travail that you will attend us all with your mercy and your wisdom.*

Let us say the Lord's Prayer together:

*Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive them that trespass against us, and lead us not into temptation, but deliver us from evil. For Thine is the Kingdom, the power and the glory, forever and ever. Amen.*

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

**Proceedings resumed at 11.09 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have apologies for absence from the Honourable First and Second Official Members who are off the Island and from the Third Elected Member for West Bay.

Statements by Honourable Ministers and Members of the Government. The Honourable Minister responsible for Planning, Communications and Works.

**STATEMENTS BY HONOURABLE  
MINISTERS/MEMBERS  
OF GOVERNMENT**

**APOLOGY FOR LATE START OF SITTING**

**Hon. D. Kurt Tibbetts:** I apologise to the Honourable Speaker, Members and the press for the late start of the Sitting. There were several important unplanned meetings, which unfortunately could not be avoided.

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

*[Moved by the Honourable Minister for Planning, Communications and Works]*

**QUESTION PUT. AGREED: STANDING ORDER 23 (7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** Questions to Honourable Members. Question 114 is standing in the name of the Elected Member for East End.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 114**

**No. 114: Mr. V. Arden McLean** asked the Honourable Acting First Official Member responsible for the Portfolio of Internal and External Affairs how many contracts, attracting Contracted Officers Supplement (COS), have been renewed since the passage of the Motion in the Standing Finance Committee of the Legislative Assembly approving the cessation of this allowance; and to provide a breakdown by post, date of renewal and date of expiry of contract.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The Motion in the Standing Finance Committee approving the cessation of the Contracted Officers' Supplement (COS) was passed on 14 May 2001. Subsequent to that date, a total of 40 contracts attracting Contracted Officers' Supplement or Allowance, have been renewed as of August 2001. A breakdown of these is attached. I would ask that the 'date of renewal' in the second column be labelled "date of commencement" of the contract. Contracts are shown in the respective months of their renewal.

Obviously, the decision to renew is taken prior to the date of the new contract. Under the General Orders, persons are required to indicate six months prior to the expiry of the current contract whether they wish to renew. The decision is taken sometime in that six-month period and three or four months before the actual expiry of the current contract as to whether to renew. So, the schedule shows all those contracts taken in August, July, June, and May to renew. The date that is shown as "date of renewal" is actually the date the contract will commence.

If you look at the schedule, the first post of "Senior Internal Auditor" the decision to renew was taken in August. What is shown as "date of renewal" is actually the date the new contract will commence, which is 2 November 2001. I apologise for the way this is presented. I hope that explanation clarifies it.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member advise this House who took the decision to renew these contracts attracting COS subsequent to the Motion of Standing Finance Committee of 11 May 2001?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** All decisions on the continuation of persons in the employment of the public service against established posts are taken by His Excellency the Governor on the advice of the Public Service Commission and effected by the Personnel Department through the Permanent Secretary of Personnel.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member apprise this House as to where funding has been identified to make provision for the cost associated with the contracted officers' supplement?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I cannot say on a case by case basis where funding has been identified as the subject of this question were posts where persons were serving on contracts that provided for the payment of contracted officers' supplement and they have subsequently been renewed.

I presume that controlling officers in putting forward recommendations for renewals would have been satisfied that they had funds available and would no doubt have sought their budget appropriation for 2001 on the basis of having to pay this allowance.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member advise this House whether His Excellency the Governor is aware that the approval of appropriations and the spending of this country's money is a matter entirely within the remit of the Standing Finance Committee of this House? And further, is His Excellency aware that Standing Finance Committee has resolved that it will not approve funding for contracted officers' supplements in relation to contracts renewed or approved subsequent to its Motion passed on 11 May 2001?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I believe that His Excellency the Governor is fully aware of both of the points the Member has asked. I am informed by His Excellency that he has met with some Members of this House in relation to this particular subject. He has been away from the Island for a considerable period on leave, but is now back in office. It is his intention to follow through on what the understanding was at the end of that meeting that he would meet with those Members again. He intends to do so as soon as is convenient with a view to concluding those discussions and coming to an arrangement that is acceptable to Members and himself on this matter.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** I thank the Member for his answer, however to the best of my knowledge from that meeting there was no final resolution to this problem. I wonder if the Member would comment on the feeling that these actions are contempt of Parliament.

**The Speaker:** Honourable Acting First Official Member responsible for Internal and External Affairs, I think that is asking for an opinion, however if you wish to answer it you may.

**Hon. Donovan W. F. Ebanks:** I will certainly avoid the last part of the Member's question. I thought I had said in response to the previous supplementary that

the initial meeting had not reached any conclusion. His Excellency is aware of that and it is against that background that he intends to meet with Members again as soon as is practical.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Would the Member tell us if there is a clause in the contract stating that it will be re-negotiated six months prior to the expiry date?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The contract with overseas and local includes a provision that not less than six months prior to the expiry, the officer is to indicate to the Government, to the Permanent Secretary of Personnel, through their (Head of Department) HOD, whether he or she wishes to be re-engaged for a subsequent contract or tour.

The decision is then taken, following the officer's indication and initially through the HOD as to whether the HOD would wish to re-engage. That is communicated to the PSC who advises the Governor on whether that recommendation by the HOD should or should not be accepted. The Governor's decision is advised to the Permanent Secretary of Personnel who is the executing officer as government's employer.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say why some of these contracts, such as the orthopaedic surgeon, the surveying technician have almost one year left on their contracts? In the case of the orthopaedic surgeon the renewal is dated July 1, 2002, and for the surveying technician March 2002. Is that a deliberate attempt to circumvent Parliament?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I appreciate the Member's concern. However, the format in which those dates are written is clearly on the day/month/year format. So the respective dates of the two posts he referred to is 7 January and 3 January. These are posts where the officers would have been required prior to the corresponding days in June of this year to give that indication.

I accept that the resolution was passed in May. There are probably positions here where officers had given their indication post May. It is simply that as far as the Personnel Department is concerned, no decision has been taken by His Excellency in relation to General Orders, which they are required to comply with.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I recognise that is my mistake.

Can the Member tell us the usual number of contract renewals on a monthly basis? We are talking about between three and four months where we have had 40 officers with contracts attracting COS being renewed. Can the Member tell us if this is the usual manner in which we get applications for renewal of contracts?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I have no statistical basis as to what number of contracts is normally renewed per month. However if you take these 40 as being reflective of a three month period and prorate them to 160 per year, in an organisation of 2,700 people, to the best of my recollection 40 percent or 1,000 of those are non-Caymanian, it would seem to me that a rate of renewal of 160 per year where the contracts are typically for two years perhaps seems low rather than high, to me.

In other words, if we have 1,000 people on two year contracts, one would almost assume that on the average you could be renewing a couple of hundred more per year. However as I have no indication of the average, I am just trying to relate these numbers to the size of the organisation the number who are non-Caymanian and on contract.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I thank the Member for that. Can he then verify that since May, six months after May, there will no more based on the Motion that was approved by Parliament. After May there will be no room for renewal, six months after May of 2001.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W F Ebanks:** Six months after May is November. My understanding of the situation is that whenever His Excellency takes the decision to discontinue the payment of COS and it is communicated to Personnel . . . if that decision is taken tomorrow or a month from now then at that point, subject to whatever the parameters of that decision are, is when the discontinuation will commence. I see no relation between May and six months thereafter, unless the Member is seeing something that I am not seeing.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I hope I misunderstood what I just heard.

I need a clarification as to what the Member is trying to clarify. What we were made to understand is that after the Motion that was passed by Finance

Committee in May there was an explanation given that there was a six month period that negotiations would have had to take place prior to the renewal date of a contract. We were looking at all negotiations prior to ... for example, if we look at the Registered Nurse, which is 15 November 2001, we would have assumed that to have been negotiated 15 May 2001, which would have been six months prior and one day after the resolution was passed by Finance Committee. Any renewals after that date would have meant that no regard was given to the Motion passed by Finance Committee.

I understood the Temporary First Official Member to say that until the Governor decides what the policy is actually going to be, we are going to continue negotiating contracts including COS. Did I understand that correctly?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The substantive answer basically gives contracts that have been renewed since that Motion was passed where COS has been maintained as a provision of that contract. Obviously, I was not at the meeting and I cannot comment on that meeting, however I would not want to believe that Members were not at the time aware that the payment of COS was still continuing.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I just want to say that discussions were ongoing, but what we are seeing here is a blatant disregard for a motion that was passed by Finance Committee. Even though we were in the process of having meetings or negotiations, a motion was passed by Finance Committee. Now we are saying that we are going to continue with no regard for that Motion and trying to find funding for this.

We are expected to vote a budget in the next few months. I just want to ask whether the Temporary First Official Member knows of any further proposed meetings to try to regularise this, or are we going to continue going ahead with these contracts as such?

**The Speaker:** I think the Member referred to that in a previous answer. However, if you care to repeat you may Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I think I did state earlier that His Excellency had advised me now that he is back on Island he intends to meet with Members as soon as practical to continue those discussions and hopefully arrive at an amicable conclusion.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Perhaps to remind the House of the 11 May Motion, it said, **“BE IT RESOLVED that that the monthly payment made to some Civil Servants, called Contracted Officers Supplement, be discontinued as each current contract expires and, except for those instances where a contract has been negotiated and a commitment given to pay Contracted Officers Supplement, no further such contracts be entered into and that this payment will totally cease on the expiry of the last such contract.”**

The Motion was passed in Finance Committee which is comprised of all Elected Members of this House. It did make a provision that contracts after 14 May 2001 could be issued, however those had to fall within a timeline of six months prior to that and any contracts after that would be contracts ignoring the Motion which was approved by the Legislative Assembly.

Where such a thing happens by the executive or administrative arm of government it then becomes contempt of Parliament. We know there are those among us who realise this and must of necessity object to it, including the lawyers among us who understand this.

Is His Excellency the Governor and all persons concerned with this matter aware of the situation as it exists? If so, in the face of His Excellency's orders does the administrative arm ignore that fact? If so, is he then invoking section 38 of the Constitution to override the decision of Parliament?

**The Speaker:** I think you are asking for an opinion. Honourable Acting First Official Member, you may answer it if you care to.

**Mr. V. Arden McLean:** Mr. Speaker, someone has to answer it. There may be differences between Members of the Backbench, however this is one time where there is no difference between us—

**The Speaker:** I did not recognise you, please sit down.

What I said was that you are asking for an opinion. You cannot ask a Minister or an Official Member for their personal opinion.

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Having regard for what you just said, I am attempting to discover is the Acting First Official Member knows if His Excellency the Governor has taken the decision that the Motion passed by Parliament is to be ignored and that these contracts should continue.

**The Speaker:** That is an acceptable supplementary.

The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The only answer I can give to that is obviously His Excellency is aware of the Motion that was passed by the Standing Finance Committee and subsequently accepted by the House. It is my understanding that it was because of that Motion why the initial meeting was held.

The information I have shared with Members in relation to his desire and intention to continue those discussions does not suggest to me that he is ignoring the matter. I would respectfully suggest that that is a question that you can only address to him when he meets with you and other Members in the near future.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Is the Acting First Official Member in a position to say if it was conveyed to him or to the administration by His Excellency the Governor that in the meeting we had with him where this was mentioned and was not dealt with in any great detail that Members were specific for two reasons: 1) that it was discriminatory and unfair to Caymanian civil servants, and 2) that the Members had an interest in saving the country 3 percent of revenue paid in this regard why we took the position we did and that there was no conclusion in that discussion?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I got most of the last part of his question, but not what he was asking at the beginning. Could he repeat?

**The Speaker:** The Second Elected Member for Bodden Town would you repeat that please?

**Mr. Gilbert A. McLean:** Yes. My inquiry was if that had been indicated to the administration, he or the First Official Member, that in that discussion held with the Governor, which was not in any great detail on this subject, that Members were concerned over two things: 1) that it was discriminatory and unfair to Caymanian civil servants, and 2) that it was a means of saving 3 percent in this regard and that also it is not a question of wanting to deny what would be pension to expatriate civil servants but that it had to be in similar form in the way it is paid to Caymanian civil servants.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I thank the Member for that. I know nothing. His Excellency shared nothing with me as to the nature of the discussions and what had been advanced. I have not seen anything within official communications on the subject whatsoever.

**The Speaker:** We have gone into this at great length. I would like to give Members an opportunity to ask questions, I do not want to deny anyone his democratic right, however time is being consumed.

I now recognise the First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I would like to thank the Member for the manner in which he has answered the questions so far. I wish to put to him that taking the question I am about to ask against the background that we are now faced with a circular that civil servants will not be paid until the 31 of October, is it your opinion that the Governor would perhaps now take this as sufficient catalyst to call an urgent meeting of Members of parliament to discuss COS?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs, again, I think that is an opinion. If you care to answer you may.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member then say how much it is costing this country per month for COS? If not, can he give an undertaking to provide parliament with this information as soon as he is able?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I would be happy to give that undertaking. I do not have that information available.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I would like to ask the Member if he could say why this Motion passed in the middle of May 2001, yet we did not have any meeting on this until sometime well after the middle of June? It must be known that we are united on this and we are resolved to stand our ground. I am not sure there was a delay for any reason because this is an urgent matter that needs urgent attention.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I had no role in organising that meeting, and I have no knowledge as to the circumstances that led to it being held on the date that it was.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Honourable Member say, since the passage of this Motion in Finance Committee and then in the House, if there has been any communication from the Governor or the Chief Secretary to the rest of the civil service informing them of actions taken by Parliament and requesting that they give cognisance to what was passed in Parliament?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** There has been no communication that I am aware of. The issue is one that revolves around a provision which currently exists in General Orders, which is a document issued by His Excellency. Until such time as a decision is taken by him to change that provision, obviously, it remains and public servants are expected to comply with the provisions of General Orders.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** A lot of reference has been made to General Orders and the payment of COS. I think it is fair to say that where the General Orders conflict with the Appropriation Bill passed in this House, the Appropriation Bill would take precedence. The Appropriation Bill vetted by Finance Committee and at the same sitting Motion No. 2 which ceased the payment of COS, thus making the Appropriation Bill not including COS for future officers, would this not override the General Orders?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs, again, in my estimation that is asking for an opinion.

**Hon. Donovan W. F. Ebanks:** It is certainly a matter that I would take advice on. Having obtained that advice, if Members wish I can share it.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I seek your indulgence, Mr. Speaker, to ask the Acting First Official Member if he could defer this question to the Second Official Member the Attorney General to provide legal advice on this matter.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, obviously he would be the source that I would turn to for the advice, however, I would not expect it to be fair and reasonable to ask him to get up and attempt to provide

that advice in this forum without having some time to consider it.

**The Speaker:** The Second Elected Member for George Town. I am going to have to stop after there more supplementaries, so spread them out.

**Mr. Alden M. McLaughlin, Jr.:** Thirty-nine of the contracts renewed are indicated in the response from the Member that they will be renewed with effect during this calendar year. Can the Member confirm that provision for the payment of COS in relation to those 39 contracts was not provided for in the budget for 2001 and in the accompanying Appropriation Law, and in that event how is it intended to provide funding for this year for these 39 contracts?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I cannot confirm whether the 2001 Budget contained the appropriation to allow COS in respect to each of these. I said earlier that because at the time budgets were prepared and submitted the payment of COS was a provision and it remains a provision. However, it would have been the basis on which budgetary submissions would have been made that I felt it would be reasonable that those submissions would have included allocations to meet that cost. Unless there was some exercise whereby following the Motion in Finance Committee amounts were deleted from the budget it would seem reasonable to assume money is provided in the 2001 Budget. However, I cannot confirm it or deny it.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 115, standing in the name of the Elected Member for East End.

#### QUESTION NO. 115

**No. 115: Mr. V. Arden McLean** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs if any new employees have been employed for the year 2001, attracting contracted officers' supplement (COS).

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Between 1 January 2001 and 31 August 2001, 48 persons have been employed following recruitment on terms that include the payment of contracted officers' supplement.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member confirm that the Governor has ignored with impunity Motion No. 2 of the Standing Finance Committee which was adopted by this House?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I cannot give the Member an answer to the question the way he has worded it. What I can say is that there has been no change in the provisions in respect to COS that has been communicated to the service.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Does the Member have any further breakdown as to the 48 persons who have been employed from 1 January to 31 August? How many of them were employed after 14 May?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Having looked at the supplementary information, I realise that that was not included. I thought it had been included because I was anticipating that supplementary. I will give it to Members. I apologise.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I guess by now the people of this country realise that it does not make sense to put us in here. We are no longer the supreme in the country.

**The Speaker:** I would ask that you state that that is your opinion.

**Mr. V. Arden McLean:** That is my opinion, Mr. Speaker. However, obviously, from what is going on it is a very good opinion!

The answer stated that 48 new employees were hired during 2001. I now draw the Acting First Official Member's attention to the 2001 Budget under "New Services" where there are 31 new posts. Only 12 of the 31 have COS. Can the Member tell us why 48, as opposed to 12, have been hired?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I understood the Member to say that there was provision in new services for 31 posts, and that of those 31 in respect of 12 there was provision for COS. Is that correct? I do not have the budget document before me as he does.

**The Speaker:** The Elected Member for East End, please clarify.

**Mr. V. Arden McLean:** Yes, Mr. Speaker, in the 2001 draft budget, under Education, 12 teachers would attract COS, the others are in the Family Support Unit and Financial Reporting Unit which do not attract COS.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The substantive question was if any new employees had been employed. The answer I gave indicated that 48 persons had been employed. Now, obviously, those 48 persons were not all employed against new posts. In the same way that we have contracts being renewed, we have contracts which are not renewed. In other words, we have posts on the establishment, 2,786 (or whatever the number is) that this 31 new posts would increase. However we have serving officers who at the end of their contract opt not to renew, and we would employ a new person. So, the 48 that I am giving you are simply new employees, but it does not reflect how many new posts we had this year.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Are any of these 48, Caymanians or were they all expatriates?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** They were all persons engaged on overseas contracts and thus non-Caymanian.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Are any Caymanians presently receiving COS in the service?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Yes, Mr. Speaker, there are Caymanians who are engaged on local contracts that attract COS.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Is he in a position to say if those persons are receiving pension as well, and how many?



**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** In answer to why, the provision in General Orders is that if a Caymanian is initially engaged who is at an age of 45 or older, they are engaged on local contract terms and paid COS. The provision of the Pensions Law is that if you are receiving the COS you do not participate in the Public Service Pension Plan. I cannot say off hand how many Caymanians are currently receiving the COS.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** So that we can be fair in this whole exercise, I wonder if the Member would give an undertaking to supply the House with a list of all those Caymanians receiving COS and pension allotment at this time, and also all those Caymanians who are just receiving COS.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I understood the Member to ask for a list of all those Caymanians who are receiving COS and pension, and those who are simply getting COS.

I think the question, and I will obviously provide the information, as I understand it, no one who is serving and receiving COS is participating in the pension plan. I suspect the Member is enquiring if anyone who is serving, receiving COS who had previously retired and is also a pensioner. I will enquire and provide the information for the Member.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker, if you will allow me to read from the Budget Address "The main 2001 policy decisions." The first paragraph says, "**These policies include: Curtailing all new services except for new staff at the Bodden Town, Savannah, George Town, John A. Cumber and Red Bay primary and Lighthouse schools and staff for the Family Protection Unit and the Financial Reporting Unit.**"

Out of these 48 posts how many of those are for the duties or services that were detailed in the main 2001 budget policy decision approved by the House and read by the Third Official Member? I want to know if those posts were for the new services approved, or for services outside of that.

Before I get that response, I would also like to highlight to the Member that another part also made reference to "**Removing the amounts for vacant posts from the 2001 Budget except where recruitment is already actively underway.**"

**"Implementing a moratorium on the creation of new posts for the remainder of 2001 except for absolutely 'essential services' staff for new capital projects and new leased sites which come on stream in 2001 and where there are direct revenue or expenditure blocking offsets.**

**"Implementing a moratorium on recruitment for the remainder of 2001 except for absolutely 'essential services' or where there are direct revenue or expenditure blocking offsets."**

Can the Member say if those 48 posts fall within these criteria?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I do not have with me a list of those posts, and I cannot give him that assessment. I can certainly provide a breakdown of the posts and give an indication to what extent they are consistent with the section of the Budget Address he referred to.

**The Speaker:** Three additional supplementaries.  
The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I thank the Member for that commitment.

May I ask him— since the answer we are referring to is for persons that have been employed following recruitment on terms that include the payment of contracted officers' supplement—based on the information just read from the 2001 Budget, how many new persons (even those who might not be attracting COS) were employed since there was a moratorium?

**The Speaker:** I think that is somewhat outside the ambit of the substantive question, but if you care to undertake that, you may.

The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I do not have a problem getting the information, I just want to get some clarity. The Member is asking for the total number of posts since the passing of the Appropriation Bill I can look to provide that information.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Member said in a previous answer that out of the 48 new posts attracting COS some could have been replacement. Since that is the case, why is it that Caymanians could not be placed in those positions through succession planning? Why do we constantly have to hire contracted officers to replace contracted officers? Where is the resolve to Caymanianise the public service?

**The Speaker:** Are you asking for an opinion or do you want statistics? If you are asking for an opinion, I cannot allow that. However if you want to skirt around that—

**Mr. V. Arden McLean:** Mr. Speaker, I think I was asking for statistics, so to speak, wondering why when a contracted . . . I suspect that a contracted officer is on contract for a specified time and you would have someone understudying that individual so that when the contract expired that individual (whom I hope would be a Caymanian), since the Immigration Board requires the private sector do that . . . what happened to succession planning in government?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, I was hoping you would ask that to be filed as a substantive question, Sir, there are obviously provisions and efforts ongoing to find Caymanians. I think in recent times we have even seen those efforts coming from new quarters. I have seen the Minister of Education addressing the issue of Caymanians in the teaching profession, which is obviously an area where we employ a lot of non-Caymanians, and clearly do not have understudies where each of those could be replaced by a Caymanian.

It is an area I expect we can always be called to task for not doing more, however it is certainly an area that receives attention. Unfortunately it remains a feature of the demographics of the national labour force and our own needs that there are substantially more needs for employees than there are Caymanian employees.

**The Speaker:** Final supplementary.  
The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** There has been a lot said about new employees, which I am not really interested in because this is simply people replacing other people. Can the Member say of the 48 mentioned here, how many of these are new posts, and since May 14 how many new posts have attracted the COS? That is, all new established posts after 14 May.

In the follow up to what the Member from East End said about Caymanianisation of the civil service, one only needs to ask the Caymanians who have left the force because there are many talented Caymanians, CPAs and the like, who continuously leave the civil service who could be taking up these senior positions, albeit not in the line of accounting.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The insight the Member is seeking as to how many of these 48 actually

represent employment against new posts is information that I simply do not have, but I will provide it.

I take his observation in terms of Caymanians leaving the organisation. I think I said in a previous answer that there is certainly no basis for us to claim that we are all that we aspire to be in terms of attracting and advancing Caymanians. It is an area we must continue to work on.

**The Speaker:** Moving on to question 116, standing in the name of the Elected Member for East End.

#### QUESTION NO. 116

**No. 116: Mr. V. Arden McLean** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs which posts in government presently receive an inducement allowance.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The provision for the award of an inducement allowance is contained in General Order 2.13. This section concerns overseas' contracts and General Orders 2.13 (6)(a) states, "**An Inducement allowance will be awarded to such officers as the Governor may, in his discretion consider it necessary from time to time to attract officers of the required level of experience, competence and qualifications**"; the calibre to fill vacancies.

It follows, therefore, that an inducement allowance is not attached to a specific post, but is paid to a person in a post. At present, three officers receive an inducement allowance, namely the officers holding the posts of Attorney General, Commissioner of Police, and Medical Officer of Health. In addition, the Director of Shipping is eligible for and receives a performance bond.

The inducement allowances and the performance bond are of equivalent value, namely 10 percent of the basic salary.

#### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell us how this inducement allowance is paid? Is it monthly, or at the end of the contract?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The allowance to the Commissioner of Police is paid upon completion of contract at the discretion of the Governor. The allowance to the Medical Officer of Health is paid upon completion of contract. The allowance to the Attorney

General is paid monthly and the performance bond or award is paid annually in arrears to the Director of Shipping at the discretion of the Deputy Financial Secretary who determines the actual amount. The 10 per cent is a limit; however the actual amount can be less than 10 per cent.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell this House if these four posts also attract contracted officers' supplement?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The four recipients also receive COS.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member also confirm that none of these four posts are or ever have been held by Caymanian officers?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Not to my knowledge.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say if these officers receive increments as well as the COS and inducement payment?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I can only assume that they would. I know of no provision that would prevent them, so my assumption would be that they do. I can verify that, and if it is wrong, communicate that to members.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Would the Member also give some sense of clarification where it says "from time to time to attract officers of the required calibre", exactly what is the connotation of this termination based on his years of experience in government?

**The Speaker:** I do not think I can allow that.

Do you wish to answer, Honourable Acting First Official Member responsible for Internal and External Affairs?

**Hon. Donovan W. F. Ebanks:** The decision to pay this allowance rests solely with the Governor and there is no way for me to say what may in the minds of respective governors constitute this required calibre. I think it is a judgment that governors have exercised in their own discretion.

It is worth noting that all four of these arrangements were affected by the former governor and there is no basis for me inquiring of the current governor as to what the considerations were.

**The Speaker:** Two additional supplementaries.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** In the interest of transparency and upward mobility, and the hope for Caymanians to one day fill these positions, would he give the undertaking to ask His Excellency the Governor to relay by whatever means he deems most prudent what exactly he understands by "required calibre" so that Caymanians can have a chance one of these days?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I will certainly convey those sentiments of the Member to His Excellency.

**The Speaker:** Final supplementary.  
The Elected Member for East End.

**Mr. V. Arden McLean:** I also had a similar question and with a second part. Can the Member confirm that the Medical Officer of Health has permanent residency or status in this country right now; therefore there is the possibility that Caymanians will hold Attorney General, Commissioner of Police and Director of Shipping positions?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I cannot confirm, however I will seek to ascertain what the immigration status is of the holder of the post to whom the Member referred. I will share with him the expectation that all of these posts will one day be filled by Caymanians.

**The Speaker:** Moving on to question 117, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

**QUESTION NO. 117**

**No. 117: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs when will the renovations at the Aston Ruddy Civic Centre expected to be completed and what is the total projected cost of the renovations.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The expected completion date for renovations on the Aston Ruddy Civic Centre is the first week in October. The project manager for the job estimates a final cost of approximately CI \$570,000.

**SUPPLEMENTARIES**

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say what has caused the delay seeing that it was indicated to have been completed by mid August?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The projected completion date was 20 August. In fact the building has been suitable for use as a shelter since 18 August because a substantial push was made on site at the time when Tropical Storm Chantelle was approaching to get it into a condition to be used as a shelter. While work continues, it remains available for use as a shelter. It is currently a construction site that can be tidied up, and people can be allowed in in the event of an approaching storm.

To get on to the question of what caused the delay; the delay has been caused for a number of reasons. The existing masonry or concrete was found to be blow acceptable strength in some areas, as low as 1,000 psi. This has been removed and replaced and additional columns and beams have been constructed to help correct this. Additional work was done to the roof of the annex which also contributed to the delay, as the roof was found to have some rotten timber. Those were the primary areas and obviously only exposed once the work actually commenced.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Will these additional works attract additional costs or was that included in the \$570,000? If so, why was there so much elasticity in the original budget?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Those items are included in the projected completion cost of \$570,000. I think the level of the estimates versus what the eventual accepted tender came in at perhaps reflects the nature of the construction industry and the level of pricing that we were able to attract at this time.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** In the Member's answer he referred to completion date of first week of October. Is that completion of construction work, or will it be back to its original form and useable by that date?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** That is the date that all construction works should be complete and the contractors should be out and the building back to its normal use. The point I tried to get across earlier is that while there is still construction going on, and while it is not available for the vast range of activities that the building is used for, it is useable for the most grave of purposes, which is a hurricane shelter.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate if the air conditioning units will be changed?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I have no information on any work to the air conditioning system. This work emanated from an assessment of the building relative to its compliance with hurricane standards adopted by the National Hurricane Committee. I know nothing of the air conditioning however I can enquire. If there is an acute problem with it we will have to see how we can best address it. I will look into it.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** The project undertook to share employees with Public Works Department (PWD), given the state of the economy in Cayman Brac to provide work for PWD as well as subcontracting with local contractors. Can the Member indicate if this working arrangement was carried out satisfactorily?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I was not aware of those details regarding how the contractor was expected to perform his work. I can enquire to see if there was compliance with whatever arrangements may have existed. This is the first I am hearing of that.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say what steps have been taken to address the flooding at the Aston Ruddy Centre?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I was not aware that there were items ... I accept that if there is a problem with flooding that is relevant to its use as a hurricane shelter. My understanding was that the contractor had to deal with the structural integrity of the building. I can enquire if there are flooding problems that need to be addressed that have not and can be addressed.

**The Speaker:** Are there any further supplementaries? If not, we shall suspend until 2.15 for lunch.

#### PROCEEDINGS SUSPENDED AT 12.50 PM

#### PROCEEDINGS RESUMED AT 2.24 PM

**The Speaker:** Please be seated.

Question Time continues. Moving on to question 118, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

#### QUESTION NO. 118

**No. 118: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Planning, Communications and Works to say what plans there are, if any, for the provision of a Plumbing Inspector for Cayman Brac and Little Cayman.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The number of plumbing applications approved for Cayman Brac and Little Cayman averages approximately 40 per year. This in effect means that a Cayman Brac and Little Cayman plumbing inspector would be expected to conduct 120 to 160 inspections per year. This is based upon the estimated three to four inspections per project.

The bottom line is that after subtracting weekends, holidays and the officer's vacation days, based upon the number of applications approved inspections would happen once every two working days. At best,

inspections may average one per day. This is not cost effective. There would be insufficient work.

A plumbing inspector is expected to conduct a minimum of 360 inspections per year for the post to be cost effective. This number is more than twice the amount of inspections expected on Cayman Brac and Little Cayman.

A Planning Officer (up to about a year ago) previously carried out plumbing inspections. That Planning Officer's position was cost effective because the post holder was required to be a Planner, Building Plans Examiner, Building Inspector and a Plumbing Inspector.

As such, that post involved the provision of services beyond plumbing inspections, namely; supervising the Cayman Brac and Little Cayman Planning Office, review of technical building plans otherwise known as construction details, the review of plumbing plans and conducting building inspections.

Additionally, plumbing installation is a minor component of buildings relative to their structural integrity. Since the planning officer was recalled from the Brac there was no one to conduct inspections or review the plans referenced above.

The situation reverted to the previous system of occasional inspections by a senior building officer from the building control unit and the review of technical plans on Grand Cayman. It would therefore seem more prudent to have a building inspector-cum-plans examiner for Cayman Brac and Little Cayman. On the other hand, the Development Control Board (DCB) is somewhat reluctant to incorporate an important regulation currently enforced in Grand Cayman. This related to the Certificate of Occupancy (COs).

The Cayman Islands Building Code is applicable to all Islands, however, COs are not required in Cayman Brac and Little Cayman and in the absence of that, inspectors would have a difficult task ensuring that buildings meet minimum standards. COs should be applicable to all relevant structures as per the Cayman Islands Building Code (CIBC) for these certificates are meant to ensure that minimum safety measures are incorporated in new buildings prior to them being occupied. This is especially critical for buildings frequented by the public and/or tourism properties.

Therefore, if we are to have a plumbing inspector we should also have a building inspector-cum-plans inspector in the interest of public safety and efficiency. The best option in light of the level of development activity would be to have a person capable of performing most of the duties performed by the last planning officer. The post was looked at during this year. However for the reasons outlined above and the budgetary constraints, the director decided not to pursue trying to fill the post.

The director has advised that he is prepared to revisit the issue when there is a more favourable budgetary environment to create a multidisciplinary

post for the planning office of Cayman Brac and Little Cayman.

### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I would like to thank the Minister and his relevant department for such a detailed answer. Since the position of the Ministry and department has been stated in full, would someone from Personnel undertake to indicate to Mr. Davilee Tibbetts who has been interviewed for part-time plumbing inspector job that this is no longer the intention of the department?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** What the Member just mentioned and the name she called, I think she referred to it as a part-time job. The answer I just read, which was prepared by the department, does not refer to a part-time job. If the Member so desires, I can speak to the director because if it is a part-time job it would have a different meaning to the whole affair than the answer I just gave. I can check with the department to see if, based on the required needs, an arrangement can be made somewhat aligned with the number of inspections done. If that is the desire, I can do so. However, what the Member has just asked me to do, given my answer and what she said, I cannot do it in the way she has suggested.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I would be most grateful if the Minister would undertake to do that since the same matter arose when we were in the last Finance Committee and the same undertaking was given. I would be grateful if he would once again touch base with the director of planning to ensure something is done in this matter.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** I have no problem with that, and to make it very clear that my position was that when the application was made someone from the department should have contacted me, and no one had, so I did not know any different.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** In the answer provided the Minister referred to the absence of COs on Cayman

Brac and Little Cayman. He went on to say that COs should be applicable to all relevant structures per the CIBC, for COs are meant to ensure the minimum safety measures. Is the Minister advocating the Development Board of Cayman Brac and Little Cayman to implement and accept regulation 33?

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** Since the answer was prepared, I have been in contact with the Chairman of the Development Control Board. Unfortunately the director was on vacation and only returned last week. I have asked the Chairman to liaise with the director in Grand Cayman to see if there is a methodology that can be employed to satisfy the situation as the chairman of the DCB had given me some ideas the board had put forward which might cause a solution without causing problems that arise at present. I have not heard the results of that yet. In fact, I plan to meet with the director sometime tomorrow and if time allows discuss matters including that one.

I think that while my answer does not speak directly to the question that has been asked, the answer basically is that we need to find the most workable solution to the problem. I believe there is dialogue going on (as we speak) to arrive at that solution which does not necessarily come to the point of invoking regulation 33, to which the Member referred and I assume it is regarding COs; if there is another method that can satisfy the situation.

Needless to say, I think that it is not an unfair position. In fact, it is the best position to take. There should be some method employed that guarantees that certain inspections have been carried out and certain integrity prevails before certain structures are allowed to be occupied.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Minister provide an update with the matter that results from the absence of COs as it relates to the registering of stratas? I am made to understand that the registration of stratas requires the issuance of COs and the current director is not prepared to register stratas until COs are issued.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** What the Member just described is exactly what the problem is in most instances that have occurred in the Brac. It does not have a huge effect on single family homes. It is mostly the types of accommodation that are tourist related, and/or apartments, which in most instances are also tourist related.

The position the director has taken is one of not compromising his position in that his signature should be on a document that says that all of the necessary requirements have been fulfilled that call for a Certificate of Occupancy to be issued and that is not the case. When the Member asks specifically about that, I have to answer the same way that I did before because it all relates to the same thing and it is about providing a solution to that same problem.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** As I am sure the Minister is aware, regulation 33 actually mandates the necessity for a CO and regulation 34(3) to provide a possible solution in respect to strata and/or commercial things. I wonder if he would give an undertaking to look at the provisions in section 34(3) which in part says that "the board may by notice publish in a gazette declare that any of all of regulations 1 through 33, which includes the CO, shall apply to the land in Cayman Brac and Little Cayman as there is a technical problem and inordinate delay as it relates to the strata since the coming in of the new director.

**The Speaker:** The Honourable Minister for Planning, Communications and Works.

**Hon. D. Kurt Tibbetts:** The exact outline of those two sections is a huge part and parcel of the discussions that are ongoing. They are looking at it to find the best way to arrive at the solution without creating an inordinate amount of time, before block and parcel numbers can be issued which are directly impacted by stratas being registered.

While she refers to those two sections, when I spoke to the chairman, he referred to those two sections also. That is what they are talking about.

There are a few other possible solutions that have been proffered. The difficulty that I had with them is from a legal standpoint; I was not sure whether it really solved the problem. That is where the dialogue is taking place and they are using the Legal Department to find out what can and cannot work.

Suffice it to say that I recognise the problem. One way or the other a solution must be forthcoming. I was simply giving the Chairman of the DCB and the Director a chance to have dialogue to see if they can bring forth a solution. If not, then we will have to provide it by legal means. However, it will be done.

**The Speaker:** Are there any further supplementaries? If not, we move on to question 119, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

## QUESTION NO. 119

**No. 119: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture to provide a current status report in regard to the establishment of the Cadet Corp for Grand Cayman and Cayman Brac.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The Cayman Islands Cadet Corps which will be operated through the Ministry of Education, Human Resources and Culture, in conjunction with the Royal Cayman Islands Police has all requisite Government approvals and is currently finalising its preliminary organisational structure.

The Corps will be administered by a Provisional Advisory Committee comprised of the following persons:

- > Mr A Steve McField, Attorney at Law – Chairman
- > Mr Kirkland Nixon, MBE – Deputy Chairman
- > Inspector Burmon Scott, Corps Commandant
- > Mr Walsham Connolly, JP
- > Miss Lucille Seymour, BEM
- > Chief Inspector Denzie Carter
- > Mrs Kathy Jackson, Cert. Hon
- > Mr John Hurlstone
- > Mr Matthew Grant
- > Dr Sydney Ebanks
- > Permanent Secretary, EHR&C
- > Minister, EHR&C.

The Corps will have its headquarters in premises previously occupied by the Alternative Education Centre.

Since the programme is a four-year programme, it is anticipated that active recruitment of cadets will commence on 1 October 2001 at the George Hicks High School.

The period between the start-up on 1 October 2001 will be used to train volunteer staff members and organise a proper Corps headquarters.

## SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I thank the Minister for the update, and ask if it is still the intention of his Ministry to have the Cayman Brac High School join in with this good idea. If he cannot say when, perhaps he can give an undertaking to bring us in on it when a decision is taken.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The Advisory Committee met yesterday for two hours. It has been decided that the Corps will be open for membership to all high school students from age 11. There is, however, an organisational problem because currently the commandant and his deputy have to, with the aid of the Advisory Committee, screen, and interview volunteer adult candidates for officers so that we can embrace a large number of volunteers.

When I went to Cayman Brac earlier in the year, I was approached by the principal of the high school with a request from some of her students that we start simultaneously in the Brac. We are looking into that; however logistics being what they are, it seems at this point well neigh impossible. However, I give the undertaking that we will do so as early as possible.

It seems from discussions that we have had, because the Corps is going to be co-educational, for the first year we have to concentrate on male recruits because we have to put the mechanisms in place. When it goes co-educational we have to ensure absolute separation and no fraternisation as these cadets will be on the field together. We have to lay a careful foundation.

It is unlikely that we will be able to do this within the first year. I also anticipate that it is probably within this year that we will be able to start up on the Brac since we have to recruit persons who will be in charge of developing the Corps on the Brac.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** Can the Honourable Minister say what the cost of this Cadet Corps will be in the first year of operation?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** We are finalising the cost. At present, the way the Corps is being constructed, no provisions were made in the education budget. The commandant and his deputy are police officers on secondment from the police force. Their salaries are paid by the police force. All other officers will be volunteers.

We are preparing a budget for the commandant and his deputy for material we will be using. The uniforms will be supplied through the Ministry of Education, Human Resources and Culture. As we go along we will add material and be able to budget that.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I am very sorry the Minister could not say what the setting up cost would be because there will be a cost. You are still using facilities and there will be costs as we go along.

I would like to ask how much time would a cadet spend with the Corps during a normal day or week?

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** It is a four-year programme. The cadets will start at age 11 and we will follow them to the high school. Ideally cadets will pass out at 15-plus, unless we can make an arrangement with the Ministry of Youth to continue the Corps past the age of 16.

The initial training period is mooted to be approximately four to six weeks. At the end of this time there will be a passing out parade when the successful candidates will get their uniforms and a kit which will be the property of the Corps rather than the person. There is a code of conduct being prepared to which all cadets have to abide.

We reckon, since it is an extracurricular activity, that most of the activities will be conducted after regular school hours and on weekends. Discussions are being held for camps to be held on weekends beginning Friday afternoon, Saturday and Sunday. The training periods will normally begin after 3 pm when school is out in the normal course of the day.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** I would like to know if the Corps is going to be a part of extracurricular activities at the schools in the Cayman Islands, and if it is voluntary, what is the difference between the Corps and the established Boy Scouts, or any other group of organised youngsters wearing uniforms and observing a particular code of ethics with the specific mission being that of developing character?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The difference is, the Boy Scouts organisation is a civilian organisation and the Corps will be run on military lines.

These youngsters will participate in exercises structured differently from the Boy Scouts. The training regiment and programme will be significantly different from that of the Boy Scouts, although there are some similarities.

Let me state that the principal aim of the Cadet Corps is the use of military discipline to mould character, self-respect, alertness, punctuality, a sense of duty and leadership, national pride, civics, knowledge, responsibility and citizenship, mental and physical endurance, and camaraderie are some of the values that those who will administer the corps will seek to instil in the youth.

**The Speaker:** The Third Elected Member for George Town.



**Dr. Frank S. McField:** The Minister gave an answer regarding his concept of military discipline which I recognise as discipline that can be found in other organisations that are not of a military nature. I would like to ask what particular military or other programmes will exist to distinguish the regimentation within this particular Cadet Corps that would be different from what one may find in a less regimented institution?

Will there be use of military weapons? Will there be indoctrination to the use of and purpose for the use of weapons and defence? Will there be any training as concerns the understanding of the role of the military and the use of military force?

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Boddén:** A part of the training programme involves training in self-defence, martial arts, the youth will be taught to conduct themselves in the field, and it is anticipated that when a cadet reaches senior ranks, he will be exposed to limited firearms training. I say limited, because I understand from the commandant that they will be first introduced to air rifles and BB guns and later, if the candidates are deemed sufficiently responsible then consideration will be given to other forms of weapon training.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** The Minister seems to have said in fact that there will be a concentration on the culture of violence. Can the Honourable Member say—

**Hon. Roy Boddén:** Mr. Speaker, on a point of order sir.

**The Speaker:** Let me hear your point of order please.

#### POINT OF ORDER

**Hon. Roy Boddén:** Mr. Speaker, I said no such thing.

**The Speaker:** *[addressing the Third Elected Member for George Town]* I agree. I think that is your opinion, and that is a point of order.

**Dr. Frank S. McField:** Mr. Speaker, what are you going to tell me now? I cannot use the word “violence” or “culture of violence”?

**Hon. Roy Boddén:** Mr. Speaker, I beg your pardon sir. Where, in what I said, can a reasonable, sensible and responsible person interpret any culture of violence? Tell me where in the answer, sir.

**The Speaker:** I did not detect it myself.

*[addressing the Third Elected Member for George Town]* Basically, your opinion is your opinion. However this is an educational programme geared towards the military, is my understanding.

**Dr. Frank S. McField:** Mr. Speaker, if you would please allow me to ask the Minister the question, and please allow the Minister to answer the question. I think that although I used the words “culture of violence” it is known in fact that the military is an instrument of State violence. Okay?

**The Speaker:** I fail to agree with you on that. I mean, military is for protection of the human rights of people.

**Dr. Frank S. McField:** Mr. Speaker, what I am saying is . . . I am asking . . . he is saying that there will be a limited concentration on the use of firearms. If we are saying that firearms are not tools of violence, then that is a completely different point.

**The Speaker:** I am not permitted to get into an argument. So I cannot say anything further.

**Dr. Frank S. McField:** Okay.

**The Speaker:** Basically, the Honourable Minister made the intention of the Cadet Corps abundantly clear.

**Dr. Frank S. McField:** From his perspective, Mr. Speaker.

I was trying to find out exactly what would be the programme for military indoctrination for a period of 4 years, which is a very long period of time. What will be the programme of training?

How long will they spend training, during the summer, during school and after school? That is, the longer they train, the more there is a necessity to develop a programme which somehow coincides with military indoctrination.

**The Speaker:** Just turn it into a question, and I am sure the Minister will answer.

**Dr. Frank S. McField:** Mr. Speaker, the point is that I think the Minister has shown his unwillingness to be tolerant. Therefore, I shall allow for my questioning to conclude.

**The Speaker:** Any further supplementaries? If not, that concludes Question Time for today.

The next item is Government Business, Bills, First Readings. Before we move on to that I would ask for the suspension of Standing Orders 45 and 46(1) & (2) as the gazetting process has not been completed.

## SUSPENSION OF STANDING ORDERS 45 AND 46(1) AND (2)

*[Moved by the Honourable Minister for Planning, Communications and Works]*

### QUESTION PUT. AGREED: STANDING ORDERS 45 AND 46(1) & (2) SUSPENDED.

**The Speaker:** Bills, First Reading.

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READING

##### THE COMPANIES (AMENDMENT) BILL 2001

**The Clerk:** The Companies (Amendment) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for a second reading.

Second Readings. Continuation of debate on a Bill entitled The Public Management and Finance Bill 2001. The Bill is open to debate. Does any Member wish to speak? The Motion is open for debate, does any Member wish to speak. A final call, the Motion is open for debate, does any Member wish to speak?

The Second Elected Member for Cayman Brac and Little Cayman.

#### SECOND READING

##### THE PUBLIC MANAGEMENT AND FINANCE BILL 2001

*(Continuation of debate thereon)*

**Mr. Lyndon L. Martin:** Thank you.

I find myself in a very novel position today with the Government bringing forward a Bill that I am able to support.

The Public Management and Finance Bill 2001 have some significant merit that I would like to address. There are certain areas of concern that I will also point out. However, I am pleased to be part of a legislative body that will be introducing a Bill to modernise the operation of the Cayman Islands Civil Service and will have an affect on the country as a whole.

I use this opportunity to stress to the Legislative Assembly and the Nation that the process of constructive opposition is when we find Bills such as this one, to support. I will support it. I stress the fact that when I stand and oppose various measures brought forward by the Government, I am opposing them based on the fact that it is my view that they are not suited for this country. I use this opportunity to give credibility to the times that I criticise the Government by stressing that

when they do bring something forward that I can support, I will support it.

*[Inaudible cross talk]*

**Mr. Lyndon L. Martin:** Mr. Speaker, related standing orders that protect speakers from disturbance I could quote, but I hope Members will adhere to them without me taking any further action.

The most significant part of the Bill at hand is to review it in line with the fact that we are currently in the midst of constitutional review. The two issues go nicely together. It is imperative that when you are supporting this Bill, you are also supporting constitutional modernisation necessary to adhere to the components of this Bill.

The most significant component of this Bill is that it requires the Government to design a policy for the five independent governments to come together to form one unified statement of what that government is about, what that political directorate hopes to achieve for this country. The Executive Council will then present that to the Legislative Assembly for its approval.

It has been a long criticism of mine that the Government has no philosophy, no common direction, no common goal. I am happy to see that we are legislating a Bill—

**The Speaker:** You are stating that as your opinion?

**Mr. Lyndon L. Martin:** Yes, Mr. Speaker, certainly.

I stated that it has been my long-standing argument that this is the position. I hope that the Government will take this legislation for the benefit intended and put a policy together that they can all buy into, as well as the country. We must not forget the underlying democracy. We are at jeopardy in this country, in that the general public is losing confidence in the democratic process.

It is my view that we need in the form of constitutional modernisation, in line with what this Bill is calling for; a clear separation between the Executive Council and the Legislative Body that would simply authorise money to the Executive Council and make Laws. Then the Legislative Assembly would be a watchdog on the Executive Council to ensure they are adhering to the plan they put forward. That is a fundamental part of preserving the integrity of democracy and enshrined in this piece of legislation put before this Legislative Assembly.

Once the money has been voted to Executive Council they will then embark upon what is sure to be a daunting exercise of coming up with agreements between the Ministers and their respective Ministries through the conduit of the Chief Secretary, who has administrative responsibility. I want to comment briefly on that and relate my views on the Constitution as I have previously articulated.

I feel it is imperative that there be a buffer between the Executive Branch and the Administrative

Branch. We must remember that democracy is the best system, although not perfect, does not always produce the best qualified representatives, and so we rely heavily on the technocrats in the civil service. I believe the civil servants who are the technocrats feel comfortable in providing what recommendations their background and expertise would suggest to be the best alternative or state of action for the country.

It is for that reason I support the current amendment of the Bill where Executive Council would make agreements with the Administrative Branch, the Chief Officers, (as amended to be the Permanent Secretaries in the ministries), the Deputy Financial Secretary for the Portfolio of Finance and Development, the Solicitor General for the Attorney General's office, and the Deputy Chief Secretary for the Portfolio of Internal and External Affairs.

I also advocated that the original definition that simply stated "Chief Officers" was a better option. The reason I support that is because in my recommendation to the Constitutional Commissioners and the Constitution review, I advocated that the Official Members should not be a part of the Legislative Body. They should be running the civil service. In that case, the Chief Officer would not be the Deputy Financial Secretary it would be the Financial Secretary, the Solicitor General, would be the Attorney General, and the Deputy Chief Secretary would be the Chief Secretary. I thought it prudent to mention at this time because the definition of Chief Officer has been amended to specify the various officers under the official portfolios of government.

The Public Management and Finance Bill 2001 calls for the introduction of accrual accounting. As a businessman I could never conceive that in the year 2001 we still have entities operating on a cash based system, viewing their state of financial stability as simply what is in their bank account, not what they are committed to or what they have accrued.

I am pleased to see that the Government has proposed a Bill that requires a timely, carefully monitored transition from the traditional cash based accounting system to an accrual based accounting system.

We should be aware that once we make this transition it is not all rosy. It is the most prudent way of recording government's business, however there is a price to pay. We have extensive staff training, we have staff who have been accustomed throughout their civil service career of operating on a cash based system that will not only have to learn the technical differences of the two systems but culturally adjust to operating in a different *modus operandi*.

There is also the fact that Government will no longer be able to hide certain transactions they were able to hide under the cash based system. We have to make sure we understand. All departments will now be forced to comply with accrual accounting systems and will be their own cost centres; that have tradition-

ally been camouflaged by being amalgamated and attached to other departments.

One example is the Registrar of Companies, a very positive contributor to the coffers of the Government, tied with the Shipping Registry, which in my opinion would probably not be as healthy a contributor. These entities will have to demonstrate on their own merit, revenue stream income versus expenditure and their validity; we have to be conscious of this change. I think it is the way to go in the 21<sup>st</sup> Century.

I keep referring to this Bill as assisting in modernising. This Bill provides only the structure for Government to modernise its way of operation. It provides the backdrop necessary for Government to take other actions to modernise.

The Bill requires a separation between resources of the Executive versus the entity. I think this is very important. Where departments that would be the entities, according to the Bill, would be subject to fees, the fees they collect related to the output they are producing would come in under that particular entity and be governed by that entity. We must accept that a lot of the actions called for in this Bill will not assist in reducing bureaucracy but in many cases will add layers. My position has always been that bureaucracy is just a fundamental essential part of governance.

There is too much of a tendency to ask government to be run more like a business. It is not possible. No business has shareholders who are also their clients. That is the civil service. The Government's shareholders are the same clients. Where a business motive is to increase profit to shareholders, our goal is greater. Our goal is quality of life.

The impetus for this legislation stems from the New Zealand model. However, I note, in the introduction given by the Third Official Member he stressed that it has been adapted to Cayman. It is a Cayman model. I only drew attention to New Zealand because there was one unforeseen outcome from the change to accrual system in that the social programmes suffered. They generated expenditure for entities but there was no revenue stream to support them.

Therefore, where entities had to justify their existence and pay their own way, the first thing to be cut was the social programme, the transfer payments. Government's main motivation is not that of a business—purely financial—but that of quality of life where transfer payments form a part of ensuring that quality of life.

I am pleased that alterations to the Bill to make it more unique to Cayman include transfer payments have been moved from entity expenditure to that of executive expenditure where the departments responsible for disbursing this money to the various social programmes do not have to justify and look for revenue sources, it is done at a higher level of executive expense. The transfer payments are paid from executive expense where your coercive revenue is also collected. That will give some assurance that we will not

fall into the same trap of the New Zealand model where these social programmes were cut.

It should be noted that in bringing this Bill into existence, the entities and various departments, will now have the power to change the fee they are collecting without their elected representatives having input regarding the fees. For instance, a garbage fee could be changed by the collecting department. That is extremely different and will require great adjustment.

These are some of my concerns with supporting a Bill that requires accrual accounting and output budgeting, and I am accepting it on that premise. I hope the Third Official Member will take on board these areas and respond to this during his closing.

I am also concerned about the year 2003 in the timeline provided for the implementation of this Bill. This transition has to be very careful. I understand the challenges the Portfolio of Finance and Development will face during the next four to ten years of having this Bill and the resulting change in operation enacted.

The year 2003 will require the two pieces of legislation to run simultaneously, the current Public Finance and Audit Law of 1985 (and I stand to be corrected) and the new Public Management and Finance Bill 2001. The old Law would govern the year 2003, where the new Law would govern appropriation for the year 2004.

That in itself will be a confusing year. The year 2003 will operate under the current Law that allows for me to commit expenditure without recording it. I will be committing expenditure that will have to be borne in the year 2004 that will be governed by a piece of legislation that did not allow me to make such commitments. I am not sure of the solution, I am only pointing out my concern in the implementation process.

The legislation mandates transparency. The legislation requires that on a quarterly basis the executive will provide a report on the country's finances to the Legislative Body. I like that provision.

The legislation provides the Legislative Assembly with a heightened tool to watch and monitor the executive. The Auditor General's loyalty and reporting structure will be to the Legislative Assembly not to the Executive Council or the Administrative Branch. Theoretically, I like the concept of having the Auditor General reporting and being monitored and governed through the Public Accounts Committee. However, this draws back to what we would seek to be as a result of the current Constitutional review.

Currently, the Government of the day has a Public Accounts Committee chaired by one of their supporting Backbench Members, and comprised predominately by their supporting Backbench Members for the concept to work. Where the Auditor General would not be reporting to the Executive Branch for that to be perceived (for perception is as much a reality) as a watchdog, it has to be an independent body from the Executive. As stated in Erskine May, it should be headed by the Leader of the Opposition.

I accept that under our current political structure it might not be so obvious who is the Leader of Opposition and who is the Leader of Government. However, I am sure we can determine from this Parliament that there are at least three, four, maybe six Opposition Members and one of those should have been selected. I make it quite clear this means no disrespect to the current Chairman of the Public Accounts Committee. Based on the professional background of that individual, he is certainly the most suited of the Members, with the exception of one of the Ministers.

The Bill before us also changes the fiscal year of government which I wholeheartedly support. I would also suggest that since the fiscal year will be changed to a July/June year that section 12 of the Bill providing for authorisation in advance of appropriation, is no longer needed. That particular section was there for a January to December year and a year to allow for an election year when you needed to provide advance appropriation before the Bill. Based on a July/June year that need should not arise. I believe that that section could be eliminated.

I would also like to mention that the Public Finance and Audit Law that gave particular powers to the Financial Secretary on his own to waive certain fees, which I know placed a lot of pressure on the Third Official Member and allowed him to be in a very precarious position. This current Bill has not provided for such a provision. I think that is a merit of the Bill and one of the reasons I am able to support the proposed Bill before us.

Turning briefly to the principles of responsible financial management, as outlined in Section 14 of the Bill. This is a new section, one that I welcome. There have never been legislative management principles. There have been some generally accepted principles that we tried to comply with, but this Bill legislates.

I would like to read into the record from the Bill itself, **“(3) The principles of responsible financial management referred to in subsection (2) are (a) total entire public sector revenue less total entire public sector expenses (measured using generally accepted accounting practice) should be positive.”** That is, Government will run a surplus and not a deficit and so separating. Since the legislation separates capital out of operational, government would be guided by this legislation to always make a positive contribution from its operating expenses and revenue towards capital.

**“(b) Total entire public sector assets less total entire public sector liabilities (measured using generally accepted accounting practice) should be positive.”** Such principles are needed, but I caution Government that it will not be a simple exercise to bring us into compliance. I appreciate the need for what is enshrined in the legislation as a period up to eight years to have compliance with all of these principles.

**“(c) Entire public sector borrowing should not exceed an amount for which the sum of interest,**

**other debt servicing expenses, and principal repayments for a financial year are more than ten per cent of entire public sector revenue (calculated using generally accepted accounting practice) for that financial year.”** It should be noted that in this principle the reference to revenue is that defined under this Bill, which would not include loan income. It would be operational income equivalent to what we now refer to as recurrent revenue.

**“(d) Cash reserves should be maintained at a level no less than the estimated executive expenses (measured using generally accepted accounting practice) for the following ninety days.”** Three months should be kept in reserve.

**“(e) The financial risks, including contingent liabilities, facing the entire public sector should be managed prudently so as to minimise the likelihood of any such risk resulting in an expense or liability.”** This Bill calls for the Government to look at all of its entities holistically, one big picture including its contingent liabilities. I can only support such an effort.

The principles I just outlined are welcomed and have been needed for a long time in the financial management of this country.

I want to caution Government in adopting this legislation. The commitment to make a plan for this country will require careful prioritisation which sounds a lot easier than it is to implement—especially under our current political structure. I want to emphasise the connection between the political structure and the Constitution to what we are proposing here today.

What we have are five independent governments who try to join together to form one Executive Council with no common agenda, platform, or manifesto. These individuals will have to prioritise, to come together in one unit and list the priorities within the restraints provided under these new principles of financial management.

The current (and I say with some caution) Leader of Government Business has advocated prioritisation for some time. Now that he is in the position he will accept how difficult it is to prioritise because he even committed to bring a MTFs during the September sitting of this House and has not yet done it.

The issue I am stressing is that given our current political structure, prioritising is difficult. We have five individuals with five different agendas, different mandates from the people, different philosophies.

I have commented on the reporting structure of the Auditor General to the Public Accounts Committee and the need for the Public Accounts Committee to be more objective or at least perceived to be more objective.

The final comment I wish to make is that this Bill is timely. It is time for this country to accept that it must move forward in management. I have sat on this Backbench and criticised the Government, the past Government, and the Government before that of various actions. Now a Bill is brought forward that will

force the Government to comply with some of these recommendations. I can only support it, outlining my cautions and concerns. Thank you.

**The Speaker:** We shall suspend for 15 minutes.

## PROCEEDINGS SUSPENDED AT 3.40 PM

## PROCEEDINGS RESUMED AT 4.07 PM

**The Speaker:** Please be seated.

Debate continues on the Second Reading of a Bill entitled The Public Management and Finance Bill, 2001. Does any Member wish to speak?

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** I rise to make a brief contribution to this Bill. I am reminded of that famous advisor to princes, Niccolò Machiavelli, who said there is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things.

This Bill which is before us now really had its genesis, if we were to speak frankly, in 1995 when the former Second Elected Member for Cayman Brac (now Second Elected Member for Bodden Town) and I brought a Private Member's Motion to this House asking government to set up a fiscal responsibility law similar to that of New Zealand. At that time we were accused of all kinds of things; called all kinds of names, which, I might hasten to add, were not flattering; and finally, we were told that we were proposing independence.

One learned Member said that it was the act of an independent country and associated it with constitutional change, which brings me to the coincidence that it is coming back at a time when we are discussing constitutional change. I hope that coincidence bears positive fruit for where we wish to go.

It is high time we came to this point. I am not equipped to debate the merits of a Bill as an accountant would. I want to stick more or less to the common sense issues. We said in 1995, as we are saying now, that government needed to go on an accrual system because an accrual system is the modern system of accounting.

I came from the private sector. That is the system that I was exposed to and practised there. The impediments I believe are elements within the civil service, not necessarily at middle management level, and not necessarily at the level of some of the enlightened higher elements. However there is a block of dinosaurs who do not wish to apply this system. I am hoping this Bill can be a kind of Ice Age and bury those dinosaurs so they will either be forced to adapt or will become extinct. They cannot stand in the way of progress.

I heard the Member make reference to five different governments. That is true! Sometimes when we

speak disparagingly that is what we liken this current system to. I see this Bill introducing a sensible system of accounting which will make it easier to manage, understand and more efficient.

As usual, there will be persons who feel uncomfortable in the beginning. However I do not have any particular expertise in accounting and I understand the rudiments of the system. I am sure those persons who are practising for years will grasp it easily. What is more difficult to acknowledge is that a certain discipline comes with it, and a certain accountability which people may not be so willing to subscribe to. Therein is the crux of the matter. It is better scientific management because we are talking about outputs and inputs. We are talking about performance.

We have come up in a culture where some persons do not wish to be accountable. The greatest impediment to this as with other reforms is changing the culture. From experience and discussions we have had, listening particularly to civil servants, I understand that is the reservation. People are reluctant to give up a certain way of life. I caution those persons responsible, particular the Financial Secretary who will have the overall responsibility to oversee the introduction of this system. We have to bear in mind that the success of this move is predicated on a culture change. It is necessary to be as genteel as possible.

I listened to people who are going to have to work in this system. They have many unfounded fears that are going to have to be allayed. We have to take time. I believe the timeline is reasonable. When we get this coupled with the anticipated change in the Constitution, I can say bravo! The Cayman Islands will then be in the realms of modernity and 21<sup>st</sup> Century scientific public service management and administration. I contend that if we had the discipline of this system even now, we would be in a much clearer position in terms of our finances.

The last point I wish to make is that there are those politicians, not a large number in here at the moment, who are reluctant to take this system on board because it handcuffed them. They cannot pave any \$8 million roads on the eve of election! They cannot do the expenditure that would endear them to the electorate. This system is predicated on a financial discipline and accountability that is necessary. I am happy to associate myself with this Bill and I give my full support.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

If it is the wish to adjourn, I will entertain a motion for the adjournment.

The Honourable Minister for Health and Information Technology.

## ADJOURNMENT

**Hon. Linford A. Pierson:** Mr. Speaker, I move the Adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.15 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 21 SEPTEMBER 2001.**



**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**21 SEPTEMBER 2001**  
**10.36 AM**  
*Eighth Sitting*

**The Speaker:** Good morning. I will invite the Second Elected Member for West Bay to say prayers.

**PRAYERS**

**Mr. Rolston M. Anglin:** Let us pray:

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

*Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

**Proceedings resumed at 11.20 am**

**The Speaker:** Please be seated.  
Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First and Second Official Members and the Honourable Minister responsible for Community Development, Women's Affairs, Youth

and Sports who are off the Island and from the Third Elected Member for West Bay.

I recognise the Second Elected Member for West Bay.

**STATEMENT RE: SEARCH AND RESCUE OF  
MR. RONNIE MARTIN EBANKS**

**Mr. Rolston M. Anglin:** I would just like to announce to all Members of this House and to the community of West Bay in particular, and all citizens of these Islands, that the West Bay fisherman who was lost at sea, that is, Mr Ronald Martin Ebanks has now been found.

I would like to give thanks to Almighty God for safely delivering him, and all those who prayed for his safe return. Many prayers were said across the Island and in West Bay on Wednesday night, for his safe return. I would like to share with the community that the display of faith shown by his family and his children was quite impressive. I visited his daughter and two of his sons on Wednesday and they had faith that God would safely return their father. I am going to thank a number of parties involved in the search and safe return of Mr. Ebanks. In so doing I know I run the risk of leaving someone out. If I do I apologise in advance.

I would like to thank the Drug Task Force and the West Bay Police Station, for coordinating the search effort. I would like to thank in particular Mr. Derrington Burlington and Bruce Smith for their tireless efforts. I would like to thank those who initially searched by air, the MRCU and Island Air, the Marine search parties, such as the Department of Environment, the Drugs Task Force, and the US Coast Guard for developing the drift charts that helped locate Mr. Ebanks.

In times like this the community rallies. There were numerous private individuals who carried on the search when all hope seemed to be lost. I would like to thank Mr. Wally Whittaker and the Flying Club. I thank the three private pilots searching yesterday, in particular Mr. Roy McTaggart, Mr. Oscar Rivers, Mr. J.C. Calhoun, Mr. and Mrs. Olson, Mr. Kevin Parsons, Mr. Hank Powell, Mr. Michael Anderson, and last but not least, the actual plane that spotted Mr. Ebanks at 5.25 yesterday, Mr. Peter Webster accompanied by Mr. Luc DeCarufel, Miss Maggy Maldino. I would like to thank all those who searched tirelessly last night in the dark eventually locating him at 3.30 this morning. These include the DoE, Mr. Adrian Briggs and his son-in-law Mr. Bob Watler. I thank the Royal Caribbean Cruise line ship *Voyager of the Seas*, who kept him company after he was found for a period of time.



It is only right that I add that we all implore everyone in this country who enjoys going to sea to please follow the marine regulations of the Cayman Islands Government. It is only for your own safety.

Mr. Speaker, I thank you for acknowledging me and I thank all Members for indulging me. I thank Almighty God for the safe return of Mr. Ebanks.

**The Speaker:** Presentation of Papers and Reports. The Annual Report of The National Drug Council for the period ending 30 June 2000 to be laid on the Table by the Honourable Minister responsible for the Ministry of Health and Information Technology.

## PRESENTATION OF PAPERS AND REPORTS

### ANNUAL REPORT AND AUDITED FINANCIAL STATEMENTS OF THE NATIONAL DRUG COUNCIL FOR THE PERIOD ENDING 30 JUNE 2000

**Hon. Linford A. Pierson:** I beg to lay on the Table of this Honourable House the Annual Report of The National Drug Council and Audited Financial Statements for the period ending 30 June 2000.

**The Speaker:** So ordered.  
Do you wish to speak to it?

**Hon. Linford A. Pierson:** Under the National Drug Council Law (1997) (2001 Revision), section 24(1), "The Council shall within six months after the end of each financial year in June, forward to the Minister responsible for Health,

(a) a report on the operations of the Council during that financial year and on the Council's policy and programme for future years; along with

(b) a copy of the audited financial statements as at the close of the previous financial year."

The Minister is also required under Section 24(3) to ". . . cause copies of the annual report, the financial statements and the report of the Auditor General . . . to be laid on the Table of the Legislative Assembly not later than 30<sup>th</sup> June following the end of the financial year to which they relate, and to be gazetted."

Unfortunately, the National Drug Council (NDC) experienced difficulties in having its financial reports prepared and this resulted in a delay in the audit by the Auditor General. As a result, the audit was not completed until after the due date.

I have been assured by the National Drug Council that they have now resolved the difficulties and there should not be a delay at the end of the current financial year. I am satisfied that the annual report and financial statements which have been audited by the Auditor General are in compliance with the National Drug Council Law (1997) (2001R).

With your permission, I would like to mention a few highlights from the National Drug Council Annual Report for the year ended 30 June 2000.

The National Drug Council was formed in 1997 out of the previous Advisory Council on the Misuse of Drugs with the intent of creating an authoritative body to coordinate the anti-drug efforts in our country. Though the effects of the misuse and abuse of both legal and illegal substances are generally known, we must never relent in our resolve to deal with the effects that the use of these substances have on our society.

There is virtually no area in our society that substance abuse does not affect. Our schools, hospitals, social services, police and customs departments, not to mention our courts and prison, feel the burden each and every day.

Our response to this problem must be two-fold - combining an aggressive supply reduction programme, with a comprehensive demand reduction programme. Historically, we have been most keenly aware of the supply reduction efforts as spearheaded by the Drugs Task Force, Customs, and the Royal Cayman Islands Police (RCIP). Their diligence in reducing the influx of illegal substances is a critical part of our anti-drug efforts.

On the demand reduction side, the requirements are no less critical, though perhaps less visible. Demand reduction at the first level is prevention and education, putting in place a system to educate not just our students, but our society as a whole as to the dangers of substance use, abuse and misuse. Demand reduction also involves the courts and police providing a deterrent factor through enforcement and application of our Laws.

Finally, treatment and rehabilitation forms an integral part and the last step in the demand chain dealing, as it does, with people who need help in addressing their chemical dependency. The National Drug Council is informed and guided by the twin pillars of the National Drug Council Law (2001R) and the National Strategic Plan for Drug Abuse Prevention and Rehabilitation. The Council comprises the senior civil servants from all agencies affected by this problem and a number of representatives from the private sector as well as (non-Governmental Organisations) NGOs.

The National Drug Council has developed a world class research capability in the area of substance abuse. Building on the experience of the Cayman Islands students drug use survey conducted in 1999, during the year covered by its annual report, the National Drug Council developed and conducted the first ever Cayman Islands drug and alcohol survey. The Economics and Statistics Office assisted with the selection of just under 1,000 households to represent all residents of the Cayman Islands. The community showed its support for the survey with a 94 per cent participation rate.

The results were published in October 2000. Research of this nature is of critical importance as it in-

forms public policy and allocation of resources in this area.

As a by-product, the NDC has developed an in-house capacity to produce accurate, pertinent, statistical information in this area which is accepted by the major world governing bodies, including the United Nations International Control Programme (UNDCP).

As I mentioned previously, education and prevention form the first bulkhead in building a drug resistant society. To this end, the NDC expanded its awareness programme from one week to one month this year. The month's activities brought the message to each student in the Cayman Islands through special anti-drug assemblies. These assemblies featured the renowned motivational speaker, Jevon Thompson from the US as well as local sports celebrities and participation by the RCIP community relations group also Cayman Against Substance Abuse through their Youth to Youth programme.

The NDC also distributes teaching materials and curriculum support throughout the school system in matters pertaining to drug education; including video materials for classroom use and activity books for every primary school student in the Cayman Islands.

The highly respected Drug Abuse Resistance Education (DARE) programme was initiated as a trial in four primary schools by the RCIP. They are extending DARE to all primary schools this year. This programme joins the QUEST Life Skills Programme in the secondary schools sponsored by the Lions Club of Grand Cayman as just two parts of the anti-drug education programme.

The NDC organised the conversion of an unused facility located at the former Racquet Club on Shedden Road. This site is being used for community intervention programmes with seed money and project supervision provided by the NDC. The site was renovated using a combination of public and private funds.

Currently, there is an after-school programme in place as well as a number of other programmes designed to provide alternate activities to the youth, especially in the Scranton area. After this pilot programme is evaluated it is planned that similar programmes will be developed in each of the districts of Grand Cayman and Cayman Brac.

On the operations level, the NDC initiated the succession plan for personnel with the objective of increasing the complement of Caymanian staff while improving capabilities and efficiency at the same time. Two recent Caymanian graduates have been brought on board.

While the investment in professional development training is extensive and expensive, it has already shown dividends in increased capability and energy within the NDC. The NDC is fully committed to this programme and is maximising the Caymanian content in not just the staff complement and in their programmes and materials as well.

In closing, I would like to congratulate the NDC for their efforts, and all those who work on a daily basis to

reduce the serious harm that substance abuse is doing to our society. Thank you.

**The Speaker:** Questions to Honourable Members and Ministers. Question 120 is standing in the name of The Elected Member for East End.

## QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS

### QUESTION 120

**No. 120: Mr. V. Arden McLean** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what is the status of the *Cayman Protector* since the Standing Finance Committee of the Legislative Assembly voted funds for new engines in December 2000.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The *Cayman Protector* remains in dry dock. It is envisaged that the vessel will be launched in late September or early October 2001.

### SUPPLEMENTARIES

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member explain the reason why it has taken so long to install two engines?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The actual authorisation to the Commissioner to commit funds did not come until February 2001. The engines were ordered and arrived in March. In preparing the hull for the engines, it was revealed that erosion not visible in previous inspections, was due to electrolysis between similar metals and the pump was not adequately draining the bilge. There has been work occasioned by having to attend to that corrosion.

During the installation of the propeller shafts there was misalignment discovered which also had to be attended to. In dealing with these items while the boat is in dry dock, the opportunity has been taken to renovate the fuel system, the fire extinguishing system, to refurbish and paint the boat's bottom.

The primary factors that contributed to the delay have been the lag between when Finance Committee gave the go ahead and funds were available and when the work commenced; the subsequent discovery of corrosion and the misalignment of the propeller shaft.

**The Speaker:** Before going on, I would appreciate a motion for the suspension of Standing Order 23(7) and (8).

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

*[Moved by the Honourable Minister for Health and Information Technology]*

**QUESTION PUT. AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11.00 AM.**

**The Speaker:** Supplementaries continuing, the Elected Member for East End.

**Mr. V. Arden McLean:** If the *Cayman Protector* was in dry dock prior to December and March, why was it in dry dock then?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** My understanding is that the boat has been in dry dock since September last year. It was placed in dry dock at that time because the engines had finally failed. The engines had been partly paid for in 1999. However, it was not until 2000 that this additional money was authorised and not until February of this year that it was actually made available.

It was put in dry dock in September 2000 as a result of the engines failing completely. At that time there was this procurement of new engines in process, and it kept hanging because of lack of money.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** For a little over one year the *Cayman Protector* will be laid up. In view of the recent incident where we had a Caymanian missing at sea and I would presume the *Protector* would be used in these instances. What urgency is there in getting the *Protector* off dry dock and in the water? Is there any urgency? Six months ago the engines arrived and that seems kind of long.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** There is certainly an urgency to get the vessel back into service. While the events of the past week have been a reminder of one of the purposes the vessel can serve, it has not been what sparked the urgency. Locating that individual yesterday evening indicates he could have been reached far more quickly with that vessel. However, it does not follow that he would have been located any more promptly.

In any case, I think it is essential to understand that there have been fundamental funding issues involved in this whole dilemma. Every effort is being made to expedite the physical work as quickly as possible. That is about all I can give the Member in relation to the urgency and the action we have taken.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell this House, if in light of cost have you considered it cost effective to be throwing this kind of money into the *Protector*, or has any thought been given to procuring a different boat?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The cost incurred in getting this vessel refurbished and fitted with these new engines will hopefully give it another ten years. They are in the ballpark of \$.25 million. Certainly, it would not be expected that we could replace the vessel at that price. We would probably be looking at twice that price. Certainly, in today's fiscal environment, while it would be good to look at that alternative we feel it prudent to go the route we have gone.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Member explain this issue of funding? I can remember when the funds were requested in December there was full support. I can even remember being asked if we were sure the amount requested was sufficient. I think this House recognises the need the *Protector* fills. I wonder if he can clarify the question on funding.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** When I say funding, I did not mean to imply that Finance Committee was not supportive. I think Members will also be aware that December 2000 was a time when for sheer cash-flow purposes expenditure commitments made that should have been met in December were not met because the cash was not there. Those carried over to the New Year.

As I understand the authorisation to incur this expenditure was not forthcoming until February. I am not suggesting that anyone is at fault, I am saying that I realise there were real issues surrounding money.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** In light of the other important role the *Protector* plays, for instance, the interdiction

tion of drugs, can the Member say what provisions have been made in the interim while we have not had the services of the *Protector*?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The Drugs Task Force have been negatively impacted by the absence of the vessel; however they have had the use of a rigid inflatable boat with very powerful engines. It was a unit provided by the United Kingdom.

In addition the Task Force has been using its resources or personnel and making use of some of what has been seized, in particular one Colombian canoe-like vessel that has been fitted out and used. Obviously, none of those are the equivalent of the *Protector*. I assure Members that it is not that we are not keen to get it back into use and at the same time it is not that we cannot do anything because we do not have it. We have made efforts to improvise and do the best that we possibly can, using what is available.

**The Speaker:** Three additional supplementaries.  
The Elected Member for East End.

**Mr. V. Arden McLean:** The Member talked about electrolyses, which gets worse in salt water. It appears that was caused by a lack of maintenance. Is the Member satisfied that the maintenance of the *Protector* is well carried out? The boat is relatively new and should not have been eaten up by electrolyses at this stage.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I would not want to describe a vessel of ten years of age as "relatively new", but that is the Member's opinion.

The RCIP does not have any marine engineering personnel to provide maintenance of the vessel. For major maintenance it relies on resources available in the private sector. Part of the problem with the issue of corrosion which I mentioned earlier, may have been avoidable. It was certainly in an area that was not visible until preparing the hull to fit the engines when the work started. However, in terms of the original fitting of the equipment on the vessel, some things probably could have been done differently to avoid the fundamental components that make electrolyses possible.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Member say, in light of everything that is going on in the world, whether the *Protector* would be considered an integral part of our national security? If so, and we have been without it for a period of almost one year, has any con-

sideration been given to requesting help from our Mother country for our national security issue?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Yes, I think it is certainly true that the *Protector* was a component of the security of these Islands. The British Government was made aware of the situation and was asked to lend any assistance it could. I think, I mentioned that they provided us with this rigid inflatable boat with the high powered engines, which is useful for rapid pursuit near shore, but it is not an alternative to the *Protector*.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Member said that the maintenance is done by the private sector, not through the police department. How often during the life of this boat, which is about ten years, has it been inspected? That is dry dock, inspected for structural integrity, the integrity of the bottom and grounding. How often has that been done since the Cayman Islands has had ownership of this boat?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Mr. Speaker, I am unable to say how many times it has been lifted out and surveyed as referred to by the Member. A comprehensive survey was done soon after it was lifted out last September prior to the commencement to fit these engines. That survey, unfortunately, did not detect this corrosion that only became obvious because it is on the inside of the hull. It only became obvious once other cuts were done internally to fit brackets and other protrusions to fit in the engines that exposed the inside of the hull. I can try to get the information for the Member, as to any previous occasions it may have been surveyed.

**The Speaker:** Moving on to question 121, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

#### QUESTION 121

**No. 121: Mr. Lyndon L. Martin** asked the Honourable Acting First Official Member responsible for the Portfolio of Internal and External Affairs what is the normal retirement age of a member of the Royal Cayman Islands Police Force and under what authority and or law is this stated.

**Hon. Donovan W. F. Ebanks:** The Public Service Pensions Law (2001 R) makes provision for the normal retirement age from the Public Service Pension Plan of all participants in that Plan to be 60 years.

However, the Police Law makes specific provisions in relation to retirement from the Police Service, which overrides the Public Service Pensions Law, which applies to all Officers, including those on contracted terms.

Non-gazetted Officers (from Constable to Inspector, inclusive) can retire after 21 years of police service; must retire at 55 years of age, but may be re-employed on contract. His Excellency the Governor may require retirement over age 50.

Gazetted Officers (from Chief Inspector up to Commissioner) hold office at the pleasure of His Excellency the Governor; it is not determined by age nor length of service. His Excellency may require retirement over age 50, or an officer may not elect to retire before age 55 (Pensions Law).

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate how long this provision has been in place under the Police Law for earlier than normal retirement age?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The Police Law was originally enacted in 1976 and last revised in 1999. I am unable to say whether this provision was in the original Law or inserted as a result of an amendment since 1976. However, I think it is fair to say it has been there for quite some time.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate the justification in the difference in retirement age for the RCIP compared to a regular civil servant?

**The Speaker:** The Honourable Temporary First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I cannot say categorically why there is a difference. I certainly know of no comparison in recent times, none that I have been party to or heard of, that provided justification for the difference. I think it perhaps reflects the recognition that the work of a policeman is obviously unique and a certain level of physical fitness and ability is inherently essential.

There is obviously provision for the re-engagement of officers on contract or fixed terms following the prescribed retirement criteria.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate if there is any special increased pension contribution by the RCIP to ensure the pension fund is adequately funded to cover this earlier than normal retirement and thus longer payment period, giving the normal expected life span of an individual?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I am aware of some consideration being given to the issue the Member has raised, namely, that of the substantially longer post retirement life period of a person retiring from the police service. I am not aware of any difference in the requirement in terms of contribution.

I think my recollection is that that situation and the respective numbers have been incorporated into the actuarial assessment done on the Public Service Pension Fund. As such, we are able to assess the overall level of contribution that is needed to make the fund capable of servicing its obligations. There has been no decision that I know of to try to segregate the police service, in terms of its level of contribution versus the contribution from other public servants.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Is the Member saying that the actuarial assessment incorporated a spread distribution, whereas the general public service would be carrying the financial responsibility of the police, taking into regard the type of risk in their occupation?

**The Speaker:** The Honourable Temporary First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** What I think I said was that it is my recollection that the issue of the fact that there was an element covered under the Pensions Law in terms of the police force who had certain numbers of people, —we are obviously talking about the Caymanian element of the police force eligible for pension versus in terms of past service the Caymanian element. That while there were some numbers in the police service who would be eligible to retire earlier than the traditional public servant, there was an overall assessment done of the fund.

I do not know of any subsequent requirement of the police to make any different level of contribution, or whether that is still under consideration. If there is no different level of contribution required now, then if the Member wants to term it as the other arms subsi-

dising the police, I guess that is one way of looking at it.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say if Government is prepared to look at the other uniformed branches within the service, calculate their risk and see if there is time for another actuarial report to be reported to this House? In order to see if it is deemed necessary for such other persons who are involved in high risk activities to be given the same consideration?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Can she expand on what she means by "calculate the risk"? I do not follow what she is saying.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** A specific example is the fire service, a similar type of high risk occupation to that of the police service. Would consideration be given for early retirement for persons in that particular category of government?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I do not think there is any reason why the terms of employment of firemen could not be looked at. I would expect that if the relevant authorities in charge of the fire service feel that is an area that should be addressed would make representation. I see no reason an assessment of the current provisions could not be done. I cannot give an undertaking as to what would happen as a result of such an assessment.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** In view of the sterling job our firemen do and what firemen are faced with as borne in New York recently, and with the view that we are in a global village.

I wonder, rather than waiting for the Chief Fire Officer to make a request, it would be a better approach if those responsible for the fire service would by way of showing gratitude on behalf of the public of the Cayman Islands, make the first approach and set up a committee, if the Government seeing it prudent and necessary to look into this as a matter of priority.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I will note the Member's suggestion and idea she has put forward.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate if the age of 50 as stated in the Police Law is an age eligible for retirement, or is it the age at which commencement of pension benefits are engaged?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** In the case of non-gazetted officers, they can retire after 21 years, whether they have reached 55 or not. They must retire at 55 however; they are eligible for re-employment thereafter on contracted terms. Such a person would obviously retain their pensionable status and be employed on contracted terms.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Therefore, if an officer retires after 21 years of service, does he receive pension benefits at that time, even if he is under the age of 50?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The answer is yes.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** If the individual is re-employed under contract, does he still receive the pension benefits and emoluments as related to his contract?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Yes, because the Government is under no obligation to employ that individual. If he takes up employment with some other employer, he is clearly entitled to his pension. If the Government chooses to employ someone else, there are terms that apply. So if Government chooses to employ the individual who has fulfilled his eligibility for retirement, he does not sacrifice his pensionable status. He retains that and is employed on whatever terms anyone else could have been employed on.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** It is my understanding that both gazetted and non-gazetted officers can be re-employed after the usual retirement age. In some cases, he may be under 55, but in some cases over 55. Can the Member tell us if that re-employment, particularly over age 55, is predicated on those individuals being physically fit?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Anyone re-engaged on contract terms, regardless of age, has to be medically examined and certified fit for employment.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say examined by whom? Is it the Government or a private doctor?

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** My understanding is that examinations are done by the Government Medical Officer.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** In an earlier answer the Member referred to the police force as "unique"; given their risk and the need for physical fitness. The point made by the First Elected Member for Cayman Brac and Little Cayman, is that it is not so unique. There is at least the Fire Service that has a sometimes greater risk and need for physical fitness. A request was made for some commitment by Government to review this, however no such commitment has been made.

I am asking for the Honourable Acting First Official Member responsible for Internal and External Affairs to give an undertaking to review two points: 1) the inclusion of the fire service under the agreement of early retirement; and 2) the possibility of the fire service and the police making a small contribution above that of the normal civil servant to their pension fund to ensure that they are paying for the extra benefits and not subsidised by other civil servants.

I would just like to clarify that I do respect the service provided by the RCIP and truly appreciate the uniqueness of that department and the special risk they take. I am just asking for equal respect and rights for their brothers in the fight against fire and other ailments in this community, the fire service.

**The Speaker:** The Honourable Acting First Official Member responsible for Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I understood the Member to be putting forward a proposal or suggestion, which I told her I would note. If this Member is asking me to look into the inclusion of the fire service and the fire service and police service making a different level of contribution, I can give the Member a commitment to have those looked at.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for this morning.

Would Members prefer to continue on to 12.45, or take the break?

**Hon. Roy Boddin:** Mr Speaker, I think we should continue.

**The Speaker:** So be it.

Moving on to Government Business, Bills. Continuation of second reading debate on the Public Management and Finance Bill 2001.

Does any other Member wish to speak? (Pause)  
Does any other Member wish to speak? (Pause)

The Second Elected Member for Boddin Town.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READINGS

##### THE PUBLIC MANAGEMENT AND FINANCE BILL, 2001

*(Continuation of debate thereon)*

**Mr. Gilbert A. McLean:** I rise to speak to a Bill for a Law to repeal and replace The Public Finance and Audit Law (1997) and its regulations to implement a new system of government accounting; to establish a new financial regime of financial accountability and responsibility for ministries, portfolios, government companies and statutory authorities; to re-establish the post, functions and powers of the auditor-general; and for incidental and connected purposes. This Bill is called The Public Management and Finance Bill, 2001.

I am glad to be a part of the elements that instigated this Bill. As noted yesterday by the Minister of Education, when he and I were both Backbench Members we brought a motion asking government to enact legislation designed from the New Zealand Law. At that time, it was marked and scoffed by the persons in government who considered themselves most brilliant in their ignorance.

We claim to be a country very much in the forefront of finance and banking and all those things that go along with financial management on an international scene. Yet, up until now we have in place a very

antiquated Law that allows governments to use public funds and lawfully produce the annual audited accounts of any year; two years later. I suggest that that type of condition is one that is damaging to the best interest of the public good, particularly relating to the finances of a country.

If we as individuals would ever undertake to balance our chequebooks two years after we had written out all the money in it, we would most likely be in prison for issuing bad cheques. However, the process is completely different where government is concerned, and is a practice that I believe should have been stopped long before this time.

The Motion I referred to was back in 1995, six years ago. I think it is quite commendable that the present Administration has brought forward this Bill at this time. I think those persons who have been involved in its drafting and in all the deliberation that has gone on to get it to this stage are also due complimentary recognition.

The Bill before the House is quite comprehensive. One of the things I like about it is that it brings about accountability in Law. It is not something that continues in a fashion that it is just a nice-sounding buzzword. It is a Law and persons can be held accountable under this Law, except one, which I will speak about before I have completed my contribution.

There have been too many instances where government money has been spent where it was not approved by the Finance Committee, or approved for other areas and projects, and the time has run as long as one year before the Government brings it to Finance Committee, on the presumption that they have support in the committee to approve just about anything they have done. This Law will certainly put an end to that type of financial mismanagement.

One of the most important sections in this Bill is the section that requires a government—any government—to give complete economic forecasts and financial statements to the country prior to an election. In this country I have seen elections where internal memos from the Accountant General and Auditor General were used in manifestos to try to mislead the country into believing that the Government had what was termed by the Leader of that Government at that time, \$60 million pure profit.

**Hon. Roy Bodden:** Recurrent profit!

**Mr. Gilbert A. McLean:** Thank you. Recurrent profit!

First of all, we never speak of governments making profits; we speak of governments having surpluses. That was blatantly done. There was no act or interception by the Governor of the day to clarify that situation and regrettably the Cayman Islands have never had \$60 million profit or surplus.

I think the issues in an election should be those that persons who enter the election wish to bring to the attention of the public, as to what they would do and could do, if the people were to choose them. It

would include the methodology they would use and what they would prioritise. We should remove from the political environment any opportunity for the Government of the day to mislead the public about the finances of the country.

The state of the finances of the country should be produced by persons whose profession it is to produce accounts and those accounts would stand for those persons contesting the elections. There would be no more opportunity for internal memos being stuffed in manifestos or waved on national television to try to mislead the public as to the state of the finances of the country. That is one of the things I see this Bill doing.

I have to believe that this Bill is a good thing when it can address matters like that! Thank goodness, it is not a regulation, because we know those can change from day to day behind closed doors and are at the disposal of the Government Executive of whichever government is in power. That is one area I greatly welcome.

For many years in the past, as a Member of this House and on political platforms, I have argued the point that I think we do not do ourselves justice by having our fiscal year end at the end of the calendar year that is, 31 December. It is a punishment on the administration of government.

I have been a civil servant for many years. I know what it is like come beginning of August, into September, then October and the excruciating pressure to prepare estimates for November to come before the House. That is the same time when most persons are under the pressure of what to get for Christmas! They have a life as well, and that makes the process even harder.

The way it is now, we know that most businesses and fees are supposed to be paid to government by 31 December. However this does not happen. We are well aware that people send to Government the fees due at year end, way down into the first half of any given year. It makes sense to me to change the fiscal year. This Bill provides for the fiscal year to change in the next two years to begin on 1 July and end on 30 June. I think there is something very positive in that because the people who manage the Government's finances will have had the opportunity to collect the fees that should have come in but may not have by June following. They would have a factual position as to what the money would be in that year, rather than having to guesstimate.

I see another positive. That is, any incoming new government would deal with a budget that is at least ongoing and they would have a six month leeway (as elections are normally every four years in November), to analyse, prioritise, work up a programme, to see how the money was coming in at that time and to be better able to set its agenda for the next fiscal year. I welcome that proposed change as well.

There is another part that grabs my attention. That is the public sector reporting. I have been around



this Legislative Assembly for a number of years and I have seen time and again questions posed by Members trying to find out what is happening with the money which the House has approved initially, but the progress to which only the Executive Council is privileged. That will change under this Bill. The Government will be required to give quarterly statements—not if they choose to do so, they have to do so by Law.

Governments in the past seemed to feel that once they had approved a few hundred million dollars that it became their particular domain to let us, who approved it initially, have a little piece here and there. We are not supposed to know the whole picture. I think if governments were thinking smartly, they would understand that they may be spending money inefficiently and wasting it, and if that is not the case there are many factors over which they have no control. They cannot make money come in as fast as they would like or how they projected and it could largely be said it is no fault of theirs and they should be happy to share the information. Well, this Bill seems to make it possible that this information will be available to Members and the country. That is a good thing.

People involved with government administration, civil servants and the Members of Executive Council who are Ministers; each are called upon by Law to account for the way money is spent and what it is spent on. The Minister must set the stage for his policies and priorities. That is the way it should be. Permanent Secretaries will have to be responsible for carrying out those policies. They are referred to in this Bill generally by the term “Chief Officers.” No one is let off the hook for shirking his or her particular responsibilities.

However, there enters at this stage a bit of a problem. In our pitiful political society Ministers, while having high sounding names, have no administrative responsibility. In other words, Ministers cannot discipline those Permanent Secretaries and hold them to responsibilities which they should carry out, although the Minister has the responsibility to see that they do.

There are still eight people in this House who voted against the Constitution that gave that as far back as 1991 when we could have had Ministers with that power.

**Hon. Roy Bodden:** True!

**Mr. Gilbert A. McLean:** I do not want to hear anyone come bleating to me about the Ministers not having that power. We cannot complain about something that we need and when it comes to us, when we can have it, we turn around and say we do not want it and say we want it at the same time. Be fish or fowl!

I have said and will continue to say that Ministers of government should have administrative responsibility for the ministries and departments which they are held accountable for in this Legislative Assembly. It is unfair to the Ministers to come here when we Back-

benchers demand to know what is happening in a particular ministry and ask them why it did not happen and to give us reasons why they did not do so and so. Then again, we have a mentality that likes to hide behind ‘*I do not have responsibility for it. It is really the Governor.*’

In the present system, the Minister cannot sign the performance bond as provided for in this Bill, it has to be signed on his behalf by a civil servant. However, the people of this country last November did not elect any civil servants! They elected the 15 of us and during election each one attempted to be seen as a bigger Goliath than the other!

Now, once we are here, we do not hear no barking, it is meow, meow!

*[laughter]*

**Mr. Gilbert A. McLean:** My friend to my right is saying I should speak for myself. I am sure he understands what I am talking about. We stand here as I am doing now and speak strongly about that which should be. However, the reality hidden from the people is that unless there is Constitutional change in this country they are not being represented the way they should, nor can they hold accountable the people who keep trying to be elected by them.

The Minister jogged my memory about the performance agreement which is something that I think is extremely necessary. It amounts to a contract. Long before the Law of contracts, even when we had that wicked polar bear, the Union of Soviet Socialist Republics; internationally there was one Law recognised and accepted by all nations—the Law of Contracts. In effect, it is a contract that indicates the Permanent Secretary is contracted to do a certain job. The Minister is part of that contract and the Legislative Assembly the ultimate boss, has given them certain authority to do certain things. In effect, we have a contractual relationship with them and they must answer to us, in a more meaningful way than what is presently done.

Just to add a little to this whole concept of the need for constitutional accountability and for responsibility under a constitution. If we want to see what a sad situation we are, in my opinion, we can turn to Section 77, which says, “**(1) Nothing in this Law shall affect the constitutional functions or independence of the Governor, his office or support staff.**” Now, is this not strange that we would use that awful word “independence of the Governor” yet none of us wants to feel independent? I marvel at that over and over again.

It gets better in 77(3), “**(3) The office of the Governor shall not be required to comply with sections 42, 43 and 44 . . .**” In other words, that office is above the Law.

Section 42 is the performance agreement. That office does not require any performance agreement, and it is immaterial how it performs, good or bad, it is above that Section.

Section 43, making quarterly reports, it does not have to do that and Section 44, annual report, it does not have to do that.

I want to make it very clear that I am one individual in these Cayman Islands, my home that I love dearly, who does not believe that anyone is above the Law. Worst of all, above the Parliament of which I am a part!

Last week at the Human Rights Symposium held in Cayman ... I hope it educated a few of our backward minds in this country. We heard some brilliant scholars from around the world keep hammering one thing: Parliament is supreme. Note that term: Parliament is supreme! If Parliament is seen as supreme, and they kept coming to the point that the Judiciary interprets the Law given by Parliament, but Parliament is supreme.

So now, I argue that the Cayman Islands have gone back to the time when Charles, King of England, lost his head by believing he was above Parliament. That is where we are because there are those persons who are above Parliament.

It really worries me that we as a people allow about half a dozen propagandists in this country to fool us and mislead us time and time and time again on this particular aspect. When everybody is worked up and agitated every four years, hating one another (in a nice way) to outdo one another, those people to represent them, then what are we when we get here? We know what we are supposed to be, but what are we? We make one individual in this country about whom we are not even consulted but comes here imposed by a Colonial power, to be above our Law which is legislated. These are some of the things that we as Members of this House need to think about very seriously, whether that is a good situation to be in and how that accords with human rights in this very Bill.

We had better get changes in the Constitution where Ministers have administrative responsibility. The civil servants who cannot deal with the changes are in the wrong place. Like my friend the Minister of Education said, they are dinosaurs. It is time for them to pass on anyway! Let the school children study about them in museums and on the internet.

Another part of this Bill that I like is found under "offences and penalties." I have been around several moons. I know of instances where you hear that serious amounts of government money is missing and the next thing you hear is that the person we know by organisational structure has to be responsible, rather than being penalised; gets promoted. Now we hear of another little person in the service, in the clerical level, who borrowed \$20 and lost her job. No pension, nothing.

I see some penalties here that ought to let one and all think a little—fines of \$10,000 and six months, or both; or fines of up to \$100,000 and terms up to five years. There are others where there can be \$10,000

for every day if the offence continues. That is real good stuff.

If there be any sense among the whole governmental process, that ought to make people think when it comes to doing anything with the money of the people except that which is required in Law.

There are other Sections of this Bill I could discuss, however I dare say other Members will be speaking about them. I will comment on only one more, and that is the budgeting process.

The budget process will go through four phases, a strategic phase; a detailed planning and budgeting phase; an Executive Council collective review phase; and a Legislative Assembly review phase. Budgeting as this Bill proposes will change forever, if accepted and implemented. It gives the complete scope for the involvement of everybody—the public, government, Executive Council, and the Legislative Assembly, which, if you believe those brilliant scholars that spoke last week it is supposed to be supreme. I hope this Bill will be passed and that it will be implemented. The one small complaint I have at this time is that I wish it could be enforced a bit quicker than the schedule set for it.

I must give this Bill my full support because it will move us into a better time in a better way.

Thank you.

**The Speaker:** We shall suspend proceedings until 2.00.

#### PROCEEDINGS SUSPENDED AT 12.32 PM

#### PROCEEDINGS RESUMED AT 2.22 PM

**The Speaker:** Please be seated.

Continuation of the Second Reading debate on the Public Management and Finance Bill 2001.

Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) Last call, does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden McLaughlin, Jr.:** It would be remiss of me to allow a Bill as important as this to be brought to the Floor of this House without offering my views on it.

Mr. Speaker, this is a signal moment. This Bill entitled, A Bill for a Law to Repeal and Replace The Public Finance and Audit Law (1997 Revision) and Regulations made under that Law; to Repeal Section 74 of The Customs Law (1998 Revision); to implement a new system of government accounting; to establish a new financial regime of financial accountability and responsibility for Ministries, Portfolios, Government Companies and Statutory Authorities is something akin to a revolution in the way that this government conducts its financial affairs.

Key to the underlying principle of this Bill is the now often mooted concepts of accountability and responsibility, concepts which, while widely practised

elsewhere, are novel concepts to the administration of government in the Cayman Islands.

The Bill has its genesis, as put by the Minister of Education yesterday, in the financial management initiative that was first brought to this House some six years ago by that Honourable Minister himself, and his colleague now on the Backbench, the Second Elected Member for Bodden Town. While I was not privileged to be a Member of this Honourable House at that time, I do recall that there was considerable resistance on the part of the then political directorate to this revolutionary concept. Which is that government should be accountable and the various arms of the Legislative Assembly, Executive Council and the Administration within the civil service should have specific responsibility for particular functions of government, in particular, of financial administration.

I view this Bill as the first of what I consider to be a compendium of progressive legislation that is absolutely critical if this country is to continue to succeed into the 21<sup>st</sup> century. I know that the concept continues to have its detractors. I know there are those within the civil service and without, and even some within these Chambers who are far more comfortable with the tried, though perhaps untrue, and who remain vetted to a concept of government and public administration that has long outlived its utility. However, we have to come to embrace new concepts, new ways of doing business that gives greater efficacy to the work and product of the public service. We have to come to a realisation that the public service, like every other institution, must have its worth judged by its performance.

The old system under which this country's finances are organised and run, and the way the civil service is structured to run and perform is, in my view, outmoded. There are no clear lines of accountability; there are no reference points by which the performance of a particular Minister—or a particular individual within a ministry—can be properly assessed. In this day and age, they are still operating the country's largest institution, the largest employer, the entity that has perhaps the largest budget in this country, on the basis of cash accounting. For anyone who has lived in an environment other than the public service, this is astounding!

We have before us now an opportunity to grasp what will bring the financial management of this country in line with the way business is conducted in the private sector of this country and elsewhere. I have gathered that there is still some resistance to this process. There are some good criticisms of the Bill and the structural framework it puts into place, which I shall deal with shortly. If there were no other reason to embrace and support this Bill, it is this: the Bill for the first time, I believe, will create the concepts of accountability and responsibility. It will clarify the roles of the different players in the system of government.

The Legislative Assembly, pursuant to this Bill, will have the responsibility of agreeing to the broad

outcome goals proposed by Executive Council, it will continue to authorise government revenue and expenses and to review and monitor government performance. Executive Council is given the responsibility to establish both broad and specific outcome goals of the Government to determine policies that it will use to achieve those goals and agree with the Chief Officers the performance expected of the various ministries, portfolios, government companies and statutory authorities. Executive Council will also have the responsibility of monitoring the performance of those various agencies and of managing the finances of Government.

The Permanent Secretaries and their equivalents in the three portfolios will have the responsibility to deliver the performance agreed with Executive Council and to acquire and manage the financial inputs to do this. For the first time in the history of this country, this has the effect of establishing roles for the various parties involved in administering the affairs of this country. No longer will it be quite so easy for those who wish to avoid responsibility to say, *'Well, I do not have responsibility for that. I am unable to give you that information, you will need to seek that from someone else.'*

As I alluded to in my opening, one of the key and most significant changes effected by this proposed legislation is to convert government's accounting system from cash to accrual. For us to begin to understand how significant that change will be, we need to understand how the current system operates.

The key difference between accrual accounting and cash accounting is that with accrual accounting transactions are recognised when the event occurs and not when the cash flow happens. This means that accrual expenses are recorded when the obligation to pay occurs, which is usually when an item is bought, or an invoice is received, whereas cash expenditure is only recognised when the payment is made. Under the cash accounting system it is also possible that non-cash transactions, such as depreciation of assets or unfunded pension liabilities, are only recognised when the cash flows, which is usually many years later. When we move to an accrual system, it will be required that the Government accounts for depreciation of assets and unfunded pension liabilities when they occur.

We have had much talk during the election campaign and in the subsequent months, about what the financial position of this country was when the last Government demitted office. There is nothing new about that. That is a situation obtained in my memory every time an election campaign comes around and more so when an administration changed.

There has been much talk by the former Administration—who still insists they left a Treasury flushed with funds. Those of us even on this side of the House who assumed the seats formerly held by many of those former Members know the reverse to be the truth. In fact, it is probably accurate to say that the

country has never found itself in a worse financial position than that inherited by the current Administration.

The reason there can be such debate and argument about this issue is because under the current system, it is possible to pave \$8 million worth of roads, not pay for it and because you have not paid for it, the Government balance sheet reflects an \$8 million credit. Once we move to a system of accrual accounting that will not be possible. The particular expenditure will be booked at the time that Government's contractual obligation to pay arises.

I will go further than that. The reason for this country being in the precarious financial position that it currently finds itself, is in large part at least, due precisely to the system currently in place that permits kind of conduct. If we had an accrual accounting system in place in years past, it would not be possible for any government to commit the country to significant expenditure, have the work carried out, not pay the invoices and boast about a balance sheet which reflects monies that are yet unspent, but have long since been committed. I say again, that if I need only one reason to support this Bill that reason can stand alone.

The Bill is also designed to improve this much vaunted concept of transparency because it requires the preparation of reports of planned and actual performance by the Government and further requires that all of these reports be gazetted and or tabled in the Legislative Assembly.

Perhaps, and adjunct to that, it also requires that the Financial Secretary prepare financial statements in advance of an election. Therefore, we do not have to deal with what has become one bane of the election campaign process of these Islands; where there is dispute after dispute and memorandum after memorandum. Depending which side one is on, one paints the picture that either the Government has exercised good stewardship and has lots of money in its account; or if one is on the other side, one paints the picture that the country is not in a good financial position and that the Government has performed badly and is therefore responsible for that situation and should be voted out of office.

The pre-election economic and financial update required by Section 26 of this Bill will require the Financial Secretary to gazette a pre-election economic and financial update containing updated economic forecasts and forecast financial statements. This is critical and important. It is necessary that voters have access to reliable, accurate, up-to-date information about the Government's finances in the lead-up to an election. It is even more critical that this information is objective, free from the nuances and interpretations which those who stand for office are wont to place upon such documents.

If I do have one serious criticism of the Bill—and I hasten to add not one that will prevent me from supporting it—it is that it plainly has as a precedent or, let me rephrase that. This Bill and this concept plainly

come from a jurisdiction that has a more modern constitutional framework than we currently have. There are certain points within the Bill where one can see that it has been something of a drafting and conceptual struggle to have the concept fit within our current constitutional framework.

The Second Elected Member for Bodden Town alluded to this as well. The problem has its genesis, as he accurately put it, in the fact that under our current constitutional arrangement; Ministers of Government do not have administrative responsibility for their ministries. The reality of that is that Ministers are therefore unable to properly enter into performance agreements with their Permanent Secretaries who are described as "Chief Officers" under this Bill. They have no way in that scenario of ensuring that their Permanent Secretaries carry out the terms of that performance agreement. Permanent secretaries have responsibility to and report to the Chief Secretary.

A way has been found which I believe meets with the approval of most Honourable Members of this Legislative Assembly by which the Chief Officers will execute performance agreements, with the three official Members of this Honourable House who do have administrative responsibility for their respective portfolios. Those three Members are also Members of Executive Council. We have the necessary links to ensure that these performance agreements have the necessary authority and accountability of those who do execute them on behalf of the various ministries.

There is another consequence that flows from our current constitutional status that makes the operation of this proposed Law somewhat more difficult than it might otherwise be. The whole concept of this Bill, as I have indicated earlier, is one of accountability and responsibility. Executive Council decides on policy in consultation with the Legislative Assembly; the Legislative Assembly votes funds to finance those policies. Executive Council enters into the performance agreement with the various ministries on the basis that the respective ministries will provide the outcomes which have been detailed and agreed upon for the particular sum of money or vote.

Executive Council is then responsible to ensure that those policies are affected, that those outcomes are achieved. They are required by the Bill to report to this Legislative Assembly on a quarterly basis as to how those outcomes are progressing and are accountable to the Legislative Assembly and to answer questions when things are amiss.

The Chief Officer, who is the Permanent Secretary, has entered into an agreement with Executive Council to carry out these particular functions and achieve these particular outcomes. However, the Permanent Secretary cannot do this alone. We therefore need to have a chain of command, a means of ensuring that those who work in the ministry and who report to the Chief Officer are on board with the programme. In short, they need to be in a position where they are responsible in every sense of the word for those per-

sonnel who work within their ministries, and are able to deal effectively and to discipline effectively. To recommend changes to personnel regarding persons simply not performing, not up to scratch, not delivering the product to which they should achieve as agreed by the Chief Officer with Executive Council.

As I understand the framework of this Bill and this concept, it must necessarily involve some considerable degree of decentralisation of the Personnel Department. Therefore, the Chief Officer becomes responsible for his personnel, in every sense of the word. If that does not happen, in my view the system as outlined as provided for in this Bill, simply cannot work. I understand there is considerable resistance at the senior level of the civil service to this concept of decentralisation of personnel. I also understand that if this Bill had to be held up to wait consensus on that issue, we who are here today may well have demitted office before any such consensus had been achieved. I believe that if this concept is to have any chance at all . . . maybe it is a question of the chicken and the egg and which came first.

Maybe (and this is what I am hoping) the implementation of this particular reporting and accountability structure and the clear lines of reporting and clarification of the various roles will have the effect of causing a decentralisation of personnel. This is designed to come into place over some four or five years to give the public service the chance to come to grips with what is for the public service a novel concept and to allow the Permanent Secretaries to become responsible, to develop authority to deal with the personnel who work in their ministry. Therefore, that system including the revision of General Orders and the creation of some other code of practice for civil servants, will have a combined effect on senior civil servants. They will have to execute these performance agreements; and the necessary authority and ability to ensure that those who work within their respective ministries are committed to the same process, are committed to achieving the performance goals outlined in the various performance agreements; which the Permanent Secretaries will have signed with Executive Council.

We have to accept as a country that we have to move from concepts that are comfortable and familiar, and under which we have operated for so long that we are scared to let go, if this country is to survive. There are real—not imagined — concerns about the growth of the civil service and about the country's ability to continue to fund it.

Many of us looking from the outside, and some who sit on the inside are of the view that the continued growth of the civil service is the result of the lack of accountability, responsibility, and clarity in the various roles of those who perform the various functions government has to play. When this Bill becomes Law and when ultimately all of its sections come to be implemented, I believe that it should have the effect of significantly shrinking the size of the civil service. The

biggest problem I have at this stage is that I do not believe that given the situation we currently face, we can wait to see that happen as a result of this Bill. That is an aside.

The way this Bill is structured, Executive Council will buy from the Permanent Secretary a certain output or outcome. The price of that output or outcome will have to be approved by the Legislative Assembly of this country. The Legislative Assembly then has the ability to value what it is getting, how much is this particular outcome worth. Once that is agreed, we are away from the current situation of the Governor in his infinite wisdom, or the Chief Secretary, in his, deciding how many more civil servants they are going to hire during the course of a particular year because the Budget would have been agreed.

At the level of the Legislative Assembly, we are less concerned with how many individuals they are hiring. If they wish to take the money that has been approved and hire more people than they need, they are going to run into a major problem with the performance agreement they have signed because they would have used monies that should have been allocated to purposes other than to pay salaries of individuals that particular ministry could do without.

We had a grave revelation just yesterday that this Legislative Assembly passed a motion that payment of Contracted Officers Supplement (COS) in relation to new contracts should cease as of 11 May this year. We now know that notwithstanding that Motion of Finance Committee adopted by this Honourable House, His Excellency the Governor has renewed 40 contracts which attract COS, and has hired 48 new civil servants with contracts that also attract COS. That brings into real question the constitutional role this Honourable House has to play in the affairs of Government and in the administration of the finances of this country.

I raise that in the context of this debate because Section 77 of the proposed Bill, provides that, "**Nothing in this Law shall affect the constitutional functions or independence of the Governor, his office or support staff.**" If we agree to this Bill in its current form, we are recognising the constitutional function and independence of His Excellency the Governor.

The Constitution itself assigns to us certain constitutional functions. One of the most important constitutional functions we serve is that we—and only we—who have been elected by the people of this country are entitled to raise taxes on the people of this country, or are entitled to approve the expenditure of the public purse. This is also referred to in the Bill before the House because it says that "**Except as provided in sections 12 and 13 - (a) no executive expenses may be incurred; (b) no executive assets may be acquired or created, or loan made, by the Government; (c) no equity investment may be made; and (d) no borrowing may be undertaken by the Government, unless authorised by an appropriation.**" Neither Section 12 nor 13 confer upon the Gov-

error any ability to expend the finances of this country.

If this Bill, which is to become Law, is to have any chance of success all of those who play roles pursuant to the Constitution and the provisions of this Law have to accept their particular role. We are prepared to pass into Law, legislation that makes plain that nothing in this Law and therefore nothing done by this Legislative Assembly will affect the constitutional functions or independence of the Governor. In the same way, it is absolutely critical to this country, to the workings of government, that even His Excellency the Governor, must understand that he is not to interfere with the constitutional functions or independence of the Finance Committee of this Honourable House and the Legislative Assembly of the Cayman Islands. We have distinct roles to play and we all must play by those roles, otherwise we wind up in a constitutional crisis with a country that derogates from the rule of Law.

I close my submission on this important Bill by again stressing as we march onward into the 21<sup>st</sup> Century it is very important for us to be progressive in outlook. To adopt principles and legislation which accord with the times we are in which reflect the sophistication of the environment we all operate. That will also reflect our willingness to embrace the new progressive and the type of legislative framework which is critical to our continued success.

One of the fundamental and indeed universal rules of nature is evolution or extinction. The Minister of Education spoke of a block of dinosaurs that still stand resolutely and firmly in the way of progress. The dinosaurs were creatures that failed to evolve. We have much progressive legislation that needs to come to this Honourable House. We have laboured for years and years as a country, impeded by individuals who believe that this country should forever remain stranded on the shoals of anachronism. They refuse to be part of or to promote a system which calls for accountability; that calls for responsibility; that calls for transparency; which keeps them from operating in the dark by hiding the truth. It is that attitude, approach and outlook that has brought us to where we are now.

Those of us who are here now, who have been entrusted with the responsibility that we wrested from those individuals, have a duty to ensure that during our tenure we do what is necessary to bring fiscal reform and fiscal management and accountability to the affairs of government. We have a duty to ensure that the human rights of every individual who lives, works or visits these Islands is protected and enshrined in our Constitution. We have a duty to ensure that these Islands never again face the national embarrassment we did recently at the Human Rights Symposium. To be shown up time and time again as one of the few countries in the modern civilised world that does not have a Bill of Rights.

We have a duty to talk to our people, to explain to our people the difficulties that we labour under as a

country because of the constitutional framework in which we operate. We have a duty to make it plain to them that the system and the constitutional framework under which this country currently operates simply does not work anymore. As a country we have grown, and as a jurisdiction we have grown out of those constitutional clothes. It seems that we are impeded at every exercise we go through these days, our efforts are impinged upon because of the constraints of that constitutional framework. I sought to demonstrate how those constitutional constraints will affect the operation of the Bill currently before the House.

Mr. Speaker, I may well be here for just this one term. However, while I am here I shall continue to articulate the position that this country cannot remain vetted to concepts that have outlived their utility. We must embrace the new. We must embrace and develop and implement the necessary progressive legislative framework to enable this country to function, to progress and to move confidently into this 21<sup>st</sup> century.

Thank you.

**The Speaker:** We shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.25 PM

#### PROCEEDINGS RESUMED AT 3.50 PM

**The Speaker:** Please be seated.

Continuation of the Second Reading debate on the Public Management and Finance Bill 2001. Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you.

I rise to make a short contribution to the Bill currently before the House, a Bill for a Law to Repeal and Replace The Public Finance and Audit Law (1997 Revision).

Niccolò Machiavelli, in his book *The Prince* said **“There is nothing more difficult to take in hand, more perilous to conduct or more uncertain in its success, than to take the lead in the introduction of a new order of things, for the reformer has enemies in all those who profit from the old order and only lukewarm defenders in those who might profit from the new.”**

We hear about the dinosaurs and icebergs that have resisted change in this country. We hear the Third Official Member speak about the current cash financial system we operate under, (over 100 years old) which is focused on controlling behaviour and availability of cash.

We talk about the 21<sup>st</sup> Century and we want to be known as some of the pioneers of the 21<sup>st</sup> Century. If that is so, then it is time we moved towards the 21<sup>st</sup> Century and leave the old behind. Unfortunately,

some of those who are enemies of the new will be left behind also.

This country has operated, politically in particular, with people fooling the populace or electors in this country, that they were fiscally responsible. I recall in the 1996 election they talked about the "recurrent profit." Now, I do not know where that came from because the little cash that came in they were spending.

The old way gave rise to many people—many politicians—trying to fool the people of this country in order to be returned to this Honourable House. Well, if this Bill is passed, those old politicians who were here will no longer be able to survive in this environment. The Bill makes provision for changing the fiscal year from January to December, to July to June. Those who would fool the people of this country can no longer do that. We usually have elections in November.

The people of the country will know exactly what the position of the country was in June. That in itself will bring efficiency and effectiveness to the people who operate and run this country. The Ministers who will come out and ask for another term to run this country will have to be efficient in order to be re-elected.

We constantly go back each election and blame the previous Government for the financial woes the country was left with. That is over! Everyone will know exactly what they are getting into because in June we will know the condition of the country. Unless, of course, those Ministers go on a spending spree as done in 2000; because that was done in some six weeks and there are five months between June and November! I doubt that will happen because the Bill also makes provisions for offences if there is mismanagement of funds. I will just say what the Second Elected Member for Bodden Town said, "That is very good, Mr. Speaker!"

It is time that whoever mismanages the public funds be punished. Anyone can manage; however, once you knowingly mismanage, then you must pay the price. That price must be high. The punishment must be equal to the offence.

The accrual system of management of accounting is something that most of us are used to because we came from the private sector. I know that there are career civil servants who are a little bit scared of it. My advice to them is that it will make their job easier. It will make you more accountable, but it will also give you more responsibility.

Civil servants for many years have complained of not having the authority to do certain things. Well, this new Bill gives them that authority. The one thing that I see missing with that authority and responsibility is performance incentives, which I am hopeful will be looked at by the Third Official Member and Government.

I have always believed in performance appraisals, performance agreements. The new Bill also brings performance appraisals and performance

agreements into the forefront. This Bill gives what is called "Chief Officers" responsibility and authority. The responsibility has to be accompanied with the authority to control employees working for that individual. If the Chief Officer is required to perform, he must have the authority to also discipline his subordinates. I trust that everybody understands that we can no longer go to the Public Service Commission to get discipline if you are expecting the Chief Officer to perform his fiscal responsibilities. If we are asking the Chief Officer to perform and be accountable, then he must have some authority to have control over the people from whom he is expected to get that performance.

I know the civil service is filled with middle management intellectuals. There are lots of them. They are ready, willing and the majority of them support this kind of accountability. I do not believe that the Chief Officers will have a lot of problems with these new modernised minds within the middle management. I trust the Chief Officers will accept this and not be bogged down with their own refusal.

I trust that resistance to this change will not come from the high echelon of the public service. Certainly, it is something new and there may be some resistance from the lower echelon. The majority of human beings are afraid of change. Those who are not willing to change have lost the central piece of the jigsaw puzzle. They will eventually lose because the process of evolution is going to remove them from their positions.

Change is good, as long as it is embraced, as long as we recognise that some people embrace change much quicker than others do. Many people are slow to embrace change because they cannot see the benefit of it. I would direct them to a book I read some time ago entitled, *Who Moved My Cheese?* Maybe the Third Official Member would invest some money in buying that book and circulating it throughout the civil service, because with this Bill becoming Law, their lives are going to change. I am certain the Bill will get passage since the Second Elected Member for Cayman Brac and Little Cayman got up and supported it!

One of the areas I specifically like in this Bill is for the quarterly reporting section to be published. I think it calls for eight weeks after the end of each of the first three quarters. I view that as a bit long. If this system is operated properly, within days following the quarter, you should be able to have an accurate report on the position of your budget. In eight weeks you will be looking at the end of your next quarter. That is long. Maybe that can be reduced to two weeks.

In the private sector, where I came from, within one week following the end of the month your financial department is required to produce accounts of each department's budget. I trust that that is not to hamper the process.

This Bill also brings the opportunity . . . and I did not know that Government does not have a fixed asset register. I am a little bit amazed that as many as-

sets as government have . . . but as you know, Mr. Speaker, I should not be amazed. I recently had a glimpse of the communication report about radios and the like and it appears that not a lot is known about who has what. This Bill will require Government to have a fixed asset register, something familiar to the world.

I am sure that every company in the private sector has a fixed asset register where they know the value of the chairs, how many chairs they have, how many pictures on the walls, the value of those pictures. It is properly represented on their assets and depreciated on an annual basis and you know the exact book value of the company, be it in your assets, your cash—and Government does not.

It would be interesting to see whether or not government's assets outshine its value. That is serious. I am sure no one can even give a count as to how many chairs are in the Legislative Assembly. Therefore, we just buy and we buy and we do not know the value of it, except when we buy it, and then there is no—

**The Speaker:** I think what you are saying is your opinion. Inventory is controlled by the head of the department. Please continue, but you are stating your own opinion, not a factual situation.

**Mr. V. Arden McLean:** Well, Mr. Speaker, it may very well be my opinion, however, in the absence of a fixed asset register no one can tell me they know the value of anything.

It is impossible to know the value of a piece of equipment if you do not have a fixed asset register. That is a fact. That one is not an opinion.

**The Speaker:** I beg you not to challenge my ruling. I made a statement and I am sticking by it.

**Mr. V. Arden McLean:** I was not challenging your ruling, Sir. I was saying that once—

**The Speaker:** Please move on to another subject.

**Mr. V. Arden McLean:** Mr. Speaker, an asset register can be a valuable tool for any company to ascertain the value possessed by the company. I welcome that because this Bill will require each ministry, division, and department, to put that in place.

I think with the experiences of the Government in this area of accrual accounting, the country is poised to move forward in a new direction. This is the beginning of that direction, the introduction of this Bill.

This can be attributed to many before my time, such as the now Leader of Government Business and the Minister of Education and the Second Elected Member for Bodden Town. They were the architects of this movement bringing a whole new era in this country.

One of the things that I would like to briefly touch on is Section 77 of the Bill talking about the independence of the Governor. I understand—

**The Speaker:** I have to caution you in accordance with Standing Order 41—repetition of yourself or other Members. I think this issue has been thoroughly dealt with, so be careful. If you would like me to read that to you, I will.

Standing Order 41 says, “**41. (1) The Presiding Officer, after having called the attention of the House, or of a Committee, to the conduct of a Member who persists in irrelevance or tedious repetition, either of his own arguments or of the arguments used by the other Members, may [and I emphasise “may”] direct the Member to discontinue his speech and to resume his seat.**” I did not do that. Please continue.

**Mr. V. Arden McLean:** I really do not know how I will debate the Bill if I cannot speak on what had been said by other Members. I will try to put it into my own words, where I hope it is not repeating anything other Members have said. However, I respect your ruling.

**The Speaker:** Thank you. Please continue.

**Mr. V. Arden McLean:** Under the independence of the Governor, Clause 77 protects the independence of the Governor and ensures that he is not subject to the budgetary and accountability provisions of the Bill. While I understand that, I believe that the actual office of the Governor will be reported as it is now under Internal and External Affairs. There is very little change in that.

I think we witnessed recently how there is certainly some misalignment of power and authority. The country elects 15 members of their own to be responsible for the financials and then once the monies are voted by those 15 Members of Parliament in Finance Committee, the civil service may very well, under the direction of the Governor, spend monies or make decisions outside what was approved in Finance Committee. Once that it is done, it is then sent back to Finance Committee for approval and rubberstamping.

I hope this Bill will change that. We just witnessed where we approved 12 positions in government contracting COS and we learned yesterday that 48 were thus far hired. That says to me that the civil service can very well do as it pleases—after something different has been approved by the people's representatives.

Under the accrual system, approval will have to be sought first, prior to that being done, except in the area of emergencies like hurricane, refugees, the burning down of Northward Prison or something of that nature. There has to be some control put on all of the different entities. While there is separation of powers, we cannot just run wherever we want to and do whatever we want to do because at the end of the day



it is the 15 duly Elected Members of this House that must give account to the general public as to how their money was spent.

I have never seen any civil servant or any Governor on a soapbox from June to November in any election year. Nevertheless, that arm has the authority to spend over and beyond what is approved in Finance Committee. The Finance Committee is then asked to rubberstamp it. By Law, this Bill puts some control on that. There are smart people who may very well know how to circumvent this Bill, however it is going to be a little harder than the current Finance and Audit Law.

Given Cayman's unique political structure, this Bill has had to be written to suit our own needs. It cannot be adopted from another jurisdiction where it worked. Certainly, due to the uniqueness of our political structure it is so difficult to write such a Bill, given the lack of authority given to the Ministers. They do not have administrative responsibility; therefore, they have to write an agreement between Executive Council, the Ministers and the ministries. That begs for constitutional reform.

If the country is expecting the people they elect to run the country, then the people who are elected into Executive Council need to have the administrative authority if they are going to get the blame. If they have to justify the expenditure of this country, they should have more control over it. There should not have to be a performance agreement between the Ministers and the ministries. The performance agreement should be the one they have with the public that is judged every four years. If your performance is not up to scratch, then you know what happens.

We need to have some kind of reform, some kind of constitutional amendment to rectify that situation. I suspect that we will have to amend this Bill to bring it back in line with that. Administrative responsibilities should then fall to the Ministers. When we get the separation of powers, as they currently are with the politician approving the budget and then the civil service under the leadership of the Governor changing the budget to whatever way they feel necessary . . . they need to change that!

#### **MOMENT OF INTERRUPTION—4.30 PM**

**The Speaker:** We have reached the hour of interruption. Will you finish within five minutes?

**Mr. V. Arden McLean:** Yes, Sir.

**The Speaker:** You may continue if you will finish within five minutes. I am giving you the choice of adjourning or finishing your speech. It is your choice.

I will entertain a motion for the adjournment.

## **ADJOURNMENT**

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 24 September 10 am Monday.

**The Speaker:** The question is that this Honourable House do now adjourn until 24 September 10 am Monday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.31 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 24 SEPTEMBER 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**24 SEPTEMBER 2001**  
**10.26 AM**  
*Ninth Sitting*

**The Speaker:** Good morning. I will invite the Honourable Minister responsible for the Ministry of Health and Information Technology to say prayers.

**PRAYERS**

**Hon. Linford A. Pierson:** Let us pray:

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

*Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's prayer together:

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

**Proceedings resumed at 10.29 am**

**The Speaker:** Please be seated.  
 Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First and Second Official Members and the Honourable Minister responsible for

Community Development, Women's Affairs, Youth and Sports who are off the Island.

Questions to Honourable Ministers and Members. Question 122 stands in the name of the Second Elected Member for Bodden Town.

**QUESTIONS TO HONOURABLE  
 MINISTERS AND MEMBERS**

**QUESTION NO. 122**

**No. 122: Mr. A. Gilbert McLean** asked the Honourable Third Official Member responsible for Finance and Economic Development if there is an accounting system in place in Government which accounts for money received as a result of Government-to-Government cooperation in money laundering and drug confiscation cases and, if so, how does it work.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Monies received as a result of Government-to-Government co-operation are credited to a Deposit Account in the Government's Treasury Department. The proceeds are paid into the Government's current Account at Barclays Bank.

Clause 8 of the Asset Sharing Agreement provides that "**Each party will dispose of shared assets or proceeds in accordance with its own internal Laws, but will give special consideration to allocating the shared assets for use for Law enforcement purposes, including drug prevention and rehabilitation**".

Expenditures that satisfy the above purposes are matched by an equal transfer from the Deposit Account maintained in the Treasury Department into General Revenue.

**SUPPLEMENTARIES**

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Member say if consideration is given to shared assets for the use of Law enforcement including drug prevention and rehabilitation in practice as set out in his answer?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Yes.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can he expand further on the statement where it says, "Expenditures that satisfy the above purposes are matched by an equal transfer from the Deposit Account maintained in the Treasury Department into General Revenue"?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Under normal circumstances it would be easier for expenditure to be charged directly to a deposit account. Under the Public Finance and Audit Law and Financial and Stores Regulations that is not permitted. Therefore, if an expenditure is to take place and it meets the criteria as set out in Clause 8 and the expenditure comes up to say, \$4,000, rather than debiting the deposit account directly; it is normally charged as an expenditure item. An equal amount is transferred out of the deposit account on the revenue side in order to create an offset.

Members will recall that where such items are not included in the Budget, it is normally brought to Finance Committee for approval since the expenditure will have to be run through Finance Committee.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The answer referred to Government to Government cooperation in money laundering and drug confiscation cases. Can the Member say which foreign Governments are involved in this arrangement with the Cayman Islands?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Mainly the United States of America.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Do I understand the Member to say it is only the United States of America?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** That is the only country with which we have a formal agreement in place.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The answer refers to proceeds being paid into government's current ac-

count at Barclays Bank. Can the Member say how much has been paid into this account over the last year?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Over the last year or since the inception?

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I did say over the last year, however, if the Member is able to say from inception that would be a welcomed answer.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Since the inception in 1992, the sum paid into this account is \$4,602,666.30.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member say what the current balance of that account is and what have the proceeds been used for since the inception of the account?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The current balance is \$2,952,498.82. I can provide the other information during the break.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can the Member say if there has been any representation from the police or whatever other agencies we have? Do we have a three or four person committee that monitors this and decides the best way to utilise this money as far as Law enforcement and security goes, particularly in light of the times?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Each request is dealt with through a submission to Executive Council. It is carefully examined to ensure that the requests accord with the terms under which the funds should be disbursed. This would therefore mean that the request would be examined by all Members of Executive Council.

In terms of the departments to which disbursements have been made, we have had requests from

the judicial department, the police, national drug council and legal department.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member say whether any of the proceeds of this account have been used for the prosecution of money laundering cases, and if so, how much?

**The Speaker:** I think we are getting somewhat outside of the substantive question, however if you wish to answer you may, Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The response is yes, funds have been allocated from this account for the prosecution of anti-money laundering offences. There is a provision in the Budget for the year 2001 at the request of the Attorney General and this will be a charge against this account. The amount is \$600,000.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Member tell us who negotiates on behalf of Government during the Government-to-Government cooperation? What formula is used to ensure we are collecting the correct amount due to us and who is responsible for ensuring that we are collecting that amount or keeping track of monies owed to us from some of those ongoing transactions?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** According to the acting Attorney General, the amount normally paid over is in the range of 10 percent of the value of the proceeds. He further points out that whenever cases are underway for assistance, the need for sharing with the Cayman Islands is normally flagged during the course of the case being heard. After expenses have been covered, in relationship to the case, whatever the remaining balance of the funds, the Cayman Islands normally get 10 percent.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Are we saying that from the inception we had some \$4 million, so the proceeds would be some \$40 million so far?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The calculation by the Member is I think on target.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I am wondering if the Member can tell us if this is the only means of asset sharing the government is into with the US?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As I said earlier, the only formal arrangement we have evolved from the Mutual Legal Assistance Treaty. There was a question answered earlier that established the element of sharing that takes place through police cooperation. However, I am not in a position to give the specifics of that. That is an area I would have to go into in order to set out a clear response.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Does this indicate that the value of our assistance to whatever the transaction may be is only 10 percent? Is there anyway we can re-negotiate? What happens to the other 90 percent? Does it go to the other country or countries?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Yes, that is the current arrangement whereby normally a minimum amount approximates 10 percent. I have been made to understand by the Temporary Attorney General that the remaining 90 percent does not necessarily go to the US Government's coffers; it is normally applied in the area of restitution in cases of fraud and other expenses.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** The Member previously said there were other arrangements between police forces and he did not have much detail. Can he say where that money goes to?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As the Member will recall, in response to a parliamentary question it was pointed out that there is a special deposit account set up under the control of the Commissioner of Police and that is allowed to hold funds to the value of \$20,000. Sums over and above that go to the Treasury Department. It was also pointed out that monies received were also held by the Drugs Task Force. The details of how those funds are dealt with were gone into extensively.

It was also pointed out that the arrangements in place whereby those funds were held separate from

the special account under the Commissioner of Police would cease, as of the date of that Parliamentary question being answered. All funds received as of that date and subsequently, would be paid through the special deposit account maintained by the Commissioner of Police. That means the sums in excess of \$20,000 would be paid into the Treasury Department.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Does the Auditor General audit this account annually or regularly? Is he satisfied with all transactions, and does it show up anywhere in the budget?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** This deposit balance maintained by the Treasury and all accounts maintained in government fall under the purview of the Auditor General. He would have access to the account. I cannot say to what extent he goes into detail in terms of the disbursements or the specific transactions, however, I would want to believe this is being done by his audit office.

It is reasonable to assume that the activities of this account would have been scrutinised by the Auditor General during the course of his normal audit.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** The Member was asked if it was possible to re-negotiate the percentage the Cayman Islands receives for cooperation in these areas, is this possible? Even taking into account that some of the money goes to restitution, certainly some of it goes to the Federal Government of the US and we are talking about drug cases. If they bust a drug dealer with \$400 million, then it is to be assumed that it is illegal money and there should be no restitution.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Since the responsibility falls under the Mutual Legal Assistance Treaty and related arrangements for asset sharing, I will undertake to bring this matter to the attention of Executive Council if it is the wish that this House that a message be passed on to the effect that this allocation should be looked at.

However, I should point out that given the level of scrutiny now paid to accounts being established in the Cayman Islands, it is likely that we will see less of questionable funds coming to jurisdictions such as

the Cayman Islands. That is because it is well established that it is much easier to establish accounts in many of the onshore jurisdictions who under normal circumstances would seem to be paying less scrutiny to the details of the accounts.

**The Speaker:** The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** Can I ask the Member to do as he indicated and follow through on that? I agree with him since only today there was an announcement on US television that the President of the US is freezing, I think 27 accounts of people with terrorist links. So, it seems that more bad money is there than in the Cayman Islands. I assume these accounts must be in the US if he can freeze them.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Yes, I will undertake to do so.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** Can the Member tell us exactly how long this inception is? I know my perception was that we were talking about a lot more money than \$4 million if this has only started lately. However, if we go back to recalling some of the big money laundering cases that were here, like the BCCI (Bank of Credit and Commerce International) one that was well documented in the papers, so much so that one of our local liquidators was one of the highest paid during that time in the world, we would expect that the monies received by Government would have been much more.

Then, when we look at the drug confiscation cases that we have assisted in the relatively recent past, it would be interesting to see how far back these agreements have been in place.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The Mutual Legal Assistance Treaty was passed in this Legislative Assembly in 1986. However, that was not ratified by the US Government until 1989/1990. The details I have in front of me suggest that the asset sharing arrangements took life in 1992. What should be borne in mind is that the BCCI case did not result, as far as I am aware, with any funds being paid to the Government. I think that under the terms of the arrangements the liquidators were appointed to amass whatever funds were to be made available for distribution to creditors of that bank. Therefore, monies would

have gone directly to persons who had a claim against the assets of BCCI.

One factor that should also be mentioned is that although a lot of attention is normally given to quite a lot of these money laundering cases, we find that the bulk of the funds in question are held elsewhere. For example, the recent case with the Bank of New York, where about \$6 billion was reported to have been laundered through that Bank, it is to be recognised that the bulk of those funds were found to be within the onshore jurisdictions.

There was one account found here in the Cayman Islands with \$3 million and there were no indications to suggest that the amount of money in that account was as a result of any questionable activities.

There was one case reported recently dealing with the Montacino affair and where the Government of the Cayman Islands is being called upon to provide assistance. However, that case is ongoing, and I do not think any decision has been taken. In fact, it has not been adjudicated as yet.

**The Speaker:** Are there any further supplementaries? If not, that concludes Question Time for today.

Moving on to Government Business, Second Readings, continuation of debate on The Public Management and Finance Bill, 2001.

The Elected Member for East End continuing.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE PUBLIC MANAGEMENT AND FINANCE BILL, 2001

*(Continuation of debate thereon)*

**Mr. V. Arden McLean:** When we adjourned on Friday, I had just a couple of more areas to touch on in relation to The Public Management and Finance Bill, 2001.

One of those areas is that of the provision made for proper accounting of non-government entities that get money from government. I believe it is only fair that non-government entities, NGOs (non-government organisations), give account as to how that money is spent, upon receiving a request from the Financial Secretary. I think that is under Clause 55, to which there is an amendment. Too often, we hear that Government is giving too much away and no one gives account for it. I believe the public demands of the politicians, in particular Executive Council, that they give account for the monies that the public have to pay into the coffers of this country through taxation. It is only fair that organizations, registered or not, receiving

money out of those coffers be accountable to the people also, through the Financial Secretary.

The other area relates to the Auditor General. Provisions are being made in this Bill for the Auditor General's Reports to be delivered to the Clerk of the Legislative Assembly for presentation to the Legislative Assembly after which it shall be a public document.

Recently the Public Accounts Committee (of which I am a member) got into a bit of trouble with that when we wanted to deliberate in public. A ruling was made that the document was not a public document as yet. I support the Auditor General's Report being presented to the Legislative Assembly through the Clerk, which will then go on through the Speaker, in order to become public so that the investigation by Public Accounts Committee can also be made public and copies of that Report made available to the general public prior to the Public Accounts Committee doing its review and Government making its reply. I believe that is the only way to go in the interest of transparency.

Once the Auditor General has made his final Report, there is no reason why it cannot be made public. Currently, the Public Accounts Committee Report and the Auditor General's Report are made public at the same time. Therefore, I rush to support that provision in the Bill.

On the issue of transparency, provision is made in the reporting of planning and actual performance on a regular basis. That is timely. It is on a quarterly basis. The only transparency in the past has been the Public Accounts Committee Report each year. Under the accrual system, reporting will be done to the Legislative Assembly on a quarterly basis. That is encouraging and I welcome it.

Before closing, let me thank the many people who worked and put many hours in to get this Bill to this House. I thank Mr. Dale, who came all the way from New Zealand to assist us with this Bill. I would also like to thank Mr. Gough and his staff. I certainly thank the drafts-women who had to draft this Bill and get it put together for this Honourable House. However, I draw to the attention to the drafts people, or Mr. Dale or the Third Official Member that in the committee stage amendment (no. 2) being proposed in Clause 63(1) (d) where they are proposing to delete "...any member of Executive Council..." I also believe they should include the word "or" (the word after "council") into that deletion. I guess at committee stage we can include deleting "or" also.

I would also like to congratulate the Government. At least three championed the accrual system while on the Back Bench. Now they are fulfilling their promises made when they were Back Benchers.

I support the Bill. I ask all Members of this House to look at it objectively and to think about the future of this country and their responsibilities and the promises of transparency we all made to our constituents. This

is another step towards total transparency, particularly the financial side of it. I wish this Bill safe passage.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** It gives me great pleasure to add a short contribution to the debate on this very important Bill, The Public Management and Finance Bill, 2001. Anyone who may have followed my team's campaign during the last election (The Better Balance Team) should not have any question as to whether we support the initiatives being attempted in this Bill. In fact, I think it is fair comment to say that most Members campaigned on accountability and transparency and open government.

I think this Bill, even in its infant stages, is taking bold new steps in accountability. I just want to say that since we debated a lot of the initiatives contained in this Bill during our campaign, I am going to be referring to our manifesto, as quite a bit of it is relevant to this Bill.

Not only did we discuss these as being pertinent issues to the country, we actually made a written commitment in our manifesto in a section called "Government Fiscal Responsibility, Management and Accountability." We also referred to it in a section under "Legislative Affairs and Sound Democratic Practice."

I think we are all familiar with the campaign fiasco that occurred just prior to the last election. Some 11 months after the election there are still discussions going on as to the reasons behind the current economic state of the country and who is responsible for getting it there.

Prior to the election, the Government of the day claimed the country was in a fairly healthy economic position. We have heard of all the capital works that were carried out just before the election, and the debts found after the election. There is still an ongoing battle as to who is responsible for that. Everyone blames the previous government and no one is exactly sure where the responsibility lies.

I am happy to see that after this Bill is passed into Law, the Caymanian public will know who is responsible. Clause 26 of this Bill states, "**26. (1) Subject to subsection (4), not more than forty-two days, nor less than twenty-eight days before the day specified in a writ issued by the Governor under the Elections Law (2000 Revision) as the date for a general election, the Financial Secretary shall gazette a pre-election economic and financial update.**"

That update will include: "**(2) A pre-election economic and financial update shall include- (a) economic forecasts for the current financial year and for the next two financial years.**" and there are several others. However, just to make the point that if we have a clear financial picture less than 28 days before the date specified, the country should no longer have to question the economic state of af-

fairs for the country. Any new government coming in should not have to then lay any unfounded blame on previous administrations. Hopefully, the general populous who does not have access to all that information should no longer be left in the dark. That is a long way towards the transparency to which we all are aiming.

I will now move to page 12 in our manifesto. We stated that the Cayman Islands must remain vigilant and stand ready to defend itself in the face of the explosion of the global finance markets Cayman has found itself in. We also mentioned that one of the concerns we had was the situation with the Auditor General.

We said, "**We should be working to strengthen the office of the Auditor General.**" We agreed to this prior to the November 2000 election.

Since then, I have had the privilege to sit as a member of the Public Accounts Committee working quite closely with the Auditor General. I have become even more aware of some of the difficulties he has in carrying out that very important and difficult job. I am even more committed to the need for strengthening his powers and his office.

I would like to go into some of the difficulties he has; but I know that the Second Elected Member for West Bay, who is the chairman of that committee, will be shortly tabling our first report, so I will await that report.

I am also happy to see that not only are the Auditor General's powers being strengthened, there is also a clear definition that empowers the audit office as well. I think this Bill is moving us along in the right direction.

We campaigned on this: "**The Cayman Islands will need leaders of vision, integrity, and ability to keep the watch and ensure that our financial future is secure. This vision and integrity must be manifested in how we conduct our financial affairs, how we manage our agencies and departments of government—in short, how we govern the resources, both material and human, that we have been blessed with. The new Cayman Islands Government must be unlike any we have had in the past. It must be a proactive government, one that practices fiscal responsibility and management accountability and it must understand what this truly means. Only then will we be assured that our island home will increase in its capacity for growth and prosperity that will be sustainable for our children and their children.**" I am reading verbatim out of our manifesto.

Our plans of future government accountability and fiscal responsibility to be effective, stated, "**Team Better Balance believes the following must occur.**" I will just pick out some of those points that I think are relevant to this Bill and are being accomplished by this Bill.

**"To ensure a proper approach to government spending and developmental projects to ensure**

**good value for money spent by the government whilst helping to enhance the country's growth."**

**"Government's reputation for inefficiency, mismanagement and budget deficits must be eliminated."**

**"Government managers, i.e., senior civil servants, to be held accountable for budget cost overruns and workplace performance standards."**

**"Multi-year revenue collection and spending plans where independent oversight committees monitor the implementation and effectiveness of such plans."**

**"Establishment of effective spending controls."**

**"Adoption of strategic planning with an emphasis on budget programmes aimed at reducing the seemingly out of control national debt and linking budgeting to actual performance."**

**"Encouraging government employees to explore best management practices by establishing a reward system for individuals and departments that improve efficiency while reducing costs. Also, hold individuals accountable for poor performance."**

**"Establishment of performance based contracts for all Executive Council Members, government department agency heads, along with quarterly evaluations based on these contracts."**

**"Completion of implementation of accrual accounting system which states the true cost of operating government departments and agencies."**

**"All government departments and agencies to adopt an accountability system to measure performance outcomes and to detect deviation from procedure."**

**"Encourage government department agencies where possible to operate as private enterprise where profit and customer service is the ultimate reward and by streamlining bloated and inefficient departments."**

I read from our manifesto—

**The Speaker:** Would you be prepared to give a copy of your manifesto to the Clerk for the benefit of the *Hansard* Officer?

**Mr. Cline A. Glidden Jr.:** Yes, Sir. I have already given her one.

**Mr. Cline Glidden Jr.:** Although that was our manifesto, I must say it was a positive enlightenment to have in this new Bill so many similarities to what we committed as our policy document.

One thing I found interesting was the performance based contracts—something we all embrace because on 8 November we were all elected on a performance based contract, a four-year contract. If you do not perform, the penalty will be not being a representative after that. Therefore, I applaud the Bill. I look

forward to everyone, especially those responsible for government finance, having the same performance issues where people can actually hold them accountable.

One problem I have with performance based contracts (and I know there are constitutional limitations to those) is the perception that Ministers have ultimate authority. Even though they do not have performance based contracts, I tend to have gleaned from public perception that the Minister's performance is very much based on what public perception sees as ultimate authority and ultimate responsibility. That is very evident when we have issues that are unpopular; for instance, when members of the public service are removed. Usually the blame for that is given to the ministry. The general public is not too receptive to the idea that this person was fired or hired but the Minister did not have anything to do with that. Usually accusations are made as to the reasoning, whether or not it was a political decision. There is always speculation.

This Bill does lend some clarity as to the powers Ministers really do have and it gives the responsibility to the Chief Officer, or in our case the Permanent Secretary. It is a bit disconcerting to me that these officers will be required to sign a performance based contract but will not have authority for the most important aspect of allowing them to complete the requirements placed on them, and that is the human resource aspect. It is fine for us to say that the Chief Officer, the Permanent Secretary, is responsible for a ministry and has a performance output, the requirements and what he will be measured on. However, if he is not able to control the staffing requirements, or to even keep charge or motivate staff, or to punish or penalise them, it is going to be difficult for them to achieve the performance expected.

However, I realise that although this Bill is not the be all and end all to the problems in our management system of government, it is a step in the right direction. Hopefully, it will be an evolving Bill and we will see amendments as and when necessary, and will move forward as we are moving forward now.

There is no benefit in having policies in place when there is no penalty for deviation from those policies. For example, the Government's policy as laid out in the 2001 Budget, as read by the Honourable Third Official Member. We noticed some specific defined policies on new staffing for the civil service. For many years people have talked about the growth of the civil service and how we are in a dangerous situation. I think approximately 50 percent of recurrent revenue is now utilised by personal emoluments in the civil service. We all recognised that this cannot be sustained, and accepted the need to have to do something.

When it came time to make the politically unpopular decision of raising revenue through tax measures and other methods, we all supported that; based on the fact that the Government of the day recognised the need for changes in the growth of the civil service. The policy made evident that it was recognised as an



issue. I would just like to read from the **“Main 2001 Budget Policy Decisions.”**

**“These policies include: Curtailing all new services except for new staff at the Bodden Town, Savannah, George Town, John A. Cumber, and Red Bay Primary and Lighthouse schools and staff for the Family Protection Unit and the Financial Reporting Unit ... Removing the amounts for vacant posts from the 2001 Budget except where recruitment is already actively underway; Implementing a moratorium on the creation of new posts for the remainder of 2001 except for absolutely ‘essential services’ staff for new capital projects and new leased sites which come on stream in 2001 and where there are direct revenue or expenditure blocking offsets; ... Implementing a moratorium on recruitment for the remainder of 2001 except for absolutely ‘essential services’ or where there are direct revenue or expenditure blocking offsets.”**

This was listed as Government’s policy, but in an answer to a parliamentary question last week regarding posts attracting (Contracted Officer Supplement) COS; we were made to understand that there were 48 new employees for the year January to August that attract COS. History shows us that the number of employees attracting COS is a small percentage of the total number of employees. Since there has been so much discussion about COS I would assume that percentage would be getting even smaller. It was obvious that this House in Finance Committee did not support that. I would assume that if up until the end of August we had employed 48 people, it would mean we have quite a few hundred employees that do not attract COS. That would appear to be a deviation of the policy outlined in the government’s main policy address, that being the Budget Address of 2001.

Once again, it is fine to have policies, however, if we have no accountability to ensure those policies are maintained the policies really serve no purpose. It will be interesting to see who will take responsibility for that deviation. Will it be the elected Ministers of Government, the Honourable Financial Secretary, or the Chief Secretary, or maybe even the Governor? There have been no penalties for deviation of outlined policy in the past, so people are not too dissuaded to stick to policy. This Bill addresses that concern because there are stiff penalties outlined in this Bill.

I would expect that those penalties would now encourage responsible officers to stick within the policies and contracts agreed upon. If that is accomplished, I think we can all look forward to brighter days.

In closing, I just want to mention the fact that some Members see this Bill as going towards the separation of powers and a lot of reference has been made to what some may see as a crossover of those powers, during the Motion accepted by Finance Committee and the continued hiring of contracted officers or those attracting COS. I want to make it clear

that I do not see that as being a solution to that problem. The Bill goes on to state that, **“There is nothing in this Law shall affect the constitutional functions or independence of the Governor, his office or support staff.”** And, **“Nothing in this Law shall be construed so as to define the Governor as a ministry or portfolio or to require him to comply with any of the provisions of Parts III, IV or V.”**

It goes on to state that, **“The office of the Governor shall not be required to comply with sections 42, 43 and 44, but the outputs and ownership performance of the office of the Governor shall be included in the performance agreement and the quarterly and annual reports of the Portfolio of Internal and External Affairs prepared in accordance with those sections.”**

I do not think anyone should misconceive that this Bill will restrict the Governor from doing what is allowed to him under our present Constitution, and changing the policy in regard to civil servants in any way. The Governor is still responsible for civil servants, and this Bill does nothing to change that. So, for those Members who felt that this changed the present relationship, I do not see this as being the solution to that problem.

I want to close by saying that this Bill is not a solution to all of our problems, but I think it is a step in the right direction. I am happy to see that many of the issues pertinent to good governance, which we committed to in our manifesto, are being covered by this Bill. I am sure the other Members of my team will note that fact. I am also happy that this Bill goes a long way to the accountability, transparency and openness that we all campaigned on, which is necessary for good governance.

The country needs proactive leaders! Leaders with vision, who are not afraid to go into those uncharted waters into which this Bill may be taking us. We know there will be forthcoming amendments, I think we have seen two or three so far and I look forward to this being a dynamic ever-changing Bill that will continue to keep pace with what is required by a modern and moving country. I think it is important for us as Members and Ministers of Government to recognise the need for this type of leadership that will give people confidence in the Government. It may not necessarily be perfect, but as leaders we are required to go forward and not be so afraid to take chances because we are afraid of making mistakes. If we are too afraid to take chances, we are stifling our movement forward. I think we should continue moving forward, making the mistakes along the way, but being proactive enough to realise that mistakes will come and not be so afraid of those mistakes, that we do not take any chances. Thank you.

**The Speaker:** We shall suspend proceedings for 15 minutes.

**PROCEEDINGS SUSPENDED AT 11.43 AM**

**PROCEEDINGS RESUMED AT 12.07 PM**

**The Speaker:** Please be seated.

Continuation of debate on The Public Management and Finance Bill 2001. The Motion is open for debate.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you.

Mr. Speaker, I am minded of your ruling on Friday about tedious repetition. Needless to say, much has been said about this Bill. By default, my comments will be brief.

**The Speaker:** Thank you.

**Mr. Rolston M. Anglin:** I can say up front that I will be supporting this Bill. As my colleague, the Fourth Elected Member for West Bay said, we campaigned on much of the theory behind this Bill. It goes without saying that my support is there.

I would like to throw a word of caution to everyone, those in this Chamber, to the civil servants, and to the wider community. Whilst this Bill has a lot of merit, it has much of what I would consider the financial and management infrastructure needed for this country to progress. Let us remember that there is much work to be done.

None of us would downplay the massive amount of work that has to be done, however, none of us should forget that when we speak to the core of this Bill and we go from accounting to management, to behaviour, that we are talking about a monumental task that will require will and resolve; that will require staying the course.

Just to briefly point out and remind the community that we first have to change the basis on which the Government accounts. That is a big deal that will require a lot of work, a lot of training and retraining of persons. I hope that the information technology systems will support this move in a cost effective way. In other words, the Government of the Cayman Islands over the last five years has spent a lot of money. We have made a lot of changes. We have an ORACLE based system. Until the first Budget is complete and the first set of financial statements produced, no one will know the challenges that await us.

Second, there has to be a great change in the mindset of civil servants. We are now talking about performance agreements. There are those of us who believe that people should be on contracted terms, not simply seeing employment in the civil service as a lifetime appointment.

One thing I will say is that change creates opportunity. I believe that this Bill has a lot of opportunity, once we start making the changes. We have to develop a national asset register. This is another monumental task. We have to cost things like roads, the hospital, schools and this will not be done overnight. Again, all this work is for the greater good and

for putting Cayman where it needs to be in terms of accountability.

There will have to be changes in the way human resources within the civil service function. If we are going to ask people to sign performance agreements and if we are going to ask people to be truly accountable, we must say that they will have the opportunity to have an impact on the tools they will utilise to achieve the goals set down in their performance agreement. We cannot expect a person to sign a performance agreement and we (central government) simply give them the tools. They must be able to say when a tool is bad, when a tool has gone beyond its useful life and must be retired. I mean that not only in the sense of physical assets, but human assets as well, because human tools are what will drive this process. Physical tools and computer systems will be enablers, and the human tools will drive the process. We cannot expect that we will have this central way in which human resource decisions are made and expect to truly hold people accountable. It is unfair to expect to do that, in my humble opinion.

Another significant task is the costing of goods and services. Much has been said about outputs and was covered earlier by speakers. How are we going to hold people accountable? For example, we may say to the person who is going to be responsible for a school that we are going to hold him accountable and he develops all his costs, but there is a lot of information currently lacking. What is the true cost of garbage collection, for instance? I choose a service that it solely carried out by the Government of the Cayman Islands. We can compare that with any private sector company.

For some this will not be a major issue; for example the Auditor General, what will be the cost of his audits? Well, we have the big five accounting firms here, so we have information we can utilise. However, there are many services that the Government offer for which there is no comparable product in the private sector. In this whole change people are going to be managing cost and profit centres. The costing will be an integral part of the preparation of budgets and the development of their performance agreements. Without that we cannot complete this exercise.

There is much work to be done. We have to move from the cash basis accounting to accrual accounting. We have to have fundamental change in the civil service itself. There has to be costing of goods and services. There has to be fundamental change in the human resource structure and the hiring practices and protocols within the civil service. We have to develop a national register. It sounds simple, but the work to get there will be a task that will require all of us working together. I implore every civil servant in this country to embrace change because it will create opportunity. It will create opportunity for the civil servant, but more importantly, it will

create opportunity for this country as a whole. None of us are bigger than our community.

We are sent here to represent the people. All civil servants must recognise that they are 'civil servants.' They are there to serve the public. In our capacity, we are here to pass Laws that we feel will help the public of this country. This is a Bill that I personally feel will help the public. If this Bill is passed, they then have to pick up the torch and implement it.

Let us start off with the basis of accounting. In the explanatory document, the guide to this Bill, the fundamental point is this: you can look at any authoritative body in the accounting world, and you cannot find any that apply to the private sector for which the cash basis of accounting is an accepted basis of accounting. In the US the generally accepted accounting principles, cash accounting is not an accepted basis of accounting. In other words, if an entity uses cash basis accounting, no auditor can issue an unqualified opinion on those financial statements. The cash basis of accounting is not a US generally accepted accounting principle.

I can go from country to country because most major countries do have their set of generally accepted accounting principles. I do not know of any that allow the cash basis accounting. In fact, even within Internationally Accounting Standards (IAS) cash basis is not an accepted basis or standard of accounting.

Put quite simply, governments—including the Cayman Islands and many others—still use the cash basis of accounting because of the monumental task change would bring about. It is fundamentally difficult and that is why so many municipalities, towns and countries, for so long, have not made this change. If we are going to be struck by fear (as my colleague, the Fourth Elected Member for West Bay said) we will not do anything that will be of substance. As with everything, there comes some form of reaction. It is high time that we move towards the accrual basis of accounting.

Much has been said about the benefits we will derive once we make that change. Certainly, those points do not require any repeating. I think they are clear and were brought forward in a very concise manner. There were a couple of areas that have not been covered as yet, which I thought were of interest and value, and on which meaningful comment could be made. One is the concept of trust assets.

We have one classic example of trust assets and what can happen to trust assets when we think about the immigration security deposits. There has been much debate about transfers that were made out of that account and whether or not the Government actually has an accurate reflection of what it is they actually owe to employers who have posted those bonds. In Clause 71, the Bill in dealing with trust assets says in sub-section (1), **"The Financial Secretary may, for such periods and on such terms and conditions as he thinks fit, place trust assets con-**

**sisting of money on deposit or investment with any bank."**

I believe that this concept of trust assets and what powers we will give anyone, in this case the Financial Secretary, to have over the way in which these can be invested is one that we have to approach with much caution and care. When I read this Section, I interpreted it to be that in his capacity the Financial Secretary would be able to either place these funds on deposit or investment within a bank. Earlier on, I must add, the stage was set that those banks would be local banks. However, what the Bill actually speaks to in terms of "investment with any bank" is a phrase that I think could be interpreted in different ways. I believe that the spirit of this Bill is that these funds will simply be put in a bank account. I think that it would be more prudent for us to simply say that in Section 71(1).

When we speak to investment with a bank, we certainly would recognise that banks in Cayman have the financial and intellectual capability to come up with their own investment products, which are not deposits. I would not think that that would be the way in which trust assets would be desired to be invested.

When we go to the definitions, we see that the term utilised in this Bill is "generally accepted accounting practice." This definition and reference to that term seeks to illustrate and be precise in terms of what it is and what authoritative body will be utilised in terms of developing the accounting policy of the Government of the Cayman Islands. The primary point of reference is the Internationally Public Section Accounting Standards, issued by the International Federation of Accountants.

As a fallback, in (b) it is the International Standards issued by the International Accounting Standards Committee, and in (c) it says, **"(c) where no guidance is provided by the standards referred to in paragraphs (a) and (b), accounting practice that is generally accepted within the accounting profession in the United Kingdom..."** in other words the UK's (generally accepted practices) GAP.

Coming from the private sector I am not particularly well versed in the International Public Sector Accounting Standards. However, my research has told me that this is a movement that has been thrust forward by the International Accounting Standards Committee, being the first international accounting body to actually try to come up with an internationally acceptable set of public sector accounting standards.

The International Accounting Standards Committee is a well recognised body that has done much work towards trying to achieve the ultimate goal in the accounting world. That is to have a set of international accounting standards which a lot more countries will adopt in the future. In other words, countries like the US would adopt international accounting standards versus the US generally accepted accounting principles.

Most developed countries have their own set of accounting principles. A lot of countries, I think it is fair to say, had resistance in the first place when there was the thought process of internationally accepted accounting standards. However, the world changes. Finance changes. Technology changes and it has made this world a very small village in a lot of ways. Certainly, accounting is the tool utilised for the basis of investment.

I think it is fair comment to say that over the next decade, internationally accepted accounting standards will be an ongoing process, and will be a useful tool that will be used by many countries. I think we will find that to be so, simply because of technology, the way in which investment works and opportunities are known,— and not only in local territories. In other words, you will find opportunities in the far reaches of this earth, into which investors across the globe are becoming aware and want to put venture capital money. The key enabler will be accounting standards that persons will be able to give to their financial advisors and accountant. They will know what they are looking at and not have to worry about under what basis they were prepared and how the numbers can be interpreted. I believe this Bill is going in the right direction in terms of what standards of accounting practice will be used once we go to the accrual basis of accounting.

Schedule 4, sets out the annual financial statements that shall be included once this Bill comes into Law, and I think this is a comprehensive set of financial statements. I believe the information coming out of these will be most useful to everyone in this country, to us as Legislators, to the Government that has to make decisions and to the general public in terms of wanting to keep abreast of the finances of the country. I believe this is a comprehensive laundry list of accounting of financial statements.

I would call Members' attention to Schedule 5 "Ownership Performance Measures," in particular (2) which lists ratios. I would encourage the Government to revisit this list and come up with a more comprehensive list of more relevant ratios. The only two listed are current assets to current liabilities; and total assets to total liabilities. If persons who are not financial advisors or accountants or finance minded people are going to make meaningful use of the financial statements of the Government of the Cayman Islands, certainly a thorough ratio analysis would be a critical tool. I would think the Government should be minded to include in this list of things like the asset test ratio; debt service ratio; and other useful ratios that would allow us to be able to interpret better what it is the financial statements have contained in them.

Schedule 1 of this Bill "Economic Forecasts" is another critical area the Government will have to utilise in its decision-making process. Currently there are five items listed:

1. Gross domestic product.
2. Consumer prices.

3. Unemployment and employment.

4. Current account position of the balance of payments.

5. A statement of all significant assumptions underlying the above.

In a broad sense, this encapsulates the state of the local economy. I would encourage the Government to also be mindful of developing some other guides that may be a bit more useful in terms of being able to assess the condition of localising the local economy. I would believe that things like housing and housing starts in relation to the indigenous Caymanian population would be of relevance. That is just one example. There are other forecast indicators that Government may be minded to use.

I bring up housing in regard to local population because I believe that the average Caymanian not only wants a job, which point 3 speaks to, but I believe the average Caymanian wants a place of his own. That is certainly a useful indicator as to the strength of the local economy and would assist Government in its decision-making process. I note with interest the powers and duties of the Auditor General. This point has been raised by previous speakers. One thing that I would like to add is that under Section 59(c), at the request of the Legislative Assembly or of any of its committees or subcommittees, the Auditor General will have the power to conduct investigations.

However, when we go to Section 67(1) through (3), we see the notion of pricing that I spoke to earlier. Any of the audits or any other form of assistance given by the Auditor General on this Legislature's behalf, will have to be paid for. Going forward, we must recognise that when the budgeting process is being carried out, one of the key things will be sufficient funds being here so that if and when Members of this Legislative Assembly want to have investigations carried out, they will have the money to do so.

I can think of having major problems in this area if we had a government that wanted to limit what Back Bench Members or persons that were staunch Opposition Members sought to do. We must ensure that there are adequate funds to allow this body to be able to have its investigations carried out.

I support this Bill because it is a step in the direction of a government that is accountable. It is a step in the direction of open government and of being able to hold people. In a broad sense much of what is desired in this Bill will require constitutional change within this country. However, if the people want open and accountable government, then they must support the legal changes that go hand-in-hand with that. No person in this country should expect government to be accountable until we get to the place this Bill is seeking to take us, with Ministers having administrative responsibility.

I am quite aware that there will be those who will say it is a concept of the chicken and the egg, and which should come first. There may be those who will say that we should wait instead of first coming forward

with this Bill before the constitutional change, which most of us advocate as being necessary. However, none of us knows what the future holds. I believe that with all the groundwork that needs to be done that this Bill is timely.

The benefits of this Bill, the actual core workings of this Bill will not happen once we take this vote. In fact, when you read through the Bill, much will not take effect until 2005. We have to start. I believe it is timely for us to start now. I do not want to leave our children and grandchildren the type of government that I have come into. We have to ensure that this country is put in the best possible position to be successful. I have said before that a man has to know his limitations. None of us who live in this country, none of us who are Caymanian, should become too comfortable with the standard of living we currently enjoy. I think we are closer to smoke-pot days than a lot of us want to admit to ourselves.

*[Inaudible Interjections]*

**Mr. Rolston M. Anglin:** I stand corrected. Smoke-pan days . . . because there are those who might take what I said to mean getting involved with some illegal activity!

**Hon. Roy Bodden:** Exactly!

**Mr. Rolston M. Anglin:** I am certainly not an advocate of smoke pot days!

*[Inaudible interjections]*

**Mr. Rolston M. Anglin:** We have to remember that tourists do not have to come to Cayman and investors do not have to place their monies here. Mutual funds do not have to register here. Captive insurance companies do not have to register here. As a government we must be diligent. I think it is a fair comment that most persons who come from the private sector have always looked at the inefficiencies that exist within the Government and recognised that unless we have fundamental change we will not be able to build the way in which we need to. It is my humble submission that the way in which we govern ourselves has been a contributing factor to the financial position we find ourselves in today.

As I said earlier, human beings are going to drive this process. There are those who will say that if we do not change the human beings we will not get the benefits. However, I think that this Bill is crafted in such a way that it will force people to change, that people will either have to change or they will be left behind, literally.

I believe that the public of this country have cried out for this financial reform initiative. I do not believe you can find any citizen that does not want transparent and accountable government. From where I sit, it is my humble submission that anyone who does not

support this Bill would be going against a government that is held accountable. I do not believe there is anyone here who wants to send that message out to his constituents.

As I pointed out, there is still a lot of work to be done on the Bill itself. There is still a lot of thought that can go into specific areas. In terms of the broad concept, I would like to commend this Bill to all Members of this Legislative Assembly. I would like to congratulate all who have been involved with this reform initiative over the last few years.

A Bill for a Law to repeal and replace the Public Finance and Audit Law (1997 Revision) and regulations made under that Law, is a Bill that I am proud to be associated with and proud to support.

The last point I want to raise is one that has been raised a few times in this current Legislative Assembly, and that is this whole issue of the Public Accounts Committee. I am currently the Chairman of the Public Accounts Committee. I am quite aware of what Erskine May has to say about it in regard to having Opposition Members on the committee, and an Opposition Member as Chairman.

There are two points that we have to consider: 1) in the parliamentary seminar put on earlier this year it was pointed out by numerous, well experienced and well versed Parliamentarians from other parts of the Commonwealth, that there are respectable Parliaments that do not adopt that particular philosophy.

I say that to say that because we do not adopt that philosophy in Cayman in no way takes away from the respectability of the Public Accounts Committee. Anyone who desires to see that philosophy adopted locally, those people by extension would also support the type of constitutional reform we need. Second, we obviously do not have any formal political groupings in this country, so we do not necessarily have a formal Opposition. From where I sit, the Opposition is something that could potentially change from day to day. I believe this is a point that will be better addressed once we have gone through our constitutional exercise.

As a Legislature, whichever way we decide to do this, we have been shown examples of other Parliaments in this world that do not utilise this particular feature. I am quite certain there is the type of accountability and appearance of independence desired. I would be remiss if I did not admit that this concept does have merit.

I will support to repeal and replace the Public Finance and Audit Law (1997 Revision) and regulations made under that Law.

I thank you.

**The Speaker:** We shall suspend until 2.30.

**PROCEEDINGS SUSPENDED AT 1.00 PM**

**PROCEEDING RESUMED AT 2.38 PM**

**The Speaker:** Please be seated. Continuation of debate on The Public Management and Finance Bill 2001. The Motion is open for debate.

The Temporary Honourable First Official Member.

**Hon. Donovan W. F. Ebanks:** Thank you.

I could not let the opportunity pass to say a few words on what I consider this most momentous occasion. I think I will demonstrate that on the official rather than the elected clock, a few minutes will not take as long as the preceding speaker!

[Laughter]

**Hon. Donovan W. F. Ebanks:** Mr. Ted Gaebler, earned a reputation in the US, and a somewhat international reputation as well for his reform work in a small city in California called Sunnydale. He went on to use this as a platform to write a book entitled *Reinventing Government*, and said; in delivering the Keynote address at the Reinvention of Public Services Initiative at the Marriott in 1996, that the true test of insanity is to keep on doing the same things and expect different results. I am pleased to recognise that my colleague, The Third Official Member, has clearly failed that test and has in turn demonstrated not only his sanity, but in bringing us to this point has demonstrated far more.

I think the fact that we have this Bill before the House is due in large part to his commitment, his perseverance and determination to effect change in the area to which he is primarily responsible. He has varied the speed from time to time, but has certainly kept the course.

I do not expect him, when the opportunity for him to respond or sum up, to have much to say about his own role. However, I would like to place on record my assessment of the soundness of the strategy and the game plan that he followed. I think it is a model that all of us who aspire to effect change should be aware of and give consideration to emulating.

I think some time back in perhaps 1996 maybe early 1997, the Third Official Member, realising the need to make substantial changes to our fiscal system, took an approach often taken in governments. He made contact with a knowledgeable source in another country and engaged someone to look at what we did and in effect tell him what we should be doing differently. He no doubt would have been left to sell it to the public service, to the public and to this Parliament. It is a route that others have gone and unfortunately, a route that others have gone since.

After having been exposed to some of the reforms taking place elsewhere in the Commonwealth in early 1998, the Third Official Member, I think very wisely took stock and re-plotted his game plan. He

brought in someone who served as a real evangelist in exposing both, members of the political arena and the public service and the community as a whole, to some of the alternative ways the public business could be managed. In particular, how the public finances could be managed. That person I am referring to was the former finance Minister from New Zealand, the Honourable Ruth Richardson.

That intervention set the base for broad consultation that yielded initially a diagnosis of some of what was wrong with our system that was shared widely. There was further consultation to come up with a description of what we should do, again that was shared widely. The result is that we get a product today, and it is fair to say that to a large extent, all those who wanted to see change and who wanted to be a part of that change had an opportunity to contribute to the development of this prescription and in turn the ability for us to refer to it as truly something designed to suit our needs. He has also been doing substantial preparatory work in terms of training the public service and in speaking in terms of outputs and their specifications from agencies managing under the new system and more recently training in accrual accounting.

None of this is to say that the introduction of this legislation will still not require substantial amounts of additional training and application. It certainly will. I think there is only so much of that that can be done in advance, and some of it rightly has to be done, as it were, on the job. That is where the timing of the coming into effect of the legislation will prove most beneficial. That is, it will paint the writing clearly on the wall to all that we have to make the adoptions necessary.

I am sure the Third Official Member will give acknowledgement to those who worked hard to assist him. I will stay away from that. However, I feel obliged to acknowledge the contribution of the cadre of young professionals who I know continue to be frustrated by the idiosyncrasies of our current system, have really worked hard and who are fully behind this initiative. Really, they are the future of our public service.

I still hold the view that our public service today is filled predominately with good people; good people who are often rendered less effective than they should be by the systems and controls we put on them. While there is a tendency to often blame individuals and impose more controls, seldom does that yield the result we are looking for. We hear comments, quite rightly so, about the size of the service and the growth in posts. In my view, that is clearly something that Members have a right to be concerned about. I think the numbers, however, are merely a symptom and are not the real problem. I do not know how many Members are aware, but a few years ago all in the interest of stemming this growth, we introduced a form from Head of Department on up, that requires about six signatures to get a post created. The fact that we required six signatures has certainly not stopped the growth. Often times we are simply adding layers and layers with no net positive benefit of having done so.

One thing that I personally look forward to, —with this legislation enabling us to do much better— is to objectively judge, evaluate, or assess, how well an agency is doing, and what kind of year an agency had. Government, as a holding company of 35 or 45 agencies or departments and whatever statutory bodies and government owned bodies, really need to have a mechanism to know when a department or an authority has had a good year and when it has not.

I often chided the Collector of Customs when he makes the front page because customs had a “*record year collecting \$90 million.*” That is great, but does it mean the Treasury had a bad year because they paid out \$190 million? Certainly, we expect one to collect and one to pay out. What is really of interest to me is how much it is costing us per dollar to collect and how much per dollar to pay out, and whether we are doing that any cheaper this year than last year.

This system, whereby we are actually costing the output of collecting revenue and various other outputs, will obviously allow us to objectively evaluate how agencies perform. The underlying principle of this legislation is to define clearly what is to be done, by whom and to what standards. This is not a how-we-do-it piece of legislation. I guess 20 or 30 years ago, if you were going to build a house, you would look for a good builder who would hire the men who would work with him. You were directly responsible for paying them and buying the materials and you looked to him for a materials list and you went over it with a fine-tooth comb, like we did the Budget about nine months ago. In effect, our budget system is really no different now than the construction industry was probably 30 years ago.

Today, if one of us wanted to build a house we would probably hire an architect to turn our ideas into plans and specifications. We would often also hire a quantity surveyor of some sort to value their work. Certainly, lending institutions like us to do that! If we do not have a lot more money than we need, it is probably wise that we do it in any case.

Finally, we would enter into a contract with a builder to build the house. In today’s world we expect that contractor to deliver the house we contracted him to build. We rely to some extent on the architect to ensure us that the work is being done according to the drawings and specifications. If it is not, we expect the contractor to correct it. We rely on the quantity surveyor to advise us how much we should pay him for the work he has done.

In the current scenario, where we have clearly set out what we expect the contractor to do and what we will pay for it, the contractor has an obligation to meet those expectations if he wants to get paid. At the same time, that contractor would not be willing for you as the homeowner to control how he uses his labour, or where he gets his material; as long as it meets our specifications and the work is done in accordance with our plans and specifications.

This legislation in concept really looks to move the administration of public business and the implementation of the policies of the Government of the day, into a similar structured arrangement—one of clarity, of definition.

I heard a couple of references to ‘administrative responsibility’ and I certainly do not claim to know precisely what the term is meant to entail. I have not come across it in any of my readings of the reforms in countries where the types of systems we are proposing to implement here have been introduced. In fact, I checked a couple of books over the weekend trying to shed some light on it. I do not have a clear understanding, but I take that it relates to ensuring that Ministers are better able to ensure that what they want done actually gets done. That is obviously a very legitimate concern.

I recall Ruth Richardson using the expression that when they came to power in New Zealand (a country where agriculture is a significant part of the economy) prior to the reforms there, she used the term of using the lever, and nothing happens. The public service simply was not as responsive as elected officials would like it to be. I would simply wish to say that I hope that whatever definition of ‘administrative responsibility’ we adopt and pursue is formulated in the context of the new system this legislation looks to bring into place, and not in the context of the old system that we are looking to abandon and which lends to tremendous frustration.

In summing up, I would like to thank all Members for their support. It is abundantly clear that the political leadership of these Islands is receptive to change and receptive to reform. I am also pleased to see that a number of Members have raised the fact that there are other fundamental changes needed. Indeed, there is much that remains to be done.

However, in thanking Members, I must also make the point that it is for us the public service, from top to bottom to seize the opportunity to get on with doing the things that need to be done. Thank you.

**The Speaker:** The Motion is open to debate. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause) This is my last call; does any other Member wish to speak?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O’Connor-Connolly:** Thank you, Mr. Speaker.

I rise to offer my contribution to The Public Management and Finance Bill, 2001. First, I concur with the two main objectives as stated in the Memorandum of Objects and Reasons—that it is seeking to modernise the Government’s financial management systems, which have been in dire need of modernisation for a number of years. Second, to establish an environment

for improved performance, which I also believe would make Government much more efficient and effective.

These are quite broad objectives. However, I believe they are achievable, and those with which I can associate my concurrence. I can also support the concept the proposed Bill seeks to introduce, namely the concept of accrual accounting that seeks to replace our current cash accounting system. I am looking forward to speedy implementation of the said replacement.

This Bill also seeks to implement another new concept, which is the concept of Chief Officer. Throughout the entire Bill such an entity is mentioned. For example, in particular the case of the three Official Members, the Chief Officer in those respective portfolios; in the case of the Financial Secretary and the Chief Secretary, it would be their respective deputies; in the case of the Attorney General, it would be the Solicitor General.

This move I find quite interesting, especially in view of the fact that most, if not all of the members of Government and this House, have strongly advocated removal of two—or in some quarters, they propose three—of the Official Members when and if the constitutional change comes into effect. Based on the public debate I have heard, it seems there is very strong possibility of this occurring sometime in the future. I will not use this forum to debate the pros and cons of that particular concept because there will be many more opportunities to so do.

I wish to debate it from this angle, since the proposed Bill has specifically identified the two deputies and the Solicitor General as Chief Officers. I would seek clarification as to whether this would mean the deputies who have had the privilege and opportunity to receive years of experience and money having been invested in them for the financial and economic management of this new modern system; whether it would be prudent when the constitutional change is made for the said removal of the Official Members, for them to be replaced by the Solicitor General, the Chief Secretary and the Financial Secretary. One would think they would in the ordinary course of events, become the deputies under this new system. Perhaps some response can be given to that, if it is indeed a presumption that can be rebutted.

I also wish to draw some attention to the definition set out in Clause 3 of the Bill, which seeks to deal with the concept of borrowing. I beg your indulgence to quickly read the definition: **“‘borrowing’ means any borrowing of money or other receipt of credit, whether secured or unsecured, and includes any hire purchase agreement or finance lease, but does not [and this is where I would like to put emphasis] include the purchase of goods or services on credit or the obtaining of a cash advance for a period of ninety days or less.”**

It is my view that this would give one person total and absolute discretion to purchase goods or services on credit, or to move or to obtain a cash advance for a

period of three months. It is therefore my respectful submission that if this is the direction the Government would like to take, then perhaps some consideration can be given to a financial ceiling or cap, whether it is \$300,000 or \$0.5 million, whatever is deemed prudent, to be put in place so there is early detection of any abuse in this area.

In fact, our present Constitution has no provision for administrative responsibility, a defect that has existed for some time. I trust that in the near future that will be a change that comes to fruition. Having had the honour to serve the country as a Minister of Government myself, I can attest to the frustration of being accountable to Parliament, and rightly so. Yet there is really no ministerial teeth by way of administrative responsibility to carry out the many diverse and onerous duties that a Minister has, once placed in a ministerial seat.

I would also like to draw Members' attention to the definition attributed to another term in Clause 3, which is “entity assets.” Like many of the definitions, it caught my attention. It is my humble view that this definition is also too wide, when one takes the time to read it and cross-reference it with Clause 35.

This brings me to another point. It was my understanding that the power to make regulations was vested within the ambit of Executive Council. However, when one takes a closer look at Clause 35, one sees a transition here, perhaps the introduction of a new concept, where the Financial Secretary, under this new provision, would be given the power to delegate. I do not have any problem with the transferral on the surface to the Financial Secretary. However, my clarification comes against the background of the legality of this whole concept of moving the power of making regulations in Executive Council to the Financial Secretary, and whether this particular Bill is the most legal and appropriate form of effecting that change.

Clause 35(a) not only removes that power from Executive Council to make regulations, I believe it also gives the power to collect information from non-civil servants. If this is not the intention, then it is my respectful view that thought should perhaps be given to the inclusion of the following words, “from civil servants” after the words “supplied” where it first appears in Clause 35(a) in the first line. I believe this would help to clarify from whom such information could be adduced.

I would also be grateful if the Government would take some time to clarify Clause 11 of this new Bill, which says they would be responsible for approving the permanent appropriations and to basically indicate who would be responsible for making these approvals.

I would like to move on to Clause 14. Again, we see another new concept. This seeks to introduce by virtue of Clause 14(1) that **“The Executive Council shall manage the financial performance and financial position of the entire public sector in accor-**



**dance with the principles ably set out in this section.”**

While I believe in principle that although this concept is a good one, without Executive Council having vested in them the powers of administrative responsibility, how can they really be expected to hold the public service accountable? We all know the service answers to the Chief Secretary, and then perhaps on to His Excellency the Governor. They are also guided under the new arrangement by the Public Service Commission. I can clearly see with the further implementation of this Bill, that the Government of the day would also have to move to have a very close look at the necessity of the Public Service Commission. In fact, if this presumption is correct, then I think the onus shifts from the Government of the day to make this abundantly clear at this junction.

When we look at Clause 14(4), we also see that this gives Executive Council the power to actually depart from those well founded and tested principles that have been entrenched for some time now. These principles include not exceeding the magical 10 per cent; maintaining appropriate cash reserves and dealing with the actual financial risks, et cetera. Clause 14 (4) does give Executive Council the power to deviate or depart; although this is set out for a limited period. As I understand, all they would have to do in that particular set of circumstances is to lay a statement before this Honourable Parliament.

With that, I have two aspects to seek clarification on: First, as I understand it, statements are not actually “laid” in this Honourable Parliament, indeed, they are “made.” That, in itself, is not just a technical observation, but by virtue of our Standing Order 30(1). I beg to make reference thereto. It says, **“A Member of the Government who intends to make a statement on a public matter for which the Government is responsible shall inform the Presiding Officer of his intention before the beginning of the sitting at which he wishes to make the statement.”**

Second, and more importantly, as far as a Back Bencher is concerned, Standing Order 30(2) merely gives us an opportunity, based on you acting in your sole discretion, of merely putting “short questions” to the Member of Government. I believe that in the era of transparency those who are the movers and shakers of this proposed Bill may want to take a second look to see if this is the most appropriate means of bringing the transparency and accountability to be shared with other Members of Parliament.

I also took the opportunity to look at the situation if it came in the form of a paper, to which most Ministers of Government and Official Members often resort. Again we face technical difficulties in my respectful view, in that by virtue of Standing Order 19(2), no question can be put on any paper. It can merely be debated, which is a step better than the previous position, as the Bill actually states. Since no question can be put, merely debated, the House only gets a report on it. I think we need to clarify what is the intention of

having the statement brought to the House. Is it going to be seeking the approval of Parliament? Is it just a reporting procedure? Or is it going to be in the form of a motion for the House to take note? Depending on either of the three options, it will, in my respectful view, translate to a level of transparency and accountability that the Bill actually proposes when we apply the peeling away exercise to the whole proposed Bill.

As you know, Mr. Speaker, a paper would perhaps be the more preferred option. Although I am going to allude to several points, this is really one of the points I would be grateful if an attempt were made by Government, to indicate what method will be used. In this particular area, where we are dealing with five fundamental economic and financial principles—which can make or break any government—I think it is a very crucial consideration for Government to intimate those to Members.

If we could now bring our attention to Clause 15(2) of the Bill, and I must apologise for going a bit slower than I usually do. I asked for an adjournment so that I could have an opportunity to go through the Bill, and although my motives were mooted and debated ... I have been sent here as a representative not in the form of a rubberstamp, so I felt it to be my duty and my honour, to take the time to analyse this. I had hoped that at the end of the day it would have proved to be purposeful adjournment.

Based on Clause 15(2), I would also be grateful if the Government would say whether or not this is a new concept whereby the Ministers will be given **“All the rights and powers attaching to the shares in a government company, including the power of sale or disposition, ...”** and how exactly this will work in the absence of a Chief Minister, who would have the power vested in him to actually discipline his Ministers.

As in most cases, if not all cases of Law, this is a very important power. The power of sale and the power of disposition, and we need to ensure that all the adequate checks and balances are there.

Clause 23 makes provision for a strategic policy statement. This has always been done by our most capable Financial Secretary. However, the proviso, as I see in this proposed Bill, appears to be a very clear departure from this tradition. I believe that when any government seeks to make departures, as such, the onus also falls on them to provide very clear justification and reasons for that departure to convince the public and Members of this House. This Bill provides for a Member of Executive Council to present the policy statement.

At this juncture of my debate, I will not go into the merits or demerits of whether or not a Member of Executive Council should be doing this as opposed to the traditional method of the Financial Secretary. However, if the Government of the day has so drafted this to allow the Leader of Government Business (or the Chief Minister, whenever the Constitution is

changed), to be making this statement without a further change of the Law, in the interest of transparency, I believe that Government owes it to this country to say that it has so widely drafted this provision and likewise when the time comes to advance it with the Constitution we will not have to go back and make any further amendments. Indeed any Member, specifically the Leader of Government Business, or the Chief Minister would be able to stand up and make this policy on behalf of the Government.

I can also agree with Clause 26 of the proposed Bill whereby pre-election and economic updates will be printed in a local gazette. I believe that this, more than ever before, is something that has to be done. As my friend, the Second Elected Member for George Town, alluded to, this would certainly go a great distance in alleviating the stress or distress of conflicting financial reports coming from the various quarters of past or current governments. There would be an opportunity for an independent stature to produce an economic report prior to the elections.

On a closer analysis of this concept, one will see this is not a mandatory provision in its absolute version, but here we find another proviso set out in Clause 27(2), which says, "**Subsection (1) does not apply to the extent that the Financial Secretary determines that compliance with that subsection will be likely to (a) significantly prejudice the economic interests of the Islands; (b) significantly compromise the Government in any negotiation, litigation, or commercial activity; or (c) result in a significant financial loss to the Government.**" Therefore, the Bill sets up three categories that are perhaps necessary categories. I mention that merely to say that although some Members seem to be of the perception that this was something the Financial Secretary had to do and it was an end-all situation. I wanted the public to be expressly clear that the Financial Secretary in this proposed Bill had these discretionary powers of not doing that before election.

There is another section that deals with that as well as to the period of time, which I believe is three months. Although one might not like to look at the worse case scenario, one would be remiss in making an analysis at this gestation period not to draw attention to the fact that the reports could be done before the three month period. We all know Parliament is prorogued in September and there is a long two months when Executive Council runs the country and there is no provision to get a full impact or review of the financial status of the country. Upon first inspection, this proposed Bill is not as clear cut as one would think.

I should also wish to draw some attention to Clause 28(1), which requires that Executive Council shall gazette a quarterly report for the entire public sector. I believe this is a good move because reporting has a history of forming a very tight and accurate check and balance in any system, even more so in a democratic system. It would also come in handy in

situations, where there are discrepancies as to the accurate financial statistics of any given government; in that there would be an introduction of an independent report. I am grateful for this provision in the Bill.

There is also a reporting requirement for Executive Council in Clause 29, for an annual report for the public sector of the relevant financial year. I would like to go on record in support of this, as it is a good requirement. By virtue of Clause 29(5), "**... the entire public sector annual report is published it shall be a public document and the Financial Secretary shall provide a copy to any person requesting one on payment of a copying charge...**"

There are two comments I would like to make in this regard: First, I wonder if the wording of this section would have the effect of limiting the sale of multiple copies to a person, and if so, perhaps this restriction could be removed. Otherwise, perhaps the Honourable Third Official Member could clarify this when he winds up. As I read it, and perhaps I read it in the literal fashion, it would seem to imply that any one person could get one copy.

Second, is this a new policy, whereby the power for making the regulations will be taken from Executive Council and by statutory delegation, be given over to the Financial Secretary? I have no problem with the person who now occupies this position; however, because it is a new concept it would be good to hear the justification for these deviations.

In Clause 30, I am also in agreement with performance contracts after having worked in the private and public sectors. Taking that against the background of the many constraints on our financial resources—particularly since 11 September 2001—when contrasting that with the performance of our revenue, we cannot be too stringent with the way we exercise our discretion in the expenditure this year. One way of actually dealing with that is to move to this new concept of performance contracts.

I realise they will not be as effective as they could be in the absence of administrative responsibility. I hope that the movers and pushers of this modernisation, this piece of legislation, will also be there giving their full support when we look at the full modernisation of the Constitution. It is hoped that we will not revert to the 1992 Draft Constitution when at the very mention of the words "administrative responsibility" we had most of the service and the Public Service Commission up in arms about giving over that aspect. I believe that much support of this Bill is hinged on the premise that some form, if not absolute administrative responsibility, will be coming in short order.

In Clause 30, I would be grateful if the Honourable Third Official Member would intimate to this House whether or not the purchase agreements with non-governmental output suppliers will go out to bid. I was unable to find any provision relating to that. Perhaps there is a justifiable reason why, but I wish to know, if that is the case, what is the reason? In sub-clause (5) of Clause 30, will the purchase agreements

be presented to the Legislative Assembly for approval, or will they merely be brought to Parliament for us to vote? In my view, the drafted clause is silent on this and perhaps some light could be shed in that regard.

Clause 30(3)(f) is also silent as to when amendments are to be presented to the Legislative Assembly, as related to purchase agreements. I submit that perhaps wording could be inserted into Clause 30(3)(f) that if submitted would say, for example, 'should be submitted the next sitting day after it has been signed' in order to give some urgency or some clarification as to the anticipated timeline required.

I have this very same concern as it relates to Clause 32(e), that is, that the Financial Secretary is required to bring to the attention of this Honourable Legislative Assembly any divergence between Government and the principles of responsible financial management as specified in section 14. It is my view that the Clause should specifically stipulate a time for bringing such an important matter to the attention of this Honourable House.

Clause 33 appears to give the Honourable Financial Secretary a power to delegate. Again, it is my respectful view that giving the Financial Secretary the power to authorise "another person" needs some fine-tuning. Who does this actually include? What category does "another person" catch? Does this mean "another person" in the public service, for example? Or does it include non-governmental persons we seek to do business with as well?

Should this be a general power of delegation of all of the Financial Secretary's powers and duties? Or should it be refined to include minor to medium powers and duties? Many of the powers given to the Honourable Third Official Member under this proposed Bill are very important and significant. One would not wish to know that a general power is given for him to delegate any or all of those powers. I would be grateful if Government would see fit to fine tune that, so that many of those powers actually rest in the Financial Secretary himself as opposed to his delegate.

I also came upon a new word, I have not been able to find the meaning, but perhaps in his response some clarity could be given, and that is the word "delegant." It seems to be a new creature. Was it meant to be "delegate" or is there another connotation to put to it? I believe there are two or three references to the word "delegant" in the proposed Bill.

Clause 36 also gives the Honourable Third Official Member some operational and managerial teeth as it relates to the respective chief officers that would fall under him. However, this overseeing power that is given has been restricted in my view, by not having a much closer management oversight of the chief officers. Perhaps that was the intent of the provision, and again I believe justification should be given for that.

The Chief Officers have been given in most cases near absolute powers under Clause 39. I believe that this is a most untenable situation. Let me

explain why I have taken such a strong position on that.

I believe that when one relates this to Clause 39(2)(e), which is giving the power to the Chief Officer of a ministry or portfolio to, "dispose of its entity assets on such terms and conditions as its chief officer may authorise" it is my respectful view that this power should be given to either the Honourable Third Official Member or the Members of Executive Council; or even better yet, to the Legislative Assembly. Even if it means having to split or break the entity into varying categories according to the asset value or the importance from other values, as seen by the Government. Unless I am otherwise persuaded, I cannot concur with the power of disposition being given to the Chief Officer at this stage, not knowing what is going to happen with the modernisation of our Constitution.

I also understand that Clause 39 does not come to the implementation stage for another several years. I believe this is for two good reasons: First, given the capability and development reason, the Government and its relevant portfolios, ministries and departments will need a breathing time to actually get all the checks and balances in place. There are regulations needed to actually expedite this process, and a review of the General Orders, which seem to be taking an inordinate amount of time to modernise. Hopefully, this will act as a stimulus or catalyst for those who are indeed responsible for the General Orders and to bring it up to this modern era in the interest of the numerous civil servants and the effect it may or may not have on their performance.

With reference to Clause 55, I wish to cross-reference this with Clause 35 and especially Clause 75. So, there would be basically three Clauses that I wish to look at in concert—35, 55, and 75. Clause 55 gives the Chief Officer of the portfolio of finance (what we know as the Financial Secretary), the power to, and in my view the absolute power to make a request from Members of Executive Council, et cetera, including non-government entities. Clause 55 is in my view extremely wide. I believe that to include such information he (the present or future Financial Secretary) is required to make a very wide request. As the Bill is now set up, this does not seem right to me.

When one puts him, or that office, in perspective to the level of Executive Council, it places the Financial Secretary as a subordinate officer, and to give such a person a right to request, and failing to request, as we see under clause 75, can invoke some very strong penalties ranging from \$10,000 up to \$100,000; if a Member of Executive Council or that Chief Officer's very own boss, should fail to release this information ... it just does not gel, Mr. Speaker. I believe that the Government is perhaps taking this on board and I await the outcome of the committee stage to see if we end up with a satisfactory amendment to show not only respect but to give some order to the Honourable Third Official Member who I believe

should, at the very least, have this power as opposed to the Chief Officer.

I can also see that this provision would create some difficulty, perhaps public embarrassment. Can you imagine the Chief Officer of the portfolio of finance requesting from the Honourable Second Official Member, information he feels that the Attorney General should not release, and then the Chief Officer seeking to invoke the Solicitor General's office to bring an indictment against the Attorney-General, which could attract \$10,000 to \$100,000? It just does not make sense in our present constitutional arrangement. I think it would do the Government good to have a close look at this and to make an amendment that would reflect the present constitutional arrangement so that we do not end up in such a precarious situation.

If we look at Clause 57, I am encouraged that this clause seeks to preserve the independence of the Auditor-General, which I believe should be an independent office. He or she should carry out his or her duties in an expeditious fashion. Sub-clause (5) also seeks to protect his well earned salary. I submit this is very vital in any democratic society. By the very nature of his job, the Auditor-General is often in direct conflict with the various entities within the public sector and we would not want a situation where his salary would be able to be attacked or not voted on, or any of those scenarios. That would begin to erode the very foundation of a democratic Westminster system of Parliament.

With reference to Clause 59(e), the power is given to the Governor to authorise the Auditor-General to conduct investigations into the financial management and affairs of persons, et cetera. I just wondered whether or not there were any justifiable reasons why this specific power was not given to Executive Council on a whole, as opposed to the Governor; unless it is intended that the Governor as it appears here, will mean the Governor-in-Council; perhaps that could be clarified.

In regard to Clause 63(1) the Auditor-General here is given investigative powers and the right of access to all—not some, but all—information held by Executive Council or any Member of Executive Council et cetera. I wonder whether or not this actually means that the need to require the requisite consent from His Excellency the Governor is now going to be negated, neutralised, or taken out completely. Once this Bill becomes Law, the Auditor-General will be able to get whatever documentation is placed before Executive Council and have access to it. Perhaps there are sufficient provisos in the Bill. If so, I would be grateful if they could be shared.

All and sundry will certainly appreciate that it is not a matter of attempting not to be transparent or accountable as far as Executive Council is concerned. However, there are many confidential matters discussed in Executive Council and one would not wish to fully reveal the confidential veil from that without

having some checks and balances in place. Again, that is my own respective view.

Clause 67, once again we see the introduction of a new concept of the Auditor General being able to charge what is termed in the proposed Bill as a "fair price." An attempt has been made to actually define what a fair price would be. I trust that has removed some of the vagueness the term would otherwise connote. Persons, companies and bodies, investigated under this relevant Section of the Bill can be charged a fee. Is this to be the case in all circumstances? In practice, should the onus be upon the person being investigated to pay the "fair price" of investigation? If so, there are no provisos put in place. I can easily envisage an abuse of the system, politics being the animal it is, and someone requesting the Auditor-General, as has been done in the recent past, and that person at the end of the day could be found innocent, but still be charged for the audit. I think that perhaps some closer look should be taken if that is the approach.

I also found it quite interesting that not only could this happen to a non-governmental entity, as I read the Bill, this can also happen to a Minister or Member of Executive Council. One is left to wonder then, how could one be expected to accurately budget or forecast an expenditure head to cover this expense by the Auditor-General? Would Executive Council in concert have a vote to pay for these audits that the Auditor-General would carry out? Would the respective Minister have to do it? How would this actually work? It is an area that I would like to see clarified.

I am also seeking clarification on Clause 68(3), which purports to directly delegate administrative powers to Members of the Public Accounts Committee who are all Elected Representatives of this House. Again, without having administrative responsibility it is my humble view that at best this has to be a backdoor approach to reap the benefits of administrative responsibility. It seems somewhat inequitable (if I can use such a generous term) that the Ministers themselves on Executive Council will not have the privilege or liberty of administrative responsibility. Yet, the Bill appears to directly give a most direct form of administrative responsibility to the Members of the Public Accounts Committee. That is, according to what has been stipulated in Clause 73, they will actually do the terms of reference for the Auditor General, and perhaps the interviewing, and also set the budget for the Public Accounts Committee.

Correct me if I am wrong, but I cannot see a much more direct form of administrative responsibility. Again, I am not arguing the pros and cons; I am just saying that because our constitutional advancement is not where this particular Bill sets it, it causes some difficulty in trying to set up a modern system in our finances.

I notice it was first purported that the Auditor-General should report to the Speaker. Due to the Constitutional arrangement whereby the Speaker is

not the head of the Legislative Assembly, that too caused great difficulties and the Government deemed it necessary, and indeed prudent, to move from that initial scenario. I guess the best they could do was to put it into the hands of the Public Accounts Committee.

I wonder if when the Member responds, he could indicate whether this is a transitory provision and if so, what would be his suggestion for a better situation where Elected Members of this House, by membership on the Public Accounts Committee would have direct administrative responsibilities and accountability with the Auditor-General. His office I think should at all times not only be an independent office, but have every appearance of independence. This is very crucial to the smooth running of any Parliament. Indeed it crystallises and cements the whole faith one has in the system being run above board in any modern democratic jurisdiction.

To a large extent, (although I have had several inquiries), I concur with the general concept and desire of the Government and the majority if not all Members of the Back Bench to see modernisation within our Public Finance and Audit Law. I reiterate that it would nonetheless have been remiss of me to remain silent and not seek clarification. I trust that the Government will take it in the same light and make a conscientious attempt to reply either here today, or in another more appropriate forum. These are genuine concerns. I am sure that if as an attorney, I had those concerns there are many persons in the public that share similar concerns. However, due to the whole mechanics will not or did not have an opportunity to articulate to the powers that be.

In concluding my debate, I wish to go on record to thank the Honourable Third Official Member for his perseverance with modernisation in this section. I know that with most change it is not always an enviable position. There is often opposition, for whatever reason, to change. That in itself is not bad because it forces the movers and shakers of change to actually stop and reflect, reconsider and amend. As other Members said, it is hoped that it will be a dynamic Bill (Law when it comes into force) and one that Members would not be hesitant to bring back to this Parliament for scrutiny, as no Law is perfect. However, I believe that attempts can be made to bring it as close to perfection as possible when we approach it with open minds, not only to praise it but to be open to what I hope I have contributed by way of constructive criticism as well as general support.

I look forward to hearing the Third Official Member's response. I ask him to convey to his team my appreciation and thanks for the valiant effort made in this regard. I would like to thank the gentleman from New Zealand who was very receptive and courteous with the enquiries I articulated to him. I trust that within the next three or four years, the proposed implementation stage, we would have at long last come full circle where there will be transparency. In the statement

I read a few months ago in some of my readings, that there is not government and transparency. However, there is an option, government or transparency, would indeed be put to rest by an example in this proposed Bill.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you.

I rise to offer my contribution to The Public Management and Finance Bill, 2001. There is not much more to say on this very important piece of legislation. I have not seen where a Bill has drawn such scrutiny and the detail with which some of my colleagues have looked at it. I think this is the right way to go. As one of the victims of the old system for over six years and on Executive Council, I personally welcome this legislation changing from 'business as usual', and improving the way Government runs its financial affairs.

I found from my very first budget preparation in 1994, that it was a time of great frustration and an enormous waste of time and money. The Budget was done by junior officers. Then when September, October, November came, senior managers and members of the Budget Committee spent hundreds of hours going back over the Budget cutting out the details. Just last year we saw what happened. It was not just last year, the gap between balancing and what was brought to the Legislative Assembly came to light about three years ago—some \$200 million to \$300 million. I know the Financial Secretary was sick of my complaining that we needed to do something about the system of preparing our financial budgets for the year. Thank God that this piece of legislation will bring most of that to an end.

My good friend, Mr. Peter Gough, and others spent countless hours dealing with this in Executive Council. It was a process that had to be done and it was all done in a responsible manner and I must take my hat off to the Honourable Financial Secretary. It was always his dream and ambition, and I was pleased to hear the Temporary First Official Member speak on this, and the Deputy Financial Secretary (who is not here today) had many trips overseas to see about the way we were doing business here in Cayman. From back in 1996, everyone had concluded that the way we were going could not continue.

I am pleased to see in Clause 14(3)(c); **“entire public sector borrowing should not exceed an amount for which the sum of interest, other debt servicing expenses, and principal repayments for a financial year are more than ten percent of entire public sector revenue (calculated using generally accepted accounting practice) for that financial year.”** In Clause 14(d) **“cash reserves should be maintained at a level no less than the estimated executive expenses (measured using generally**

**accepted accounting practice) for the following ninety days.”** When we see what is happening around us, this will be a challenge. However, over a period of time (as most of this will not come into effect until 2005), we will have time to work on this.

Some comments have been made about roads and capital works and as a Member of the last Government, I have no apologies. In my district of Bodden Town we had great separation from 1984, before and after, and some Members of this House may wonder why I feel so angry about it, but the district of Bodden Town was totally ignored.

As a matter of fact, one former Minister made the comment that as long as he was in the House Bodden Town would not get so much as a pothole fixed. This was certainly held up. I am pleased at the amount of roadwork we have done in these Islands. I feel good when I drive from West Bay to East End and know East End is not yet finished, but when I know the deplorable condition the roads were in.... I have heard Members talk about the amount of money we spent on the hospital. However, I know that my colleague from Bodden Town, the Second Elected Member for Bodden Town, will tell this House about the time his mother had to sit on a gurney in one of the hallways. Yes, we spent money. However, we can see the tangible leftovers of where this money went. It was not spent on some fancy scheme that the people of these Islands cannot enjoy.

As a member of the Public Accounts Committee, I would like to say that I have full confidence in the chairman we have. There is no question in my mind that he has done and will do an excellent job. There is no worry. We know there is no party system here in Cayman. It may have been suggested that the chairman of the Public Accounts Committee should be the Leader of the Opposition. However, in my working with the gentleman, I have found him to be of the highest integrity.

In closing, it would be remiss of me (and I beg for your patience) not to comment on a couple of articles that appears last week, one in the *Caymanian Compass*, in regard to the MRCU being out of spray, and the circular from the Treasury Department.

I know as a Back Bench Member that it is not within my ambit to comment on some of these things, but with all that is going on around us today, we need to be very careful. The circular from the Treasury Department is extending the pay date three to four working days, from the 24<sup>th</sup> to the 31<sup>st</sup>. I would have personally preferred an emergency meeting of Finance Committee to deal with this. We have to be careful about the message we are sending to the public and to investors, and being out of money for the spray for MRCU, which is something we desperately need and must have if we want to promote the development of tourism and other areas within our economy.

We do not have to be prophets of doom, when some Members of the Cabinet talk about the dire straits we are in financially. We know we are in a diffi-

cult time, but when you look at what regrettably transpired in the United States over the last two weeks, the leadership there talks about encouragement. They know things are rough; we know things are rough here. However, I would urge that we be more careful about the way we talk about the financial situation here in Cayman. The last thing we need is for the public to get scared and lose confidence.

I support this Bill. People might ask me why as a former Minister we did not bring it. I personally supported it and this Government is now bringing it. All I have to say is that he who knows how to do right and do it not, is a sinner. There are certain difficulties we will experience with this because of constitutional responsibilities.

I am pleased that Mr. Tony Dale sat down to try to make what we have here work within the Cayman Islands framework. I thank him and his team that has brought us thus far. My hat is off to the Honourable Third Official Member who has stuck with this through thick and thin and sat with me for hours on end over the last five or six years listening to my complaints about changing the system. Congratulations, Mr. Third Official Member. Well done!

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** I too rise to offer my short contribution to this very important Bill. For far too long the public and government have realised the necessity of such a Bill, especially Clauses 30 and 42 which deal with the performance and output delivery. These have been topics of many, many people for far too long. It is about time the public got the best value for money spent.

I say short contribution because there are very few things that can be said that have not already been said. However, taking into account your mention of repetition, Mr. Speaker—not that I would be one to do that—I just want to thank all the drafts people and the Financial Secretary and all the Members who supported this Bill. I think it is timely and I too would like to support this Bill. Thank you.

**The Speaker:** It is now 4.15. Rather than expect the Honourable Third Official Member to start his reply, I would entertain a motion for the adjournment of this Honourable House.

The Honourable Minister for Health and Information Technology.

## ADJOURNMENT

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 10 o'clock am Wednesday.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 o'clock am Wednesday. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.18 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10.00 AM WEDNESDAY, 26 SEPTEMBER  
2001.**

**OFFICIAL HANSARD REPORT  
WEDNESDAY  
26 SEPTEMBER 2001  
10.30 AM  
Tenth Sitting**

**The Speaker:** Good morning. I will invite the Third Elected Member for Bodden Town to say prayers.

**PRAYERS**

**Mr. Anthony S. Eden:** Let us pray:

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

*Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

**Proceedings resumed at 10.32 am**

**The Speaker:** Please be seated.  
Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First and Second Official Members and the Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports, who are off the Island; and apologies for

late attendance from the Second Elected Member for West Bay, the Third Elected Member for West Bay and from the Fourth Elected Member for West Bay.

Moving on to Government Business, Second Readings, continuation of debate on The Public Management and Finance Bill, 2001.

The Honourable Third Official Member responsible for Finance and Economic Development, replying.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READINGS**

**THE PUBLIC MANAGEMENT AND FINANCE  
BILL, 2001**

*(Continuation of debate thereon)*

**Hon. George A. McCarthy:** Thank you.

I would like to thank Members for the contributions and constructive comments. It is very clear to the Government that Members recognise the importance of this Bill to good governance and the future of the Cayman Islands. I would like to respond to some of the comments and questions raised during the debate.

The first issue is the importance of managing the change carefully. The Government is conscious that people are often frightened of change and as a consequence, resistant to it. The implementation timeline for the reform has been put together with this in mind.

While Government would like the reform to progress as quickly as possible, this needs to be balanced with the ability of both the civil service and the Legislature to adapt to the new system and to develop the skills and capability necessary. Government is confident that the timeline makes the appropriate balance in this regard.

It is true that the Bill will require a total change in management culture and that this will be a significant challenge for the civil service as a whole. However, the change process has been underway for quite some time and quite a lot of work has already been done. This includes the specification of outputs, the development of initial outputs costing systems, the initial preparation of asset registers and the preliminary work on modifying our ORACLE Financial Accounting Software. I am sure the enactment of this Bill will provide added impetus to this work.



There are a number of specific changes that will be required over the implementation period. These include the move to output budgeting, the move to accrual accounting, the change of balance date and the transition from the existing Law to the new Law. Each of these changes will have its own challenge and will have to be managed well.

To ensure that this happens, a detailed implementation strategy has been developed. This identifies all the changes required and defines the critical part. In addition, a project team has been established to manage the implementation. This is overseen by a steering committee called the Financial Reform Team, or FRT. Elected Members of Executive Council and Members of the Legislative Assembly are both represented on this steering committee.

The project team has prepared a comprehensive training plan for the civil service for the duration of the implementation. Initial training on accrual accounting is already underway. This is but one of the ways in which the skills and capability of the civil service will be developed.

The second issue I would like to comment on relates to the principles of financial management. I share the views Members expressed as to the importance of the principles. In fact, I consider them to be one of the more important aspects of the Bill.

The Government is aware that it will take some time to transit from our current financial position to that required by the principles and it is for this reason that Clause 79 of the Bill provides a timeline of approximately eight years for the transition. Even that timeline is going to be quite challenging.

A third general issue Members raised, relate to the delegation of input authorities to 'Chief Officers' in Clause 39. As Members have noted, this is an essential part of the reform and is absolutely necessary if we are going to be able to hold Chief Officers responsible for output delivery. I would like to reassure Members that this delegation of authority has been carefully defined so that adequate control and priority are maintained. This has been done in a number of ways including, the important distinction between the Executive and entity resources. This will mean that only those assets that the ministry or portfolio uses for its output production will be controlled by the Chief Officer.

Major government assets such as Crown land, roads and most buildings will be controlled by Executive Council and the Legislative Assembly as at present.

Members also raised some specific concerns that I would like to comment on. The first of these relates to the abilities of ministries and portfolios to set fees for outputs they provide to the public. While the Bill will allow agencies to retain this income; if it is entity revenue, there is nothing in the Bill to override existing Laws or regulations that deal with fee setting. Therefore, the legislature will still be able to control the level of user fees through these legislative

mechanisms. It will be up to this Honourable House to decide in which cases it is appropriate for it to do so.

A second specific issue raised by Members was whether Clause 12 is still necessary with the change in balance date. Clause 12 provides authority for the Legislative Assembly to authorise expenditure by resolution in advance of appropriation. The Government considers that this Clause is an important power of the Legislative Assembly that is required no matter what the balance date is.

While the equivalent provision in the existing Law has most commonly been used in an election year, it is easy to envisage other circumstances when this House might want to avail itself of the provision. For example, if a national or international disaster occurs while the budget is being considered and the House decide to adjourn before enacting the Appropriation Bill.

I would also like to clarify the position regarding the issuing of financial regulations. The Bill vests this power in the Financial Secretary. This is a continuation of the existing practice under the current Public Finance and Audit Law. I would note that the powers to make financial regulations under the Bill are more restrictive than under the existing Law.

I should further point out that in circumstances where regulations are required to be issued by the Financial Secretary; they are normally done after they are submitted to Executive Council and carefully considered. Members of the Legislative Assembly are also briefed as to what the regulations are about.

In relation to the power of delegation granted to the Financial Secretary in Clause 33, the authority in this regard has always been unclear under the existing Public Finance and Audit Law. The Government's view is that this authority should be made explicit. The extent of the delegation authority reflects current practice and the need for flexibility.

Some concern has been raised about the office of the Governor being exempt from the budgeting and reporting requirements of the Bill. This is not the case. While separate reports are not prepared, the outputs and ownership performance of the office of the Governor are to be included in the performance agreement and reports of the Portfolio of Internal and External Affairs. This will allow this House the opportunity to scrutinise the expenditure relating to the Governor's office.

Another issue raised was in relation to the investment powers of the Financial Secretary in relation to trust assets. The Government acknowledges this concern and committee stage amendment number 3 amends section 71 so that the investment powers are limited to bank deposits.

The Government also acknowledges the need to clarify the powers under the Bill to request information from Members of Executive Council. Committee stage amendment number 2 addresses this. I am

grateful to the Members of this House that drew this to my attention.

I am also grateful to Members for their attention to the details of the Bill and committee stage amendment number 4, contains a number of changes designed to clarify potential uncertainties raised by Honourable Members during the debate. I should also point out that this takes into account a number of the issues raised by the First Elected Member for Cayman Brac and Little Cayman.

When I introduced the Bill, I commented that the Bill was the result of an extensive collaborative effort by a wide group of Members of the Legislative Assembly, Members of Executive Council and the civil service. I would like to take this opportunity to recognise some of the persons who have made significant input at this time.

I would like to begin by acknowledging members of this House who pushed for and supported this reform over a number of years, particularly the First Elected Member for George Town, the Honourable Kurt Tibbetts; the First Elected Member for Bodden Town, the Honourable Roy Bodden; The Second Elected Member for Bodden Town, Mr. Gilbert McLean; and the Third Elected Member for Bodden Town, Mr. Anthony Eden, when a Member of Executive Council; and the Honourable Acting Temporary First Official Member responsible for Internal and External Affairs, Honourable Donovan Ebanks.

Secondly, I would like to recognise the contribution made by Honourable Ruth Richardson who visited the Cayman Islands in 1998 to discuss with us the implications of this reform and also the work of Mr. Tony Dale our consultant who has been visiting us since the beginning of this reform initiative.

Thirdly, I would like to recognise a wide group of civil servants who contributed to the design of the reform and the development of the legislation. These civil servants have had a very positive impact on the legislation we have in front of us today. I will start by recognising the Deputy Financial Secretary, Mr. Joel Walton; the Assistant Financial Secretary, Miss Deborah Drummond; the Assistant Financial Secretary, Mr. Ken Jefferson; the Accountant General, Mrs. Sonia McLaughlin; the Chief Accountant, Mrs. Deborah Welcome; the Director of Budget and Management Services, Mr. Peter Gough, who was also the chair of the legislative subgroup for the reform; the late Richard Roberts, the previous director of Internal Audit; Mrs. Ann Owens, the current director of the Audit Unit; the FMI Project Manager, Mr. Marco Archer and his team; Mr. Lee Ramoon; Miss Sonia Hunt, Mr. Kenrick Ebanks, Miss Natalie Curtis, and Miss Anita Lansell; the Auditor General, Mr. Nigel Esdaile, and his audit manager, Mr. Terrance Outar; the PS of Health and Information Technology, Miss Andrea Bryan; and I would also like to mention Mr. Kearney Gomez who has been very supportive as well, the Chief Engineer of PWD, Mr. Colford Scott, and recognition must be given for the laborious ef-

forts expended on the Bill and also the several amendments to the first Legislative Counsel, Mrs. Myrtle Brandt.

Finally, I would like to recognise my colleagues on the financial reform team for the work they have done over the years and will continue to do in the future.

Thank you.

**The Speaker:** The question is that a Bill entitled The Public Management and Finance Bill, 2001 be given a second reading. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PUBLIC MANAGEMENT AND FINANCE BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Reading.

#### **THE EXEMPTED LIMITED PARTNERSHIP (AMENDMENT) BILL, 2001**

**The Clerk:** The Exempted Limited Partnership (Amendment) Bill, 2001.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I beg to move the Second Reading of a Bill entitled The Exempted Limited Partnership (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. George A. McCarthy:** Thank you.

This Bill amends the Exempted Limited Partnership Law, 2001, by introducing an express fee for the expedited processing of applications made under the Law.

The express fee is for the registration or application services provided by the Registry by the end of the working day where the application and all fees are received by 12 noon or by 12 noon on the following day where the application and all fees are received after 12 noon.

The express fee for registration of an exempt limited partnership or limited partnership is \$400. The express fee for any certificate requested is \$25. These fees are in addition to the normal fee where the express service is desired by the applicant.

The express service has been well received by the Registry clients. Therefore, this Bill validates the making of the increase charges prescribed in the Bill as the charges were put into operation by the General Registry who were under the impression that

they had been introduced by the Finance Law (1998). Thank you.

**The Speaker:** The question is that a Bill entitled The Exempted Limited Partnership (Amendment) Bill, 2001 be given a second reading. The Motion is open for debate. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

If not, does the Mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Just to say thanks to Members for their support of the Bill.

**The Speaker:** The question is that a Bill entitled The Exempted Limited Partnership (Amendment) Bill, 2001 be given a second reading. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE EXEMPTED LIMITED PARTNERSHIP (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Readings.

#### **THE PARTNERSHIP (AMENDMENT) BILL, 2001**

**The Clerk:** The Partnership (Amendment) Bill, 2001.

**The Speaker:** The Honourable Third Official Member who spoke thereon.

**Hon. George A. McCarthy:** I beg to move the Second Reading of a Bill entitled The Partnership (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. George A. McCarthy:** Thank you.

This Bill amends The Partnership Law (1995R) by introducing an express fee expedited processing of applications made under the Law.

The express fee is for the registration and certification services provided by the Registry by the end of the working day where the application and all fees are received by 12 noon or by 12 noon on the following day where the application and all fees are received after 12 noon.

The express fee of partnership is \$400. The express fee for any certificate requested is \$25. These fees are in addition to the normal fee where the express service is desired by the applicant.

The express service has been well received by the Registry since its introduction. Thank you.

**The Speaker:** The question is that a Bill entitled The Partnership (Amendment) Bill, 2001 be given a second reading. The Motion is open for debate. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

If not, does the Mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Just to say thanks to Members for their support of the Bill.

**The Speaker:** The question is that a Bill entitled The Partnership (Amendment) Bill, 2001 be given a second reading. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PARTNERSHIP (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Readings.

#### **THE HEALTH INSURANCE (AMENDMENT) BILL 2001**

**The Clerk:** The Health Insurance (Amendment) Bill, 2001.

**The Speaker:** The Honourable Minister responsible for Health and Information Technology.

**Hon. Linford A. Pierson:** I beg to move the Second Reading of a Bill entitled The Health Insurance (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. Linford A. Pierson:** Thank you.

It is proposed that the Health Insurance Law, 1997, and the consequential changes to the Regulations be amended. The intent is to remove from the Regulations the exhaustive procedures for the Director of Health Services to draw down on the segregated fund to cover expenses incurred by the Health Services Department in providing medical treatment to uninsurable and partially uninsurable indigent persons.

For clarity and information, The Health Insurance Law, 1997, defines an indigent person as “**one who in the opinion of the Minister for the time being responsible for Social Services acting on the advice of the Director of Social Services, is unable by reason of inadequate financial resources to pay for medical services.**”

You will see there is a very fine line between the definition of indigent uninsurable person, and indeed an indigent person, the definition of an indigent per-

son being, **“one who in the opinion of the Minister for the time being responsible for Social Services acting on the advice of the Director of Social Services is unable by reason of inadequate financial resources to pay for health insurance or medical services.”**

Though there is a fine line there, a number of problems have been found in being able to obtain funds from the segregated fund. Just to give an example, the present procedure involves the following circuitous steps:

1) The department has to provide evidence that two approved providers of health insurance have partially insured the person or have altogether refused to insure the person;

2) The Director of Social Services advises the Minister responsible for Social Services that such persons are indigent;

3) The Minister responsible for Social Services confirms in writing to the administrator of the fund, at present the Superintendent of Health Insurance the indigent status of the person;

4) The Director of Health Services submits an insurance claim to the fund administrator for reimbursement. This is limited to benefits provided for under standard health insurance contract; and

5) The fund administrator pays the amount of the approved claim to the Director of Health Services who deposits the payment into General Revenue.

You can see there is a very complicated and circuitous route that this amendment seeks to correct.

The proposed amendment to the Law and Regulations, is to make the fund applicable to all indigent persons so that we do not have the problem of whether the person is an indigent uninsurable person or otherwise. The fund will be available to all indigent persons who receive medical treatment through the Government's health care facilities including referral by the Chief Medical Officer to private providers of health care in the Cayman Islands and/or overseas.

The amendment will simplify the process by authorising the fund administrator, upon the commencement of the amended regulation to disburse to the Director of Health Services, all of the monies collected and the administrator, shall thereafter at the end of each month disburse all such monies to the Director of Health Services Department for the purpose of defraying the medical cost accrued by the Government on behalf of indigent persons.

The immediate effect, after the proposed amendments are approved by the Legislative Assembly, is that approximately \$4 million will be paid into the Treasury Department during this financial year 2001. These are funds that have accumulated since the Law came into effect in January 1998. The current complex procedures have prevented these funds being used to offset Government's expenditure on indigent persons.

The Auditor General and the Superintendent of Health Insurance have been consulted and they both

support the proposed amendment. Members of this Honourable House are therefore requested to approve the proposed Health Insurance (Amendment) Bill, 2001, and the proposed Health Insurance (Amendment) Regulation, 2001. Thank you.

**The Speaker:** The question is that a Bill entitled The Health Insurance (Amendment) Bill, 2001 be given a second reading. The Motion is open for debate.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you.

I want to thank the Honourable Minister responsible for Health for bringing the Bill at this time. I truly appreciate the difficulties that have been faced by the Health Services Department that has been carrying out services to those indigent individuals without being compensated.

As a result of a motion passed earlier this year in this Legislative Assembly, and the coinciding efforts by the Minister and the ministry, there has been an ongoing review of the Health Insurance Law of the Cayman Islands and a Select Committee has been formed. This particular issue has been noted as one of concern, and the ideal way of handling it would have been to encompass it under the review. However, I appreciate the need to have it resolved so that the funds, which are part of the 2001 budget, are able to be released to the Treasury.

I would not want the need for expedience to in any way impair the need for a long term solution. It is my opinion that the current procedure in which all insured individuals contribute part of their premium into a fund to cover the indigent is not the optimal way of handling this situation. It allows the insurance companies, which are risk balancers, to only insure those individuals in the community which are of a low risk situation.

The Law intended for the Health Services to bill the fund for the cost of services they rendered to particular individuals fitting the description of indigent, uninsurable individuals. However, this amendment assumes that the entire sum that has accumulated in the fund will be handed over, not necessarily on a case by case basis, not necessarily only on the cost of the services provided. The assumption I will have to make is that the fund is less than the total cost of the services provided by the Health Services Department or by the private practitioners for patients referred. Thus, the fund would only partially offset the cost.

However, I think in legislating we should be specific and where it is on a billed system, where the provider would bill for the services provided that would be covered under the remit of this fund. We could have a situation where the fund is accumulated to an amount greater than the cost of the service provided. We would not want to have an open-end ticket for the Government to draw the entire amount of the

fund without consideration for the cost of the service provided, given the description of those covered under the fund.

It is also my opinion that Government should develop a master list of indigent individuals prepared by the Social Services Department and used as the master list, from which all related services are drawn, to ensure consistency in how we determine an individual's status as indigent. This would prevent the current type of system where Social Services use one means test and the Health Services uses another, and Education uses another. A standardised system of determining an individual need for government's intervention in providing transfer payments or other social assistance would ensure consistency.

I truly support the Minister in his statement that it is a very cumbersome, time consuming and difficult procedure to claim the funds under the current Law. I am prepared to support the Bill for a Law to amend The Health Insurance Law, 1997, in order to change the Law relating to the provision of health care to indigent persons and for the incidental and connected purposes. I am hoping he will take on board my concern; that the procedure under which the Health Services Department can claim under the funds should be on the basis of the cost of the service provided. That would be invoiced to the administrator of the fund, not on a blanket arrangement where the total balance of the fund will be handed over to the Health Service Authority. Thank you.

**The Speaker:** Does any Member wish to speak? (Pause) The Motion is open for debate. Does any other Member wish to speak?

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I rise to support a Bill entitled The Health Insurance (Amendment) Bill, 2001. It is clear that the Minister in administering this Law has run into a problem with the definitions, which the amendment corrects.

I would like to echo the concerns of the Second Elected Member for Cayman Brac and Little Cayman, that there should be a means test to determine the indigent persons in our society. It should be a master list used by all agencies of government. I understand that at present there are about three in use. I would also like to suggest that Social Services would ideally be the best of these entities to make this list and to make the determination as to the means of persons involved.

In my opinion it makes sense to implement anything that can be done to speed up the process and make it workable for the Health Services Department (that has to deliver health services) and the persons receiving the services. The Select Committee has started dealing with health insurance, so it is an ideal time for all areas to be looked at. Indeed, I have been encouraged by the level of deliberation that has gone on already in the Select Committee, already called for

by the Minister. I believe it will continue, as it appears to be a concern of all Members to resolve this matter quickly.

I think a considerable call on Government's finances right now is via the area of providing health services. The sooner we can find a workable solution to this situation, the better it will be. Surely we need to work on this Health Insurance Law. However, I think this amendment needs to be done now to correct the situation. I give it my support.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

If not, does the Mover care to exercise his right of reply?

The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** I would like to thank the Second Elected Member for Cayman Brac and Little Cayman for his very sage remarks and important input. I would also like to thank the Second Elected Member for Bodden Town, and all others who, by their tacit support, have given a stamp of approval to this amendment.

Before I deal with some of the points raised, I would like to say that today I have asked the Clerk — to the Select Committee studying the Health Insurance Law— to circulate to all Members of the House a Report that I had done for my ministry on Health Insurance and Health Fees Advisory Committee. This Report will inform the process and deliberations in the select committee.

Even though we have been working hard in Select Committee during the period we have been sitting, I have also had my technical people looking into the matter of health insurance and fees, indeed it is a very wide subject.

Under the Health Insurance and Health Fees Advisory Committee, I have set up four subcommittees that deal specifically with specialised areas. These subcommittees are the Health Insurance Self-funded Scheme Subcommittee; the Review of Health Services Fees Subcommittee; the Health Services Collections Subcommittee; and the Health Insurance Law and Regulations Subcommittee.

I believe the information contained in these various reports will answer a number of the questions that have been raised. Even though I am not proposing to table the document at this point in time, I have made it available to each Member to provide information on the process and provide for the thinking of Members once we meet again in the Select Committee.

There have been some major recommendations that have emanated from the four subcommittees, including: 1) that Government should ensure the establishment of the necessary cost control and cost containment mechanisms into the self-funded health

insurance programme being proposed, and that it should also be in a position to collect sophisticated and reliable statistics. The lack of reliable statistics is a matter of grave concern.

2) To appoint a consultant, preferably a company not presently involved in the local insurance industry, to assist with policy preparation, to establish the reporting format to be used by the third party administrator and to assist in the tender process.

This is just to inform the House as to what is being done about the whole question of health insurance, even though I fully appreciate that the recommendation is dealing with an amendment to uninsurable indigents. Since the debate on this covered other areas, I thought it would be helpful and informative if I explained some of the work that has already commenced in dealing with this issue.

3) To introduce claims, diagnosis and treatment codes in the Government healthcare facilities. It is presently estimated that the health fees at the hospital could be some 30 percent less than in the private sector. We will be adopting a code similar to that used in Miami, but appropriate to the Cayman Islands, where we will use perhaps a 75 percentile of that amount and be applying this to a proper set of codes called CPT codes. When the patient walks into the hospital or private clinic he will have a fair idea of how much he has to pay for a particular service. This will discourage the private sector providers from charging a much higher sum than what they should be charging within that specific code.

We will also implement a charge structure that provides the flexibility to keep pace with the rapidly changing field of medicine. The new charge structure must be routinely updated to take into account new services and those services currently charged for. Additionally, we will ensure that the new fees structure is established at a level that provides sufficient revenue to support operations and allows for funding of care for indigents.

I wish to also inform the House that just within the past few weeks, I have commissioned the setting up of a Health Services Authority. We recognise that the standards of efficiency need to be improved. This is not to say that we do not have some very hard-working staff at the hospital. However, some of them need some guidance which we will provide. We are hoping that with the introduction of a Health Services Authority the medical department will be run in a more businesslike manner.

I know this will present some difficulties for some Members of this House because we will find that business will not be done as usual, once the Health Services Authority is introduced. We will attempt to avoid the situation we currently have where there is some \$50 million owed to government. The only way the hospital can run properly is if we tighten up the efficiency in the department.

We have found cases where we do not even have addresses for some foreign patients we have

treated. At present, we have some 25,000 outstanding accounts that comprise the \$50 million. This is not to say that in certain cases these accounts are not being addressed or put on a loan basis and being paid off. However, they are few and far apart. If we had to look at those accounts tomorrow, it is very doubtful that we could obtain maybe more than 20 percent. We are looking at effectively writing off a huge and substantial amount of money. This cannot be allowed to continue. We have to tighten up the system. This is precisely what we will be doing and hopefully in the Select Committee Members will pay very close attention to the recommendations in this Report.

There are a number of very good recommendations. However, as I am not tabling this, I will not read any more. It was just to give an idea of some of the issues being addressed in this Report and that will be discussed in the Select Committee.

On the question of fees being paid into the segregated account and a carte blanche situation where the hospital receives all of it, that is not the system being applied. The amounts received will be supported by the proper statements. I really do not think the Member has to worry about that because since the segregated fund

was established in 1998, we have a total of approximately \$4 million. If the Member looks at the amount we have accumulated in outstanding hospital fees since 1 January 1998, he will see it is substantially more. I do not think there will be a problem. However, I will take his suggestion under consideration and will discuss this matter further with the Chairman of the Advisory Committee.

I believe those were the main issues raised and it only remains for me to thank Members for their support of this most important amendment Bill.

**The Speaker:** The question is that a Bill entitled The Health Insurance (Amendment) Bill, 2001 be given a second reading. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE HEALTH INSURANCE (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Reading.

**THE COMPANIES (AMENDMENT) BILL, 2001**

**The Clerk:** The Companies (Amendment) Bill, 2001.

**The Speaker:** The Third Official Member.

**Hon. George A. McCarthy:** I beg to move the Second Reading of a Bill entitled The Companies (Amendment) Bill, 2001.

**The Speaker:** Do you wish to speak to it?

**Hon. George A. McCarthy:** The purpose of this amendment is twofold: first, it seeks to rectify inadvertent omissions from the Finance Law (1998) and to validate the associated fees levied by the General Registry since 1 January 1999. In this case, the fees involved are 1) a reduction from \$470 to \$350 in registration fees for a resident company with a capital exceeding \$42,000; and 2) the removal of the \$10 fee for a change of name in Section 31 of the Companies Law so that it is chargeable at the same rate as other similar services under Section 219 of that Law.

Second, the amendment seeks to remove an anomaly in the Companies Law, being Section 168(3). Section 168(3) purports to deal with fraudulent preferences in the form of transfer of assets out of the reach of all except selected creditors. It is a vestige of the 19<sup>th</sup> century English Law which has been superseded in the UK by the more modern provisions of the Insolvency Act 1986. Similarly, in the Cayman Islands, the Fraudulent Dispositions Law introduced in 1989 supersedes the provision of Section 168(3). The defect in Section 168(3) is that it is too broad and catches perfectly normal and legitimate transactions in particular securitisations where an inherent feature is a transfer of assets that Section 168(3) prohibits.

Section 168(3) is therefore being repealed on the basis that it is defunct and dysfunctional. However, by virtue of Clause 5(4) of the Bill, the application of the Fraudulent Dispositions Law (1996 R) and any other relevant Law is expressly maintained to continue proper cover in respect of fraudulent transfer of assets.

I commend this Bill to this House.

**The Speaker:** The question is that a Bill entitled The Companies (Amendment) Bill, 2001 be given a second reading. Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

If not, does the Mover care to exercise his right of reply?

**Hon. George A. McCarthy:** Just to say thanks to Members for their tacit support.

**The Speaker:** The question is that a Bill entitled The Companies (Amendment) Bill, 2001 be given a second reading. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COMPANIES (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** We shall suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 11.32 AM**

**PROCEEDINGS RESUMED AT 12.08 PM**

**The Speaker:** Please be seated.

The House will now go into committee to discuss a Bill entitled The Legal Practitioners (Amendment) Bill, 2001, and six other Bills.

**HOUSE IN COMMITTEE AT 12.10 PM**

**COMMITTEE ON BILLS**

**The Chairman:** The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk state each Bill and read its clauses?

**THE LEGAL PRACTITIONERS (AMENDMENT) BILL, 2001**

**The Clerk:** The Legal Practitioners (Amendment) Bill, 2001.

- |           |                                                                                                                                                   |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Clause 1. | Short title.                                                                                                                                      |
| Clause 2. | Amendment of section 3 (1) of the Legal Practitioners Law (1999R)—Admission of Barristers, Solicitors and others to practise as attorneys at Law. |
| Clause 3. | Repeal of section 18 and substitution—Legal Advisory Council.                                                                                     |

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 3 PASSED.**

**The Chairman:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** There is a committee stage amendment to Clause 4 of the Bill. The principal Law is amended in Section 14(a) by inserting after the word “chambers” the words “*or of a person instructed by or on behalf of the Attorney-General to appear for the Attorney General in any cause*”

**or matter and who possesses the prescribed qualification.”**

As I think I already explained to the House, this is to make express provision for the right of audience on the part of an attorney or council instructed by or on behalf of the Attorney-General in any cause or matter and who possesses the prescribed qualification. It is simply to make clear that any such person, in addition to any person from the public office of the Attorney General, may have audience in the courts of the Cayman Islands. I understand it has the support of the Judiciary and the Chief Justice, in particular, who has written to me on it and I do not believe it is contentious. Thank you.

**The Clerk:** New Clause 4. Amendment of section 14—Savings.

**The Chairman:** The question is that new Clause 4 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**NEW CLAUSE 4 PASSED.**

**The Clerk:** A Bill for a Law to amend The Legal Practitioners Law (1999R) to change the qualifications required to practice Law in the Cayman Islands, to change the membership of the Legal Advisory Council, and for incidental purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE STAMP DUTY (AMENDMENT) (NO. 2)  
BILL, 2001**

**The Deputy Clerk:** The Stamp Duty (Amendment) (No. 2) Bill, 2001.

Clause 1. Short title.

**The Chairman:** The question is that Clause 1 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 1 PASSED.**

**The Clerk:** Clause 2. Amendment of the Schedule of the Stamp Duty Law, (2001R).

**The Chairman:** I think we have an amendment to Clause 2.

**Hon. George A. McCarthy:** Yes, and in addition to the amendment that has been circulated, I would like to propose that the wording of the title be amended to remove the reference to “timeshares.”

Therefore, in accordance with Standing Order 52(1) & (2), I give notice to move the following amendment: That the long title of the Bill be amended by deleting the words “**to repeal the stamp duty on documents relating to the grant, assignment or transfer of time shares**”; and that the Bill be amended in Clause 2 by repealing paragraph (c).

I would also like to move that the semicolon after “timeshares” in the Title be removed as well.

**The Chairman:** The question is that Clause 2 be amended. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** The question is that Clause 2 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2, AS AMENDED, PASSED.**

**The Chairman:** The Third Official Member, you moved the amendment to the Title, however, I would ask that you do it again.

**Hon. George A. McCarthy:** In accordance with Standing Order 52(1) & (2), I give notice to move the following amendment: That the long title of the Bill be amended by deleting the words “**to repeal the stamp duty on documents relating to the grant, assignment or transfer of time shares**”; and deletion of the semicolon after “timeshares” in the Title as well.

**The Chairman:** The question is that the amendment to the Title do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**



**The Chairman:** The Ayes have it.

**AMENDMENT TO TITLE PASSED.**

**The Clerk:** A Bill for a Law to amend the Stamp Duty (2001R) to correct errors in the Schedule and for incidental and connected purposes.

**The Chairman:** The question is that the Title as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE AS AMENDED PASSED.**

**THE PUBLIC MANAGEMENT AND FINANCE  
BILL, 2001**

**The Clerk:** The Public Management and Finance Bill, 2001.

Clause 1. Short title.

**The Chairman:** The question is that Clause 1 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 1 PASSED.**

**The Clerk:** Clause 2. Commencement.

**The Chairman:** There is an amendment to Clause 2.

**Hon. George A. McCarthy:** In accordance with Standing Order 52(1) & (2), I give notice to move the following amendment to The Public Management and Finance Bill 2001, be amended by: (a) deleting clause 2 and substituting the following clause 2(1) ***“Commencement. 2. (1) Subject to subsections (2), (3) and (4), this Law shall come into force on 1 January, 2002.*”**

***“(2) Parts II, III, IV, V, VI and VII (other than sections 59(e), 63(3), 64, 67(1) (a) (ii), 67(1) (c), 67(2) and 67(3)), and sections 69, 70, 71, 72 and 73 do not apply to, or require any action by the Legislative Assembly, Executive Council, a Minister or Official Member, the Financial Secretary, a Ministry or Portfolio or its Chief Officer, a Statutory Authority or Government Company or its Board, the Portfolio of Finance and Economic Development or its Chief Officer, the Auditor-General or the Audit Office, or any other person in respect of***

***any financial year commencing before 1 July, 2004.***

***“(3) Sections 39, 41(3) and (4), and 53(i) shall come into force on 1 July, 2005.***

***“(4) Sections 59(e), 63(3), 64, 67(1)(a) (ii), 67(1)(c), 67(2) and 67(3) shall come into force on the date that this Law is passed by the Legislative Assembly.”***

**The Chairman:** The question is that the amendment to Clause 2 do stand part of the Bill.

The Elected Member for East End.

**Mr. V. Arden McLean:** In Clause 2, Section (3), I just wonder if it should be Section 39, 41(3) and (4) and 53(i) as opposed to 1 (one).

**Hon. George A. McCarthy:** It should be 53(i).

**The Chairman:** Any further debate? If not, I shall put the question that the amendment do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** The question is that Clause 2 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2 AS AMENDED PASSED.**

**The Clerk:** Clause 3. Definitions.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** In Clause 3, in the definition of the term “chief officer,” by deleting paragraph (b) and substituting the following paragraph – ***“(b)(i) in the case of the Portfolio of Internal and External Affairs, the Deputy Chief Secretary; (ii) in the case of the Portfolio of Legal Affairs, the Solicitor General; and (iii) in the case of the Portfolio of Finance and Economic Development, the Deputy Financial Secretary;”***.

In the definition of the term “financial year” by deleting “31 December” and substituting ***“30 June.”***

By inserting the following definition in its appropriate alphabetical order: ***“‘public officer’ means any person employed in the Civil Service but***

**does not include any Member of the Executive Council or Legislative Assembly.”**

In the definition of the term “borrowing,” by deleting the words “or the obtaining of a cash advance.”

**The Chairman:** The question is on the three amendments as read to amend Clause 3. The question is open for debate.

No debate? I shall put the question on the three amendments to clause 3. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENTS TO CLAUSE 3 PASSED.**

**The Chairman:** I shall put the question that Clause 3 as amended three times do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 3 AS AMENDED PASSED.**

**The Chairman:** I am told there are four amendments, so I will have to put the question again. The question is on the four amendments to Clause 3. If there is no debate, those in favour please say Aye. Those against, No.

**AYES and One Audible Abstention** (*Mrs. O'Connor Connolly*)

**The Chairman:** The Ayes have it.

**AMENDMENTS TO CLAUSE 3 PASSED.**

**The Chairman:** I shall put the question that Clause 3 as amended four times do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES and One Audible Abstention** (*Mrs. O'Connor Connolly*)

**The Chairman:** The Ayes have it.

**CLAUSE 3 AS AMENDED PASSED.**

**The Clerk:**

- Clause 4. Meaning of accounting terms.
- Clause 5. Accrual accounting.
- Clause 6. Meaning of controlling interest.

**The Chairman:** The question is that Clauses 4 through 6 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 4 THROUGH 6 PASSED.**

**The Clerk:**

- Clause 7. Law required for changes to coercive revenue.
- Clause 8. Appropriations required for various transactions.
- Clause 9. Resolution required for guarantees.
- Clause 10. Appropriations.
- Clause 11. Permanent appropriations.
- Clause 12. Authorisation in advance of appropriation.

**The Chairman:** The question is that Clauses 7 through 12 do stand part of the Bill.

The First Elected Member from Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** In relation to Clause 11, I wonder if the Third Official Member can say who would actually be making the permanent appropriation?

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** Permanent appropriations are by virtue of this Law and will be managed in the same way as statutory expenditure.

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you. I wonder if he would go on to say at what stage the Legislative Assembly would have an opportunity, if any, to debate, vote, and or comment on the permanent appropriations?

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** That would be part of the budget presentation, just as the provisions for statutory expenditure are now included as part of the budget process, this will continue to be included.

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** Am I correct in coming to the conclusion that; if it is a statutory entry allocating a permanent appropriation, in fact there would be very little discretion at the budget stage to change that?

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** The amount will be appropriated automatically, pursuant to the legislation itself.

**The Chairman:** Any further debate? If not, I shall put the question that Clauses 7 through 12 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSES 7 THROUGH 12 PASSED.**

**The Clerk:** Clause 13. Emergency expenditure.

**The Chairman:** The question is that Clauses 13 do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 13 PASSED.**

**The Clerk:** Clause 14. Responsible financial management.

**The Chairman:** There is an amendment.  
The Honourable Third Official Member?

**Hon. George A. McCarthy:** In Clause 14(4), by deleting the words "statement laid before the Legislative Assembly" and substituting the words "*paper laid before the Legislative Assembly for its information.*"

**The Chairman:** The question is that the amendment to Clauses 14 do stand part of the Bill.

The First Elected Member for Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** Just to convey my thanks to the Third Official Member and his team for taking on board the suggested amendment. I viewed the amendment as significant in that it would allow Members of Parliament to have an opportunity to debate the paper as opposed to being left to short questions.

**The Chairman:** Any further debate? If not I shall put the question on the amendment to Clause 14. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENT TO CLAUSE 14 PASSED.**

**The Chairman:** The question is that Clause 14 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 14 AS AMENDED PASSED.**

**The Clerk:**

Clause 15. Shareholding arrangements for government companies.

Clause 16. Executive Council's power to direct.

**The Chairman:** The question is that Clause 15 and 16 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSES 15 AND 16 PASSED.**

**The Chairman:** I do not have a quorum. Please call another Member. (pause)

**The Clerk:** Clause 17. Budget process.

**The Chairman:** Honourable Third Official Member, there is an amendment?

**Hon. George A. McCarthy:** In clause 17(1), by deleting "1 April" wherever it appears and substituting "**1 October.**"

**The Chairman:** The question is that the amendment to Clause 17 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENT TO CLAUSE 17 PASSED.**

**The Chairman:** The question is that Clause 17 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 17 AS AMENDED PASSED.**

**The Clerk:**

- Clause 18. Strategic phase.
- Clause 19. Detailed planning and budgeting phase.
- Clause 20. Executive Council collective review phase.
- Clause 21. Legislative Assembly review phase.
- Clause 22. Documentation phase.

**The Chairman:** The question is that Clause 18 through 22 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 18 THROUGH 22 PASSED.**

**The Clerk:** Clause 23. Strategic policy statement.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** In clause 23(1), by deleting "1 June" and substituting "**1 December.**"

**The Chairman:** The question is that the amendment to Clause 23 do stand part of the Bill.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I was actually trying to catch your eye—not on the amendment, but on the clause in general.

**The Chairman:** I do not understand.

**Mrs. Julianna Y. O'Connor-Connolly:** I wanted to make a comment on the general clause itself.

**The Chairman:** The question is that the amendment to Clause 23 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 23 PASSED.**

**The Chairman:** The question is that Clause 23 as amended do stand part of the Bill.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** When one reads this, it seems to imply that it is a new concept that seeks to introduce any Member of Executive Council, on a specified date, to do the strategic policy

statement. I just wondered if the Member would share the justification as to the deviation from the normal Financial Secretary doing it, or whether any thought was given to limiting it to the Leader of Government Business or Chief Minister, (whatever is in the making), to actually lay such a policy statement before Parliament.

**Hon. George A. McCarthy:** Since this is a new provision that is being made, it was put into the Bill in this manner to allow Executive Council to make a determination as to whom it would deem appropriate to present the strategic policy statement.

I can go on to say that the strategic policy statement would not only be dealing with financial matters, but would also deal with Government's expected outcomes as well as strategic policies.

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you.

Am I also to understand that we will perhaps be hearing the strategic policy statement from different Members of Executive Council, depending on what the consensus is, as opposed to the Leader of Government Business?

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** It is quite likely that once Executive Council takes a decision as to who will present the strategic policy statement, that that precedent will be maintained and not deviated from.

**Hon. Linford A. Pierson:** Mr. Chairman.

**The Chairman:** The Honourable Minister of Health and Information Technology.

**Hon. Linford A. Pierson:** On the question of the strategic policy statement, I believe if we look at 23(2) it states in precise detail what the policy statement will contain. Since 2(8) states a summary of the broad outcomes, specific outcomes and the links between them; the Executive Council intends to achieve those in the next financial year and for at least the following two financial years. Perhaps this is an area that Executive Council by consensus, could decide which Member of Executive Council will deal with this. However, I take the Member's point, that since it is indeed a financial matter, the Financial Secretary would normally be expected to deal with this issue. This is a matter that I believe the Financial Secretary could take under consideration for further discussion within Executive Council.

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I wish to thank Mr. Pierson for that further insight, taking it against the background of the proposed modernisation of the Constitution. It would bring much more clarity if the move were toward a Minister of Finance rather than an open-ended position as it is now currently drafted.

**The Chairman:** Any reply to that?  
The Honourable Third Official Member?

**Hon. George A. McCarthy:** I do not think she was expecting me to reply to that statement.

**The Chairman:** Any further debate? If not, I shall put the question that Clause 23, as amended, do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 23 AS AMENDED PASSED.**

**The Clerk:** Clause 24. Annual plan and estimates.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** In clause 24(1), by deleting "5 November" and substituting "**1 May.**"

**The Chairman:** The question is that the amendment to Clause 24 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 24 PASSED.**

**The Chairman:** The question is that Clause 24 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 24 AS AMENDED PASSED.**

**The Clerk:**

- |            |                                             |
|------------|---------------------------------------------|
| Clause 25. | Supplementary annual planning estimates.    |
| Clause 26. | Pre-election economic and financial update. |
| Clause 27. | Information to be included in forecast.     |
| Clause 28. | Entire public sector quarterly report.      |
| Clause 29. | Entire public sector annual report.         |

**The Chairman:** The question is that Clauses 25 through 29 do stand part of the Bill.

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** With specific reference to Clause 27 2(a). It is my submission that that is drafted much too widely in that it gives the Financial Secretary the determination not to actually do a pre-election economic forecast, if he is of the opinion that it would "**significantly prejudice the economic interests**" of these Islands, and because that is such a subjective test. I believe that this absolute power as drafted does not lend itself to the widely accepted concept of transparency.

**The Chairman:** Honourable Third Official Member?

**Hon. George A. McCarthy:** Mr. Chairman, 27(2) does not preclude the Financial Secretary from producing the economic forecast. What it does allow is the exclusion of information that would significantly prejudice the economic interests of the Cayman Islands.

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** That was precisely the ambit of my concern in that the tests at the juncture of the exclusion, in my view are extremely subjective. The public in an era of freedom of information has no way of ascertaining what was deemed to be significant prejudice to the economic welfare of these Islands.

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** The Member is correct in that this is somewhat subjective. However, this is a difficult situation to avoid because it is a judgment call that will have to be made. It is hoped that if a decision is taken not to include information that would be prejudicial to the economic interest of the Cayman Islands that where it is necessary to defend that decision and to explain in quarters whether the correct decision would have been made, that judgment will be brought to bear or it can be seen that the right judgment would have been arrived at.

This provision is necessary in that a judgment call will have to be made and cannot be left in a manner where this judgment on the part of the Financial Secretary, although subjective, cannot be exercised.

**The Chairman:** The Elected Member for East End?

**Mr. V. Arden McLean:** Specifically on 28(1), I am concerned that after the quarter it will take eight

weeks to gazette a report to be published. Can the Member explain why it would take so long? Is there room to shorten that period?

**The Chairman:** The Minister of Health and Information Technology.

**Hon. Linford A. Pierson:** I just wanted to say that procedurally, maybe we should have tried to finish the point raised by the First Elected member for Cayman Brac and Little Cayman, on Clause 27(2). I do not think that had been concluded yet.

I personally wanted to make a few comments on that before we\_\_\_

**The Chairman:** Please go ahead.

**Hon. Linford A. Pierson:** Clause 27 deals with information to be included in the forecast and (2) says that "**Subsection (1) does not apply to the extent the Financial Secretary determines that compliance with that section will be likely to significantly prejudice the economic interest of the Islands.**" I think that is most important. We would not want to be publishing anything that would significantly prejudice the economic interest of the Islands. That said, I think when reading Clause 27 it has to be read in conjunction with 24 and 26. Clause 24 deals specifically with the annual plan and estimate, while 26 deals with pre-election economic and financial update and a full detail is given on these two sections.

While taking the point made by the Honourable Member that we must do everything in the interest of transparency, I believe that this safeguard should be put in place in the event there was something that the Financial Secretary felt could be detrimental to the economic interest of the Islands. I also believe in the interest of transparency that this should be kept to the very minimum.

I would personally prefer to see this not included because if there is a matter that should be kept from the public, then that particular matter should be dealt with in some forum where Members of the Legislative Assembly would have the opportunity to speak on it. However, to leave the situation totally to the Financial Secretary to determine the non-compliance with the section is putting a lot of power into the hands of the Financial Secretary.

I just wonder if the Third Official Member has a comment on that. This is not to say that I do not support it. He knows I do. It is just to make a comment on the matter raised by First Elected Member for Cayman Brac and Little Cayman.

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** I appreciate the point raised by the Minister of Health and Information Technology. This is a matter that will have to be ex-

amined further, as to whether too much authority is being vested in the Financial Secretary. During the normal course when matters are being discussed in terms of the forecast, this is handled by a body referred to as Executive Council. Although this makes specific reference to the Financial Secretary, it is unlikely the Financial Secretary would take a decision not to include information without appropriate consultation.

Given the spirit of transparency, often times we find ourselves in situations where it is not appropriate to publicise certain information. Prudence always dictates that a meeting be held to brief the Members of the Legislative Assembly. I think if we look at the strict interpretation of the provision and follow it, and to assume there is going to be no variation from it, then this would pose a problem. However, given the practice expected to be pursued in instances where matters are so sensitive and would significantly harm the economic interest of the Cayman Islands, I think the provision is appropriate.

However, as I said, I will make a note and will communicate the concerns as raised to Executive Council.

**The Chairman:** The First Elected Member for Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you. I should also wish to make it abundantly clear that I have the utmost faith in the exercise of discretion of the present holder of that office. However, seeing that Laws are often drafted to anticipate change in occupation and otherwise, I made that comment. I just wondered if the Government would be prepared to consider adding words to the effect that the *'Financial Secretary "may" or "shall" consult with Executive Council?'*

**The Chairman:** The Honourable Third Official Member

**Hon. George A. McCarthy:** The recommendation will be taken into consideration and will be communicated to Executive Council. I give that undertaking.

**The Chairman:** The Second Elected Member for George Town?

**Mr. Alden M. McLaughlin, Jr.:** I just wish to join voice with the concerns that have been articulated in relation to this provision. I think if this section is abused it can defeat the entire purpose of the requirement that a pre-election economic and financial update be published. One can easily conceive of situations where a government standing for re-election will come to the view that in that pre-election update it does not wish to be included, those decisions taken which are likely to have a material effect on the forecast given by the Financial Secretary.

If that is not done, it will significantly distort the true economic position and forecast. Therefore, we wind up with a misleading forecast.

While I have the utmost regard and respect for the current Financial Secretary, the reality is that decisions like these are decisions which are influenced heavily by what the Executive Council wishes to happen. For that reason, I do not regard this particular clause as appropriate to either the theme or objective of this Bill, which is underpinned by the premises of accountability, transparency and responsibility. Therefore, I would invite the Third Official Member to give consideration to proposing an amendment at this stage that will have the effect of deleting this particular clause from the Bill.

**The Chairman:** The Honourable Minister of Health and Information Technology?

**Hon. Linford A. Pierson:** I heard what the Second Elected Member has said, but I believe it would be somewhat short-sighted to just slash this Clause without allowing the Financial Secretary more time to consult with Executive Council. He has already given an undertaking to the First Elected Member for Cayman Brac and Little Cayman that he will do that.

We need to sit down and look at this and weigh the ramifications of the whole Section and what it was intended to do. I join the other Members who agreed that it seems to create a problem in respect of transparency. This is precisely why Executive Council will have another look at it.

I think to suggest (and I am sure this was not his intention) that Elected Members of Executive Council are not as forthright as the Official Members, might be giving the wrong impression. It takes all Members of Executive Council to form the Government, and no Member of Executive Council can put forward a view or a policy without the concurrence of all Members. Although I appreciate that the Financial Secretary is a senior civil servant, under collective responsibility it takes all Members of Executive Council to agree on an issue. That is why this matter originally approved by Executive Council for consideration here in the Legislative Assembly should now go back to the Executive Council for further consideration.

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Just to also mention that I do appreciate the attention and due care being given to the various clauses of this Bill by Members of the Legislative Assembly. I would just like to give Members the assurance that where reference is being made to the "authority of the Financial Secretary" being the holder of the post, I would not be in the least offended because at the end of the day I agree that the focus should not be on the person, but on the provision as allowed for in the Bill or Law itself. No

human being—and I am one of those—has a lease on life. We want a Bill that is most appropriate in terms of serving the needs of the Cayman Islands.

I reiterate and restate my undertaking to bring this matter to Executive Council. Since this is a Bill in front of us, we know that there is no legislation that is sacrosanct. Since this will be a very dynamic piece of legislation, we can expect that as we continue to examine it carefully we will find areas that can be fine-tuned and amended.

**The Chairman:** The Minister of Health and Information Technology

**Hon. Linford A. Pierson:** I just wanted to say that if for any reason Members feel very strongly about this Section, then that particular Clause could be noted when voting on this Bill. However, it does not necessarily have to affect the whole Bill.

**The Chairman:** The Elected Member for East End.

**Mr. V. Arden McLean:** It appears that we all agree there may be a need for an amendment to that Clause. I wonder if it is not in the best interest to do it now. I concur with The First Elected Member from Cayman Brac and Little Cayman in that maybe there should be consultation with Executive Council. The written word should be put there to avoid any doubt. If this is not the right place to do it at committee stage . . . I wonder if it is not in the best interest to do it now rather than coming back in six months or one year to get an amendment approved.

**The Chairman:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Chairman. It is not possible to say whether or not circumstances may arise whereby the conditions mentioned in Clause 27(2) would not arise which effectively amount to considerations almost affecting the national interest. Where the clause could possibly be improved would be if some record were made of the reasons for the formation of the judgment by the Financial Secretary or whoever makes that judgment. Such record in due course would become available to whom I know not, but among others, for example, the Auditor General or Members of the Legislative Assembly. The difficulty being that a matter that might significantly prejudice the economic interest of the Islands would not necessarily last forever. That situation may only obtain for a period of time.

The difficulty about the Section as it stands seems to me, that the transparency of the issue is not assisted by the fact that there is no requirement for the judgment or the reasons for that judgment, being committed to writing. It may be that even if the matter has to be kept confidential it could nevertheless be committed to writing. I only offer that as a suggestion

for consideration because that would at least afford the opportunity at a later stage to ascertain the basis on which the judgment was made at the time if the Clause is to remain in its present form.

**The Chairman:** The Honourable Third Official Member

**Hon. George A. McCarthy:** Since Members seem to have very strong views, I would propose that the amendment as proposed by the First Elected Member of Cayman Brac and Little Cayman, be made where she said that where it says "Financial Secretary" that the phrase be included "in consultation with Executive Council" or words to that effect.

**The Chairman:** Please state the number of the clause.

**Hon. George A. McCarthy:** In Clause 27(2), where reference is made that "the Financial Secretary determines", that it say "the Financial Secretary in consultation with Executive Council determines"

**The Chairman:** Before doing that, I would like to put the question on Clauses 25 and 26, that they do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 25 AND 26 PASSED.**

**The Chairman:** I think this would be an appropriate time to take the lunch break, at which time this can be corrected. I would ask Members, if there is an amendment to a Clause, please call it when the number is called.

We shall suspend until 2.30.

**PROCEEDINGS SUSPENDED AT 1.08 PM**

**PROCEEDINGS RESUMED AT 2.43 PM**

**The Chairman:** Please be seated. Proceedings in committee are resumed.

The Honourable Minister of Health and Information Technology?

**Hon. Linford A. Pierson:** When we took the adjournment, the item under discussion was Clause 27(2) of the Public Management and Finance Bill, 2001. The area of contention was the section dealing with whether or not the subsection should only extend to the Financial Secretary or whether it should be in consultation with Executive Council.

However, in further discussion with Members of the Back Bench who have given this a lot of study, it

was decided and agreed that we should leave it as the Financial Secretary. I believe the arguments put forward by the Members were very solid arguments, one being that we are talking about pre-election and economic update, and whatever statement is being made prior to an election should be as independent and show as much objectivity as possible.

It was felt that the Financial Secretary being a senior civil servant without any political leanings (we hope, and I know he does not), would give a very objective view on this situation and perhaps Elected Ministers on Executive Council should not be able to have any influence to bear on this. Therefore, the understanding I have is that Members would rather leave it as it is than to change it to read the Financial Secretary "*in consultation with Executive Council.*"

**The Chairman:** The Third Elected Member for George Town?

**Dr. Frank S. McField:** I certainly would like to concur with the Minister. I know that his experience with financial matters is pretty extensive. I believe that we are trying to balance the whole concept of government's accountability, not to Members of Government but to the public. Especially at election time, information is power. Only if the public is given the correct information will they be able to assess the performance of the Government elected by them. Obviously, politics being what it is, I can imagine that if the Financial Secretary had to consult with Executive Council with regard to these conditions, it is quite possible that Members of Executive Council might see that the economic interests of the Island could be significantly prejudiced by revealing certain information. That information might be essential for the public to be able to scrutinise and judge the record of the past Government.

I believe it shows good faith on the part of politicians to be sufficiently cautious about the profession, to be able to say at this point that more honesty and transparency would be achieved by allowing a more neutral party to make a decision, based upon objective factors rather than bringing in political considerations.

I realise that although the Financial Secretary seems to have quite a bit of power here, obviously up until that particular point would have been seen as a person of trust. Therefore, there is no reason why one would not trust that particular Financial Secretary beyond that point to be able to make the proper reporting procedure.

I say that the Government and other Members who brought this issue up are pointing in the right direction in regard to openness and transparency.

**The Chairman:** Any further debate?

The Honourable Third Official Member, would you wish to withdraw the amendment then?



**Hon. George A. McCarthy:** Yes, in light of what has been said.

**The Chairman:** I shall now put the question that clauses 27 through 29 stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 27 THROUGH 29 PASSED.**

**The Chairman:** Out of an abundance of caution, I will put the question that the amendment to Clause 27 be withdrawn. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 27 WITHDRAWN.**

**The Clerk:** Clause 30. Agreement in monitoring of output delivery.

**The Chairman:** Third Official Member, there is an amendment.

**Hon. George A. McCarthy:** In Clause 30 subclause (3)(f) by inserting the words "*for the information of the Legislative Assembly*," after the words "Legislative Assembly"; and (ii) in subclause (5) by inserting the words "*for its information*" after the words "Legislative Assembly."

**The Chairman:** The question is that the amendments to Clause 30 do stand part of the Bill.

**AMENDMENTS TO CLAUSE 30 PASSED.**

**The Chairman:** The question is that Clause 30 as amended to stand part of the Bill.

The First Elected Member of Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** When will the amendments be brought to the Legislative Assembly in relation to Clause 30(5) for information purposes?

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** Just allow me one minute.

**Mrs. Julianna Y. O'Connor-Connolly:** Perhaps I can assist. I direct his attention to Clause 30(3)(f) which stipulates that in that particular scenario it

would come at the next Sitting of the day after it is signed. Rather than leave subclause (5) silent, would Government be minded to give an appropriate timeline as to when Parliament could expect to have sight of amendments made to the purchase agreement?

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** I have a thought on it; however, I am just consulting with the Government Bench to get their views.

(pause)

**Hon. George A. McCarthy:** As a follow up to the Member's suggestion, the Government is of the view that the amendment could take the form of saying that the agreement shall be brought within 30 days after it has been signed.

Therefore, under Clause 30(5), I would propose that the following words be inserted at the end of the sentence which reads, "within 30 days after it has been signed." Therefore, that sub clause will read, "**(5) All amendments to a purchase agreement shall be in writing and presented to the Legislative Assembly for the information of the Legislative Assembly within 30 days after it has been signed.**"

**The Chairman:** On a procedural matter, I require that this be presented to Members in writing. I would ...

(pause)

**Hon. George A. McCarthy:** I understand the request you have made, that the amendment should be in writing. However, after reviewing it further, the Government is of the view, and taking into account the view of the First Elected Member for Cayman Brac and Little Cayman, the suggestion of 30 days may be too stringent. It is being suggested that 60 days would be much better. It could be between Meetings of the Legislative Assembly, so a period of 60 days would be much better for the agreement to be brought, once it has been signed.

**The Chairman:** I have no objection to the change in the number of days. However, procedurally I must have a written amendment.

**Hon. George A. McCarthy:** Mr. Chairman, would it be acceptable to go on to the other amendments while this is being—

**The Chairman:** I cannot waive the two days' notice without an amendment. I have a procedural problem.

**Hon. George A. McCarthy:** Is it possible to move on to the other amendments while this is being typed?

**The Chairman:** We can, however it means that we will have to recommit this particular one.

**Hon. George A. McCarthy:** That will be fine, Mr. Chairman.

**The Chairman:** If the committee wishes, we can proceed to Clause 31, but procedurally, I must have that.

**The Clerk:**

- |            |                                                    |
|------------|----------------------------------------------------|
| Clause 31. | Agreement and monitoring of ownership performance. |
| Clause 32. | Duties of the Financial Secretary.                 |

**The Chairman:** The question is that Clauses 31 and 32 do stand part of the Bill.

The First Elected Member for Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** In Clause 32, we have a similar problem. Perhaps the Government would like to look at that in concert with the current amendment.

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I am taking some advice on this, I will respond in a minute.  
[Pause]

**The Chairman:** Honourable Members, there seem to be a substantial number of these Clauses to be questioned. Can we not do this prior to committee stage by a suspension or something where we do not have to stop after each Clause? There is no problem as far as I am concerned, I am just thinking about the time.

The Honourable Third Elected Member, do you have something you would like to say?

**Hon. George A. McCarthy:** Mr. Chairman, in responding to the Member, you could have the situation where if a divergence occurs which could have a major economic impact, often times just reporting on the divergence itself may not be necessary to set out what remedial action is being taken —although it provides information and I support that in the spirit of transparency for the effective management of the country. It is necessary at times to consult and seek advice as appropriate in order to achieve that end. Therefore, this is where attempting to specify a time may pose a problem.

However, I understand the concern raised by the Member. I just thought the reason a time has not been specified against this was because of a divergence occurring. Evidently this is one where it would be prudent to advise Members of the Legislative Assembly. However, stating the divergence and not the remedial action that will be taken to remedy that divergence would not be sufficient.

**The Chairman:** Is there any further debate?

I shall then put the question that Clauses 31 and 32 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 31 AND 32 PASSED.**

**The Clerk:** Clause 33. Delegation by the Financial Secretary.

**The Chairman:** There is an amendment to Clause 33.

**Hon. George A. McCarthy:** Clause 33 is amended by deleting in clause 33(1) the words “another person or the holder of any office” and substituting the words “*a Member of the Executive Council or a public officer.*”

**The Chairman:** The question is that the amendment to Clause 33 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 33 PASSED.**

**The Chairman:** The question is that Clause 33 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 33 AS AMENDED PASSED.**

**The Clerk:**

- |            |                                                                               |
|------------|-------------------------------------------------------------------------------|
| Clause 34. | Powers relating to specific financial transactions.                           |
| Clause 35. | Power to make regulations.                                                    |
| Clause 36. | Power to direct over ownership matters.                                       |
| Clause 37. | Duties of ministries and portfolios.                                          |
| Clause 38. | Duties of chief officer of a ministry or portfolio.                           |
| Clause 39. | Powers of chief officer of a ministry or portfolio.                           |
| Clause 40. | Delegation by chief officer.                                                  |
| Clause 41. | Further duties and powers of, and prohibitions on, ministries and portfolios. |

**The Chairman:** The question is that Clauses 34 through 41 do stand part of the Bill. If there is no debate, I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 34 THROUGH 41 PASSED.**

**The Clerk:** Clause 42. Performance agreement.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** Clause 42 is amended by deleting subclause (4) and substituting the following subclause **“(4) The finalised performance agreement- (a) shall be prepared immediately the legislative review phase of the budget process has been completed in accordance with section 21;**

**“(b) shall be signed by the chief officer and by the following persons on behalf of the Executive Council—**

**“(i) in the case of the performance agreement for the chief officer of a ministry or the Portfolio of Internal and External Affairs, the Chief Secretary;**

**“(ii) in the case of the performance agreement for the chief officer of the Portfolio of Legal Affairs, the Attorney-General; and**

**“(iii) in the case of the performance agreement for the chief officer of the Portfolio of Finance and Economic Development, the Financial Secretary; and**

**“(c) shall be presented to the Legislative Assembly by the relevant minister or official member on the next sitting day after it has been signed.”**

**The Chairman:** The question is that the amendment to Clause 42 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 42 PASSED.**

**The Chairman:** The question is that Clause 42 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 42 AS AMENDED PASSED.**

**The Clerk:**

Clause 43. Ministry or portfolio quarterly report.

Clause 44. Ministry or portfolio annual report.

Clause 45. Duties of statutory authorities and government companies.

Clause 46. Duties of board.

Clause 47. Acquisition and disposal of subsidiaries.

Clause 48. Annual purchase agreement.

Clause 49. Annual ownership agreement.

Clause 50. Half-yearly report.

Clause 51. Statutory authority or government company annual report.

Clause 52. Exclusion of commercially sensitive matters.

Clause 53. Duties of the Portfolio of Finance and Economic Development.

Clause 54. Executive bank account.

**The Chairman:** The question is that Clause 43 through 54 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 43 THROUGH 54 PASSED.**

**The Clerk:** Clause 55. Power to request information for entire public sector reporting.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** Clause 55 is amended by deleting clause 55 and substituting the following—**“Power to request information for entire public sector reporting.**

**“55. (1) For the purposes of preparing the entire public sector reports required by this Law, the Financial Secretary may request from Members of the Executive Council, Ministries, Portfolios, Statutory Authorities, Government Companies or any non-Government entity receiving money from the Government, such relevant information as the Chief Officer of the Portfolio of Finance and Economic Development may need to prepare those reports and the person or entity concerned shall supply the information requested by the date and in the format required by him.**

**“(2) For the purposes of this section, whether information is relevant or not shall be determined by the Governor.”**

**The Chairman:** The question is that the amendment to Clause 55 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 55 PASSED.**

**The Chairman:** The question is that Clause 55 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 55 AS AMENDED PASSED.**

**The Clerk:** Clause 56. Powers of the Internal Audit Group.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** Clause 56 is amended in 56(1)(a) by deleting “the Executive Council, any Member of the Executive Council, or”.

**The Chairman:** The question is that the amendment to Clause 56 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 56 PASSED.**

**The Chairman:** The question is that Clause 56 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 56 AS AMENDED PASSED.**

**The Clerk:**

|            |                                           |
|------------|-------------------------------------------|
| Clause 57. | Independence of Auditor-General.          |
| Clause 58. | Appointment of acting Auditor-General.    |
| Clause 59. | Powers and duties of the Auditor-General. |

**The Chairman:** The question is that Clauses 57 through 59 do stand part of the Bill. No debate? I shall put the question. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 57 THROUGH 59 PASSED.**

**The Clerk:** Clause 60. Reporting by Auditor General.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** Clause 60 is amended in clause 60(1)(b)(i), by deleting “each year” and substituting “*each financial year*”.

**The Chairman:** The question is that the amendment to Clause 60 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 60 PASSED.**

**The Chairman:** The question is that Clause 60 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 60 AS AMENDED PASSED.**

*[The Clerk called to the attention of the Chairman that there was no quorum]*

*[Long pause]*

**The Chairman:** Members within the precincts please enter the Chamber.

*[Pause]*

**The Chairman:** Proceedings in Committee resumed.

Out of an abundance of caution, I will put the question again on Clause 60. The question is that Clause 60 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 60 AS AMENDED PASSED.**

**The Clerk:**

|            |                                     |
|------------|-------------------------------------|
| Clause 61. | Reporting sensitive information.    |
| Clause 62. | Obligations of the Auditor-General. |

**The Chairman:** The question is that Clause 61 and 62 as amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 61 THROUGH 62 PASSED.**

**The Chairman:** Clauses 61 and 62 committed again:

**The Clerk:**

Clause 61. Reporting sensitive information.  
Clause 62. Obligations of the Auditor-General.

**The Chairman:** The question is that Clause 61 and 62 as amended do stand part of the Bill. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 61 through 62 passed.

**The Clerk:** Clause 63. Investigatory powers of the Auditor-General.

**The Chairman:** There are two amendments.

**Hon. George A. McCarthy:** Clause 63 is amended (i) by deleting clause 63(1)(a) and substituting the following – **“(a) (i) the right of access to all relevant information held by the Executive Council or any Member of the Executive Council, where the relevance of information shall be determined by the Governor; and (ii) the right of access to all information held by any Public Officer or employee of a Statutory Authority or Government Company”;** (ii) in clause 63(1)(d) by deleting **“any Member of Executive Council [or].”** Mr. Chairman, if you will allow the word “or” to be included, this was a typographical error.

**The Chairman:** That can be amended by the Second Official Member.

The question is that the amendment to Clause 63 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 63 PASSED.**

**The Chairman:** The question is that Clause 63 as twice amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 63, AS TWICE AMENDED, PASSED.**

**The Clerk:** Clause 64. Appointment of contractors.

**The Chairman:** The question is that Clause 64 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 64 PASSED.**

**The Clerk:** Clause 65. Audit Office.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** Clause 65 is amended by deleting subclause (2) and substituting the following subclause– **“(2) The Auditor-General shall be accountable to the Legislative Assembly for the performance of the Audit Office.”**

**The Chairman:** The question is that the amendment to Clause 65 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 65 PASSED.**

**The Chairman:** The question is that Clause 65 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 65, AS AMENDED, PASSED.**

**The Clerk:** Clause 66. Application of Part IV to the Audit Office.

**The Chairman:** There is an amendment.

The Honourable Third Official Member?

**Hon. George A. McCarthy:** Clause 66 is amended: (i) in subclause (1) by deleting paragraph (a) and substituting the following paragraph **“(a) every reference to the Executive Council or a minister were a reference to the Public Accounts Committee;”** and (ii) in subclause (2), by deleting **“committee referred to in subsection (1)(a)”** and substituting **“Public Accounts Committee”;** and (iii) in subclause (3), by deleting **“committee referred to in subsection (1)(a)”** and substituting **“Public Accounts Committee”.**

**The Chairman:** The question is that three amendments to Clause 66 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENTS TO CLAUSE 66 PASSED.**

**The Chairman:** The question is that Clause 66 as thrice amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 66, AS THRICE AMENDED, PASSED.**

**The Clerk:** Clause 67. Fees and charges.

**The Chairman:** The question is that Clause 67 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 67 PASSED.**

**The Clerk:** Clause 68. Annual report of the Audit Office.

**The Chairman:** Clause 68, Honourable Third Official Member. There is an amendment.

**Hon. George A. McCarthy:** Clause 68(3) is amended as follows - (i) in paragraph (a), by deleting "Speaker" and substituting "**Public Accounts Committee**"; and (ii) in paragraph (b), by deleting "Speaker" wherever it appears and substituting "**Public Accounts Committee**."

**The Chairman:** The question is the amendments to Clause 68 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENTS TO CLAUSE 68 PASSED.**

**The Chairman:** The question is that Clause 68 as twice amended do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 68 AS TWICE AMENDED PASSED.**

**The Clerk:**

Clause 69. Trust assets to be separately accounted for.

Clause 70. Trust bank accounts.

**The Chairman:** The question is that Clauses 69 and 70 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 69 THROUGH 70 PASSED.**

**The Clerk:** Clause 71. Investment of trust assets consisting of money.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** Clause 71 is amended by deleting clause 71 and substituting the *following* – "**Deposit of trust assets consisting of money. 71 (1) The Financial Secretary may, for such periods and on such terms and conditions as he thinks fit, place trust assets, consisting of money, on deposit with any bank.**

**"(2) No person shall have a right of action against the Financial Secretary in respect of any deposit or non-deposit of any trust assets consisting of money."**

**The Chairman:** The question is that the amendment to Clause 71 do stand part of the Bill. If there is no debate, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **AMENDMENT TO CLAUSE 71 PASSED.**

**The Chairman:** The question is that Clause 71 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSE 71 AS AMENDED PASSED.**

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

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 71 AS AMENDED PASSED.**

**The Clerk:**

- Clause 72 . Transfer of trust assets.
- Clause 73. Unclaimed trust assets.
- Clause 74. Bona vacantia.
- Clause 75. Offences and penalties.
- Clause 76. Offences by corporations.

**The Chairman:** The question is that Clauses 72 through 76 do stand part of the Bill an open to debate.

The First Elected Member from Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** In reference to Clause 73, I wonder if some consideration could be given to the addition in the first line of the words. It says, "**Any trust asset that shall be unclaimed.**" My proposal for consideration would be the insertion of the words 'after it has become claimable for a period of six years.'

**The Chairman:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** Just a moment to concur with the Government Bench.

The Government supports the amendment.

**Hon. Linford A. Pierson:** Mr. Chairman, I believe that is in fact the intention of the Clause. I would see no objection to that recommendation.

**The Chairman:** In view of the amendment to Clause 73, I shall put the question then that Clause 71 and 72 do stand part of the Bill. That is open to debate. If there is no debate, I shall put the question that clause 71 and 72 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The question is that Clause 72 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 72 PASSED.**

**The Chairman:** The Honourable Minister of Information Technology.

**Hon. Linford A. Pierson:** I was having another look at Clause 73(1) and wondered if it is not fairly clear there now that the trust asset would have to be

claimable and would run from that period for a period of six years. It says, "... **after having become transferable to any person entitled to the asset shall, together with any income payable in respect of the asset ...** " I am wondering whether it would be transferable before it was claimable.

[Pause]

**Hon. George A. McCarthy:** Mr. Chairman, after some discussion, it is agreed that the Clause 73 should remain as is.

**The Chairman:** I shall put the question that Clause 73 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 73 PASSED.**

**The Chairman:** The question is that Clauses 74 through 76 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 74 THROUGH 76 PASSED.**

**The Clerk:**

- Clause 77. Law not to affect the independence of the Governor.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** There is an amendment to clause 77(4), by deleting "Chief Secretary" and substituting "**Chief Officer of the Portfolio of Internal and External Affairs.**"

**The Chairman:** I shall put the question on the amendment to Clause 77. No debate? I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 77 PASSED.**

**The Chairman:** The question is that Clause 77 as amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 77 AS AMENDED PASSED.**

**The Clerk:**

Clause 78. Transition of accounts.  
Clause 79. Transition to responsible financial management.

**The Chairman:** The question is that Clauses 78 and 79 do stand part of the Bill.

The First Elected Member for Cayman Brac and Little Cayman?

**Mrs. Julianna Y. O'Connor-Connolly:** I wonder whether consideration could be given in Clause 78(1)(b) to refer this to Cayman Brac and Little Cayman account instead of just the Cayman Brac account, seeing that two Islands fall under the ambit of district administration?

**Mr. Gilbert A. McLean:** Mr. Chairman, I wonder if we could call it Cayman Brac and Little Cayman?

**Hon. George A. McCarthy:** The Government would be supportive of the amendment to refer to it as Cayman Brac and Little Cayman.

**The Chairman:** I think that can be done as a consequential amendment, because that is how they are supposed to be referred to. That can be done by the Second Official Member.

I shall put the question that Clauses 78 and 79 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 78 AND 79 PASSED.**

**The Clerk:** Clause 80. Interim input control system.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** In clause 80(3) as follows - (i) by deleting "1 January, 2004" and substituting "**1 July, 2004**"; (ii) by deleting "1 January, 2005" and substituting "**1 July, 2005**".

**The Chairman:** The question is that Clause 80 be twice amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENTS TO CLAUSE 80 PASSED.**

**The Chairman:** The question is that Clause 80 as twice amended stand part of the Bill Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 80 AS AMENDED PASSED.**

**The Clerk:** Clause 81. Repeals and transitional provisions.

**The Chairman:** There is an amendment.

**Hon. George A. McCarthy:** In clause 81 as follows – (i) in subclause (2), by deleting "commencing before 1 January, 2004" and substituting "**ending on, or before, 30 June, 2004**"; and (ii) by inserting, after subclause (2), the following subclause "**(3) Notwithstanding section 3 (a) the first financial year ending on 30 June, 2004; (b) the financial year immediately prior to the year ending 30 June, 2004 shall be for a period of six months ending 30 June, 2003; and (c) the financial years prior to that defined in paragraph (b) shall be for a year ending on 31 December.**"

**The Chairman:** The question is that Clause 81 be twice amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENTS TO CLAUSE 81 PASSED.**

**The Chairman:** The question is that Clause 81 as twice amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 81 AS TWICE AMENDED PASSED.**

**RECOMMITTAL OF CLAUSE 30**

**The Chairman:** At this time we will recommit Clause 30, as the written amendment has been circulated to Members.

**Hon. George A. McCarthy:** (i) In Clause 30 subclause (3)(f) by inserting the words "**for the information of the Legislative Assembly,**" after the words "Legislative Assembly"; and then we go on to the new amendment which is amendment number six, which



subsumes little item (ii) that was in amendment number four, this now reads, by deleting Clause 30(5) and substituting the following. ***“(5) All amendments to a purchase agreement shall be in writing and presented, within a period of sixty days after it has been signed, to the Legislative Assembly for its information.”***

**The Chairman:** The question is that Clause 30 be twice amended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 30 PASSED.**

**The Chairman:** The question is that Clause 30 as twice amended do stand part of the Bill. Those in favour please say Aye. Do you have a question?

Those against, No. The question is that Clause 30 as twice amended do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 30 AS AMENDED PASSED.**

**The Clerk:** Schedules.

- Schedule 1: Economic Forecasts.
- Schedule 2: Forecast Financial Statements.
- Schedule 3: Quarterly Financial Statements.
- Schedule 4: Annual Financial Statements.
- Schedule 5: Ownership Performance Measures.

**The Chairman:** The question is that Schedules 1 through 5 do stand part of the Bill. Open to debate, if there is no debate. Those in favour please say Aye. Those against No.

**AYES.**

**The Chairman:** The Ayes have it.

**SCHEDULES 1 THROUGH 5 PASSED.**

**The Clerk:** A Bill for a Law to repeal and replace the Public Finance and Audit Law (1997 Revision) and Regulations made under that Law; to repeal section 74 of the Customs Law (1998 Revision); to implement a new system of government accounting; to establish a new financial regime of financial accountability and responsibility for ministries, portfolios, government companies and statutory authorities; to re-establish the post, functions and powers of the auditor-general; and for incidental and connected purposes

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE EXEMPTED LIMITED PARTNERSHIP (AMENDMENT) BILL, 2001**

**The Clerk:** The Exempted Limited Partnership (Amendment) Bill, 2001.

- Clause 1. Short title.
- Clause 2. Amendment of the Exempted Limited Partnership Law (2001R)—Expedited fees.
- Clause 3. Validation.

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 3 PASSED.**

**The Clerk:** A Bill for a Law to amend the Exempted Limited Partnership Law (2001R) in order to introduce an express fee for expedited processing of applications under the Law and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE PARTNERSHIP (AMENDMENT) BILL, 2001**

**The Clerk:** The Partnership (Amendment) Bill, 2001

- Clause 1. Short title.
- Clause 2. Amendment of The Partnership Law (1995R)—Expedited fees.
- Clause 3. Validation.

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 3 PASSED.**

**The Clerk:** A Bill for a Law to amend The Partnership Law (1995Revision) in order to introduce an express fee for expedited processing of applications under the Law and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE HEALTH INSURANCE (AMENDMENT) BILL, 2001**

**The Clerk:** The Health Insurance (Amendment) Bill, 2001.

- Clause 1. Short title.
- Clause 2. Amendment of section 2 of the Health Insurance Law, 1997—Interpretation.
- Clause 3. Amendment of section 3—Compulsory health insurance.

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 3 PASSED.**

**The Clerk:** A Bill for a Law to amend the Health Insurance Law, 1997 in order to change the Law relating to the provision of health care to indigent persons and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE COMPANIES (AMENDMENT) BILL, 2001**

**The Clerk:** The Companies (Amendment) Bill, 2001.

- Clause 1. Short title.
- Clause 2. Amendment of section 26 of The

- Companies Law (2001Revision)—Registration.
- Clause 3. Amendment of section 31—Change of Name.
- Clause 4. Repeal of section 168—Fraudulent preference.
- Clause 5. Validation.

**The Chairman:** The question is that Clauses 1 through 5 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 5 PASSED.**

**The Clerk:** A Bill for a Law to amend the Companies Law (2001 Second Revision) in order to validate the previous charging of fees at the increased rates, to introduce new fees, to make miscellaneous amendments, and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** That concludes proceedings in Committee.

The question is that the Bills be reported to the House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED THAT THE BILLS BE REPORTED TO THE HOUSE.**

**HOUSE RESUMED AT 3.51 PM**

**The Speaker:** Please be seated.  
Reports.  
The Honourable Second Official member.

**REPORTS ON BILLS**

**THE LEGAL PRACTITIONERS (AMENDMENT) BILL, 2001**

**Hon. David F. Ballantyne:** I rise to report that a Bill entitled The Legal Practitioners (Amendment) Bill,

2001 was considered by a committee of the whole House and passed with amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Bills, Reports?

The Honourable Third Official Member?

#### **THE STAMP DUTY (AMENDMENT) (NO.2) BILL, 2001**

**Hon. George A. McCarthy:** I beg to report that the Stamp Duty (Amendment) (No. 2) Bill, 2001, was considered by a committee of the whole House and passed with amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Reports?

The Honourable Third Official Member?

#### **THE PUBLIC MANAGEMENT AND FINANCE BILL, 2001**

**Hon. George A. McCarthy:** I beg to report that The Public Management and Finance Bill, 2001, was considered by a committee of the whole House and passed with several amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Bills, Reports?

The Honourable Third Official Member?

#### **THE EXEMPTED LIMITED PARTNERSHIP (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** I beg to report that The Exempted Limited Partnership (Amendment) Bill, 2001, was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Bills, Reports?

The Honourable Third Official Member?

#### **THE PARTNERSHIP (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** I beg to report that The Partnership (Amendment) Bill, 2001, was considered by a Committee of the whole House and passed without amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Bills, Reports?

The Honourable Minister of Health and Information Technology?

#### **THE HEALTH INSURANCE (AMENDMENT) BILL, 2001**

**Hon. Linford A. Pierson:** I beg to report that The Health Insurance (Amendment) Bill, 2001, was considered by a committee of the whole House and passed without amendments.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Reports?

The Honourable Third Official Member?

#### **THE COMPANIES (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** I beg to report that The Companies (Amendment) Bill, 2001, was considered by a committee of the whole House and passed without amendments.

**The Speaker:** The Bill is accordingly set down for third reading.

**The Speaker:** Third Readings.

### **THIRD READINGS**

#### **THE LEGAL PRACTITIONERS (AMENDMENT) BILL, 2001**

**The Speaker:** The Honourable Second Official Member?

**The Clerk:** The Legal Practitioners (Amendment) Bill, 2001

**Hon. David F. Ballantyne:** I beg to move that a Bill entitled The Legal Practitioners (Amendment) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Legal Practitioners (Amendment) Bill, 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE LEGAL PRACTITIONERS (AMENDMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

#### **THE STAMP DUTY (AMENDMENT) (NO. 2) BILL, 2001**

**The Clerk:** The Stamp Duty (Amendment) (No. 2) Bill, 2001.

**The Speaker:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** I beg to move that a Bill entitled The Stamp Duty (Amendment) (No. 2) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled the Stamp Duty (Amendment) (No. 2) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE STAMP DUTY (AMENDMENT) (NO. 2) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE EXEMPTED LIMITED PARTNERSHIP  
(AMENDMENT) BILL, 2001**

**The Clerk:** The Exempted Limited Partnership (Amendment) Bill, 2001

**The Speaker:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** I beg to move that a Bill entitled The Exempted Limited Partnership (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Exempted Limited Partnership (Amendment) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE EXEMPTED LIMITED PARTNERSHIP (AMENDMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE PUBLIC MANAGEMENT AND FINANCE  
BILL, 2001**

**The Clerk:** The Public Management and Finance Bill, 2001

**The Speaker:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** I beg to move that a Bill entitled The Public Management and Finance Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Public Management and Finance Bill, 2001, be given

a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**QUESTION PUT. AGREED: THE PUBLIC MANAGEMENT AND FINANCE BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE PARTNERSHIP (AMENDMENT) BILL, 2001**

**The Clerk:** The Partnership (Amendment) Bill, 2001.

**The Speaker:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** I beg to move that a Bill entitled The Partnership (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled the Partnership (Amendment) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE PARTNERSHIP (AMENDMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE HEALTH INSURANCE (AMENDMENT)  
BILL, 2001**

**The Clerk:** The Health Insurance (Amendment) Bill, 2001.

**The Speaker:** Honourable Minister of Health and Information Technology?

**Hon. Linford A. Pierson:** I beg to move that a Bill entitled The Health Insurance (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Health Insurance (Amendment) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE HEALTH INSURANCE (AMENDMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE COMPANIES (AMENDMENT) BILL, 2001**

**The Clerk:** The Companies (Amendment) Bill, 2001.

**The Speaker:** The Honourable Third Official Member?

**Hon. George A. McCarthy:** I beg to move that a Bill entitled the Companies (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled the Companies (Amendment) Bill, 2001, be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COMPANIES (AMENDMENT) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Moving on to Government Motions.

Government Motion 9/01, Health Insurance Law 1997, The Health Insurance (Amendment) Regulations, 2001.

The Honourable Minister for Health and Information Technology?

**MOTIONS****GOVERNMENT MOTION NO. 9/01****THE HEALTH INSURANCE LAW 1997  
THE HEALTH INSURANCE (AMENDMENT)  
REGULATIONS 2001**

**Hon. Linford A. Pierson:** Mr. Speaker, "WHEREAS the Health Insurance Law 1997 was passed by the Legislative Assembly on 19 June 1997;

"BE IT NOW THEREFORE RESOLVED that the Health Insurance (Amendment) Regulations 2001, having been laid on the Table of this Honourable House, be affirmed by the Legislative Assembly pursuant to the provisions of section 19(2) of the Health Insurance Law 1997."

**The Speaker:** Government Motion No. 9/01 is open for debate. The question is the Motion entitled the Health Insurance Law 1997, the Health Insurance (Amendment) Regulations 2001. Be it now therefore resolved that Health Insurance (Amendment) Regulations 2001, having been laid on the Table of this Honourable House, be affirmed by the Legislative Assembly, pursuant to the provisions of the section 19(2) of the Health Insurance Law, 1997. I shall put the question. Those in favour say Aye. Those against, No.

Do Honourable Members wish to debate it?

Is there no debate?

**Hon. Linford A. Pierson:** Mr. Speaker, we pretty well covered the ground this morning when speaking on the Bill. However, I can give a brief introduction for the reason the regulations are also being amended.

**The Speaker:** That is entirely your choice. If you wish to speak you may.

The Honourable Minister for Health and Information Technology?

**Hon. Linford A. Pierson:** Just short comments because I spoke on the enacting legislation this morning. This amendment to the regulation is really a consequence of that amendment to the substantive piece of legislation.

The Health Insurance Regulation (2000R) is amended by repealing Regulation 5, and substituting the following. It has to do with healthcare for indigent persons, under 5(1) "The authority shall on behalf of the government and by an administrator appointed by the authority collect each month from each approved provider (a) five dollars of each premium charged by the approved provider under each standard health insurance contract effected by such provider in respect of all insured with no dependants; and (b) Ten dollars of each premium charged by the approved provider under each standard health insurance contract effected by such provider in respect of an insured with dependants."

That has not changed from the old regulation, the change is as follows: "In order to cover medical costs for indigents."

In the old regulation it stated, "The government shall, in order to cover medical costs for indigent uninsurable persons and indigent partially uninsurable persons." So, this amendment was to correct the earlier amendment. This is a consequential amendment as a result of the amendment made earlier to correct the situation in regard to indigent individuals.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

Does the Mover wish to exercise his right of reply? The Honourable Minister for Health Information and Technology?

**Hon. Linford A. Pierson:** Mr. Speaker, only to thank all Honourable Members for their tacit support to this amending regulation.

**The Speaker:** I shall put the question. The question is Government Motion No. 9/01, "Be it now therefore resolved that the Health Insurance (Amendment) Regulations 2001, having been laid on the Table of this Honourable House, be affirmed by the Legislative

Assembly pursuant to the provisions of section 19(2) of the Health Insurance Law 1997.”

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 9/01 PASSED.**

**The Speaker:** I note that the Honourable Minister responsible for Education, Human Resources and Culture is not available to move Government Motion No. 7/01 does anyone know if he will be present tomorrow?

**Hon. Linford A. Pierson:** It is my information that the Honourable Minister will be here tomorrow. Perhaps we can take an early adjournment.

**The Speaker:** I will entertain a motion for the adjournment of this Honourable House. I had given the Third Elected Member for George Town permission to raise a matter on the adjournment.

Move the adjournment, and then he will make his statement.

## ADJOURNMENT

**Hon. Linford A. Pierson:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow.

Under Standing Order 11(6), I have agreed to allow the Third Elected Member for George Town to make a statement on an issue of importance to government.

## RAISING OF PUBLIC MATTER FOR WHICH GOVERNMENT HAS RESPONSIBILITY

*Standing Order 11(6)*

### <sup>1</sup>GRATUITIES PAID BY THE HYATT REGENCY GRAND CAYMAN TO PERSONS UNENTITLED TO RECEIVE THEM UNDER THE GRATUITIES EN- TLEMENT REGULATION 1994

**Dr. Frank S. McField:** Just to say, Mr. Speaker, that I did as you suggested. I made the Honourable Minister responsible for the issue aware that I would be bringing this issue.

Under Standing Order 11(6) I wish to raise a matter in order to elicit a reply from the Minister responsible for Human Resources.

It has been brought to my attention by employees of the Hyatt Regency Grand Cayman that the Management of this hotel continue to pay gratuities to persons who are not entitled to receive gratuities under the Gratuities Entitlement Regulation 1994. Since this is a breach of the Law, and the Labour Director is charged under Section 72 of the Labour Law with securing the proper observation of this law, I would like to request that the Minister state what appropriate steps have been taken to rectify this situation.

Secondly, what are the concrete strategies being formulated by the Human Resources Department and other Government agencies to assist Caymanian workers who are losing their jobs, particularly in the service industry?

Thirdly, what discussions are taking place with the management of the hotels to see that expatriate workers who are losing their jobs as a result of the slowdown are assisted with repatriation money?

I hope that the Minister responsible, if not at this time at least before the House adjourns for this Meeting, gives some type of response to these very important concerns.

**The Speaker:** The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** As I mentioned earlier, the Member is off to a very important meeting, however, it is my understanding that he will be back here in the morning. I would ask the Third Elected Member for George Town to table that statement so that I can get a copy to pass on to the Minister of Education.

**Dr. Frank S. McField:** I so table this document.

**The Speaker:** So ordered.

A motion for the adjournment has been moved. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.10 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM THURSDAY, 27 SEPTEMBER 2001.**

<sup>1</sup> Reply, p. 1198 (27 September 2001)



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**27 SEPTEMBER 2001**  
**10.38 AM**  
*Eleventh Sitting*

**The Speaker:** Good morning.

I will invite the Honourable Second Official Member responsible for the Portfolio of Legal Administration to say prayers.

### PRAYERS

**Hon. David F. Ballantyne:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth II; the Queen Mother; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

**Proceedings resumed at 10.40 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

#### APOLOGIES

**The Speaker:** I have received apologies for absence from the Honourable First Official Member and the Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports, and

from the Honourable Minister for Health and Information Technology.

#### QUORUM

**The Speaker:** I call to the attention of Honourable Members that it is your responsibility to provide a quorum for the House. If Members have to be absent they should ensure that there are eight Members sitting in the Chamber.

Questions to Honourable Ministers and Members. Question 123 stands in the name of the Elected Member for East End.

### QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS

#### QUESTION NO. 123

**No. 123: Mr. V. Arden McLean** asked the Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs if the post of Head of the Financial Reporting Unit (FRU) has been civilianised, that is, removed from under the command of the Commissioner of Police.

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The post was civilianised and removed from the command of the Commissioner of Police on 3 September 2001.

The Head of the Financial Reporting Unit is accountable to the Honourable Attorney General.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate if there has been a change in the individual who fills that post? Has that person been removed from under the police, or is there a new civilian individual filling the post as head of FRU?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The same individual who held the post that previously existed under the



Commissioner of Police has now been appointed to the civilian post of head of the FRU.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member tell us the process for a civilian to be in command of members of the police force?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** While this Financial Reporting Unit is now headed by a civilian and while there are members of the unit who are police officers, those police officers will not fall under the command of the head of the unit for the purposes of the Police Law. Those officers have been seconded to the unit to carry out duties within the unit.

As long as those duties requested by the head of the unit are consistent with what the officers would normally do under the auspices of the Police Law, it is not expected to create a problem. However, as a result of this civilianisation, the Commissioner of Police for the purposes of command, discipline and administration has designated an inspector. This person is his senior officer among that cadre of police officers, as the officer in charge for purposes of command and discipline.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Can the Member explain the reasoning behind this decision? In my opinion that is quite confusing. We now have a department with a civilian responsible for police members and if their duties are police duties, they are not responsible to him; but if their duties are civilian duties, they report to him. It seems rather confusing. The public will not know whether or not they are police as it will depend on what they are doing. Can we get some explanation behind the reasoning on this? Are we to expect to see more of this in the future?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** That question goes to the core of the unit and would perhaps have been better addressed as a question to my colleague at the unit. However, as I understand it, as I have understood it since listening to the discussions that took place in May in Finance Committee, is that the unit is not simply a unit of police officers. While it had its ancestry in the police department the RCIP, the evolution of the unit in the context of all else that has been happening in the realm of fiscal reforms (in terms of

compliance with international requests and obligations) has necessitated that the range of skills within the unit be broadened.

As such against that background it is not only here but perhaps in some other jurisdictions. I have heard that the Bahamas has also gone this route of heading up what is a multi-disciplinary, multi-skilled unit (including the skill of a police officer), with some other other than a serving police officer.

All I can say is that as I understand it, the rationale for heading it up with someone other than a police officer is linked to the fact that it is not simply a police unit but a unit of assorted skills.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Now that it falls under the ambit of the Attorney General, does the reasoning go along the same lines? We have a police officer's position civilianised and instead of getting someone from the legal profession who would have been capable to take that position, we have now turned that police officer into a civilian. Where have the individual's credentials changed in order to now be under the Attorney General?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I have no real knowledge of what the practice in other jurisdictions is with staffing as they evolve. All I can say is that it is my understanding the Bahamas has reached this point. I do not know who heads their unit.

I can understand Members questioning in terms of making this transition. However, all I can say is that from the information that has been provided to me, it was seemingly the view of His Excellency that this individual was the best suited to continue to head up the unit for this period of time. The fact that the post was being civilianised did not preclude that preference on his part.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** This fractured command structure outlined by the Member has, I believe, been a source of concern both of Members of this House and the Commissioner of Police himself. In an answer to a previous question a few meetings ago, the Commissioner expressed that concern. Indeed, His Excellency the Governor wrote to this House to explain that a Memorandum of Understanding (MOU) was being developed that would outline the responsibilities and the way in which this unit would function.

I wonder if the Member could advise us if this Memorandum of Understanding has been developed

and implemented and if so, would he outline this Memorandum of Understanding?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** It is my understanding that the MOU is in draft form and will need to be amended to reflect this change in the head of the unit. I expect that that will be done fairly shortly. I have not seen the MOU and am really unable to . . . I think the last part of the question was asking for an outline of the MOU. I have not seen it so I cannot provide that information.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Can the Member say whether or not the delay of the development in implementation of this FRU is related to continued concerns of the Commissioner of Police about this structure? I say this because we did see the draft MOU three or four months ago and it would appear that it has not progressed much since then. Can the Member respond to that?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I am not aware of any ongoing representation by the Commissioner of Police in respect of this MOU, which would have been the cause of it not being finalised. Having said that, I am obviously not aware of everything the Commissioner does or writes. In my dealings with him, I have not been made aware of any ongoing representation on his part.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I wonder then if the Member can say when this MOU will be completed and implemented.

**The Speaker:** Before calling on the Member to reply, I would appreciate a motion for the suspension of Standing Order 23(7) and (8) so that Question Time can continue.

The Honourable Minister for Planning, Communications and Works.

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

*[Moved by the Honourable Minister for Planning, Communications and Works]*

#### QUESTION PUT. AGREED: STANDING ORDER 23 (7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM.

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I mentioned earlier that the draft requires an amendment to reflect this change in the nature of the head. I would expect that that change can be effected within the next couple of weeks. How soon thereafter concurrence will be reached between the parties to it or to be enforced I really cannot say at this time.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Can the Member say, since the post has been filled by an expatriate, whether the policy of advertising it locally before recruitment and filling of the said post will be followed?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** That policy remains in place. I am advised by the Personnel department that in the case of this post, the appointment to the post was made on the instruction of the Governor under whose authority the policy is obviously issued. No, the post was not advertised.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Am I then to understand that the policy to advertise locally to give our Caymanians and residents an opportunity to fill these very significant positions is only a policy insofar as the Governor seeks to override it?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs, I think that can be termed an opinion. However, if you wish to answer it you may.

**Hon. Donovan W. F. Ebanks:** Only to say that I think the Member is entitled to that view.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** First, to thank the Member for being so candid and providing another

reason why it is ever so important to have Caymanians in such high posts in the civil service.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Are there any Caymanians in place for succession planning?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** It is my understanding that in the current establishment there is not currently a deputy to this individual. However, the organisational issues of understudy and succession will be addressed in due course.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I think during this meeting the Temporary First Official Member, in replying to a supplementary asked by me, stated that police officers are required to retire around 55. If they were hired on for a further tour of duty, it was predicated on their being physically fit. I wonder how old the individual in that position is now and was he required to pass a physical examination prior to his contract being extended?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I thought the information I had with me indicated the officer's actual age. However, I am not able to say. My recollection is that he is perhaps in the vicinity of 60 years of age.

In respect to the medical requirement, anyone on contractual terms is required to furnish a medical report assessing him or her to be in good health. My understanding is that his appointment, which was recently affected, is subject to him furnishing such a report and that is due shortly.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Can the Member say if this contract is one that attracts COS and inducement allowance?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** The contract does include COS. In response to the substantive question I answered the other day, obviously it is not one of the posts that attract an inducement allowance.

**The Speaker:** I will allow two additional supplementaries.

The Elected Member for East End.

**Mr. V. Arden McLean:** Having heard that answer, we are being told that contracts with COS continue to be awarded—contrary to the Motion assented to by this House in May.

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** I do not recall and am most certain that I did not give this House any indication that the practice of awarding COS had ceased.

**The Speaker:** The Elected Member for East End, final supplementary.

**Mr. V. Arden McLean:** I thank the Member for that answer and I do appreciate that he did not tell this Honourable House that COS had ceased. My question is: Contrary to a motion brought in this House and assented to by the full House in Finance Committee to cease it, is it continuing even though that Motion was assented to?

**The Speaker:** The Honourable Temporary Acting First Official Member responsible for the Portfolio of Internal and External Affairs.

**Hon. Donovan W. F. Ebanks:** Obviously we have two facts: (1) the practice is continuing; and (2) as the Member has stated, a motion was passed and assented to by the House. How we link those together, whether it is even though or in spite of, those are facts.

**The Speaker:** Moving on to question 124, standing in the name of the First Elected Member for Cayman Brac and Little Cayman.

#### QUESTION NO. 124

**No. 124: Mrs. Julianna Y. O'Connor-Connolly** asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development to give (a) the total amount of revenue collected by Government since 1 January 2001; (b) the total Government expenditure since 1 January 2001; and (c) the current total amount of debt owing by Government.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Total recurrent revenue and loan receipts collected from 1 January to 31 August 2001 was \$233.7 million consisting of recurrent

revenue of \$204.4 million; local loan receipts of \$17.8 million and loan receipts for Capital Development Fund of \$11.5 million.

Total expenditure from 1 January to 31 August 2001 was \$218.1 million consisting of recurrent expenditure of \$175.5 million, statutory expenditure of \$27.3 million; capital acquisitions of \$1.5 million and capital development expenditure of \$13.8 million.

The current total amount of debt owing by government as at 31 August 2001 was \$128.2 million consisting of public debt of \$113.5 million and self-financing loans of \$14.7 million.

Before the Member raises her supplementary, I would like to draw Members' attention to the schedule attached to the answer. I would like to point out some of the relevant figures.

If Members would look at the very first section of the schedule, the top section, under the title "Revenue" and cast their eyes across to the very last column, column 4, towards the indented reference at the bottom "Recurrent Revenue" it can be seen (as shown in the budget for 2001) that the budgeted revenue for the year was \$311,256,000. Based on that, the profile budget (the expected amount to be collected up through the end of August), the very first column, it shows that \$206,435,000 should have been collected. It can be seen, looking at column 2, that the actual collection through the end of August was \$204,416,000 which shows a slight under-performance of \$2,021,000 (column 3).

I will just point out some of the significant figures: In this 'Revenue' column, forming part of the \$311,256,000 is the item of "duty," which covers customs import duty and stamp duty. That amount budgeted for the year is \$138,241,000 (the first item in column 4).

It can be seen, based on what is expected to be collected as at the end of August, it was \$87,861,000. The actual collection up through the end of August, however, was \$80,711,000 which shows an under performance of approximately \$7.1 million.

The second item that is labelled as "tax," shows that the budget is \$24,548,000 (second item). The amount to be collected up through August, based on the budgetary profile. That is not just a question of taking this \$24,548,000 and dividing it by 12, and taking two-thirds of that. It is a question of taking into account seasonal factors in terms of different factors affecting the various revenues that are paid at given points in the year. The amount profiled or targeted was \$18,181,000. The actual collected through the end of August was \$16,935,000.

Members can pick up on the trend going down that column. However, it can be seen that in the area of fees, the amount targeted to be collected is \$92,098,000. Based on the profile budget or expected collection through end of August, the amount targeted was \$61,281,000. The amount collected up through the end of August was \$68,015,000. This gave a fa-

vourable over and amount that budgeted by \$6.7 million.

When these figures are netted out, that is how the \$2,021,000 is arrived at.

The main reason for this is in the area of company fees. We have had a very favourable performance in that area in terms of the number of companies that have been registered.

We are watching this very closely through the end of the year. As Members can appreciate, the bulk of the registration takes place towards the beginning of the year, or within the first four months when annual renewals are taking place. The rest of the revenue generated is normally based on new companies that come onto the register plus new services provided by the Registrar General's Office.

The item falling immediately below "Recurrent Revenue" can be seen as "Loan Receipts and Capital Acquisitions." Members will note in the fourth column the portion of the \$55.5 million that was programmed to go into operating revenue was \$30.9 million. Of that amount, it can be seen from the second column, (which means actual spent through the end of August), was \$17.8 million out of that. So, between August and the end of the year, there would be approximately \$13.1 million remaining to be drawn down against that loan.

Turning to the expenditure item itself. I will ask Members to look towards the bottom section of the page (two-thirds of the way down) and I am just taking the recurrent expenditure item. At the end of column 4, under "Expenditure" you will see that the budgeted recurrent expenditure is \$276.3 million. Based on this and following the trend which is normally based on the analysis taking into account activities over the past three years that is normally rolled up and taking into account the immediate past year, we would be looking at 1998, 1999 and 2000. Based on that, the profile or projected Treasury expenditure through the end of August was \$179.1 million. Actual expenditure through the end of August was \$175.5 million, which shows expenditure is running \$3.6 million below the profile.

We next come to the column which follows and that deals with "Statutory Expenditure." The profile shows that the amount of \$50.9 million has been budgeted for the year to be spent. Up through the end of August, \$27.3 million has been spent against a profile budget of \$32.7 million.

I should point out that statutory expenditure is normally programmed on known expenditure that will be taking place throughout the year, so it is unlikely that Government will save on that item by the end of the year. However, there is a matter that is under consideration by Government dealing with the refinancing of the debt through a bond issue and the Leader of Government Business has spoken to this on TV recently. This may affect the final year end pay-out if that item materialises before the end of the year. It would be premature now to go into detail concerning

that because that is a matter being dealt with at this time.

We look at "Capital Acquisition." Members will note that the budget for this year is \$4.7 million. Based on the profile, \$2,334,000 should have been spent. The actual expenditure through the end of August is approximately \$1.5 million. The Government is looking at this item very carefully and if savings can be realised against this item by curtailing expenditure through the end of the year, this will be done in an attempt to affect a savings.

When we take recurrent expenditure up through the end of August of \$175.5 million, statutory expenditure of \$27.3 million; capital acquisitions of \$1.4 million, total expenditure amounts to \$204.3 million. This gives a surplus of \$17.9 million. However, I should point out that included in the funds available (up top) of \$222.2 million, that is a combination of loan receipts plus recurrent revenue. The surplus of \$17.9 million takes into account the drawdown through 31 August. So in effect, this surplus is not one that arises from local revenue or a surplus of revenue over expenditure, it takes into account the loan receipts.

Therefore, when we take into account the deficit of \$10.2 million brought forward, it can be seen that the surplus shown at the end of August of \$7.8 million, but this takes into account the receipt arising from loan.

As Members will recognise, the question also asks for projects though the end of the year. Members would realise that while this would have been possible under normal circumstances, this has been impacted by the events of 11 September. At this time the Government is consulting widely with various organisations in the private sector, several meetings have been held since Monday up through last night, and further meetings will be continuing to get a feel in terms of what the immediate short-term future is for the Cayman Islands and the impact that will have upon the economy. We are looking in terms of all the variables that are affecting government revenue, what is affecting the economy as a whole and all of these will be taken into account in developing the 2002 Budget and the forecasts through the end of the year.

### SUPPLEMENTARIES

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I thank the Member for such a detailed and informed response.

If I could draw his attention to the surplus deficit which was carried forward. Is that \$7 million still available funds?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** This is showing the surplus, but it would not necessarily reconcile with the cash at bank. We have a situation of deposits and advances and the differential between those two figures. However, this is what is showing in terms of the surplus as at the end of August.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Regardless of the composition of this aggregate sum, there should be no real justification for the delay in the civil service salary next month.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As the Member will appreciate, the decision of the Government to delay the payment of salaries to civil servants was taking into account the revenue flows through the end of October. As Members are aware, the Government must observe the overdraft limit at the bank. This is a matter that will have to be brought back to Finance Committee, but Members will appreciate that it drops from the \$15 million, or I think the last time it was considered it was said that it would be taken under review.

Based on the trend, the forecast by Treasury (and they usually take a very conservative position, and that is the correct position to take), extrapolating receipts forward through the end of October, it was seen that based on the amount that will have to be expended for payroll that it would be advisable to wait until the last working day in October, feeling at that time that sufficient funds will be on hand to satisfy the payroll and other obligations. However, this matter was discussed by Executive Council last Tuesday. I will be talking to the Accountant General who is presently off ill. When she gets back to office we will look very carefully and take into account developments and what seems to lie ahead with an attempt to revert, if possible, to the original pay date of 24 October, as agreed at the beginning of the year.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** On Monday I spoke regarding the estimate of four working days from the original pay date to the 31. Can the Member say if he feels this would be sufficient time to accumulate enough revenue to pay civil servants?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development, I think he may be asking for an opinion, but if you wish to answer, go ahead.

**Hon. George A. McCarthy:** I cannot give an answer immediately because the analysis on that was done by the Deputy Financial Secretary, who was the acting Financial Secretary while I was on vacation. The matter was looked at based on the position that he reported to Executive Council on the 29. I should mention that, like me he also takes a very conservative position. I will have to wait until he gets back in office (because he is presently overseas with the team meeting with the FCO on matters of which Members are aware); to find out what his views were on this. I will take those into account. I will also take into account the views of the Accountant General. I will take into account further projections through the end of October and this will be discussed further with Members of Executive Council and if need be, Members of the Legislative Assembly in order to come up to an informed position. However, at this point in time I would vouch that if . . . this also was done in terms of when that consideration was given to ensure that the overdraft limit was not exceeded.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr.:** I just want to thank the Member for his detailed response. Members of this Parliament, as well as members of the public are concerned over the financial position of government. The statement concerning the possible delay of civil servants' salaries added to that concern.

Looking at the figures provided up through August, it appears to me that there has been good and prudent financial management and spending, and prioritising by government. Any business person would know that it is hard to control revenue, but when you see that revenue is down, you can control expenditure. As we see, it has been done. It appears to be—

**The Speaker:** You will turn this into a question please.

**Mr. Cline Glidden Jr.:** Yes Sir.

It appears to be a better position than we were in last year, better than what we expected it to be. Can the Member say why there appears to be an increase in grants and contributions and subsidies? I notice a bit of reduction in the expenses in other areas, except in personal emoluments.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The main item that forms a part of this expenditure over and above the profile budget of \$27.9 million, the actual expenditure in that area shows approximately \$30 million, and therefore, an over-expenditure of \$2,066,000.

The main item has to do with the grant to Cayman Airways of approximately \$4.6 million on an an-

nual basis and the payment for the last quarter had to be made much earlier to Cayman Airways. However, what I would invite the Member to note is that although we have a profile budget and the actual expenditure seems to be running above that, the control in place is the budget limit of \$43.5 million. I should point out that a circular will soon be going out to civil servants based on recent developments, or controlling officers, to try to keep all expenditure to a minimum and only what is necessary in order . . . taking into account that it is likely that we will see a reduction in revenue flows through the end of the year, based on current developments.

However, it is not a question of attempting to make an unfavourable prediction, but trying to get as close to reality as possible.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member indicate under what head of revenue is the increase in departure tax reflected?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The bulk of that increase would go to the Civil Aviation Authority. As the Member is aware, the statutory authorities normally make a payover to Government at the end of the year, based on budgeted contributions. A small portion of that comes to Government and that would be included under item 40 - 100, which is a tax. I cannot give the specifics in terms of how much out of the increase has already been factored into the revenue collected up through 31 August.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I think someone mentioned the civil service pay. In the Member's reply he said his concern was keeping the overdraft in check. Can the Member say, in the interest of paying civil servants on time, if it is necessary for Finance Committee to reconvene and extend the overdraft facility back to \$15 million?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** That is a good question. That is a possibility, but I cannot say this morning that it is necessary to do that. We have to take into account the developments over the next two weeks. This will inform the Government as to likely trends through the end of the year and this will be looked at.

**The Speaker:** The Third Elected Member for George Town.

**Dr. Frank S. McField:** The question I wanted to ask from the beginning was, had the Government been able to consult with the civil service in regard to the pay schedule and what was the result of their consultation?

**The Speaker:** That is somewhat outside the ambit of this question, but if you wish to you may answer, Honourable Third Official Member.

**Hon. George A. McCarthy:** No decision has been taken by the Government up to this time to vary the salaries of civil servants. As Members can appreciate, the bulk of the recurrent expenditure is in the area of personal emoluments. This is one that will have to be looked at in time. However, no decision has been taken to vary that expenditure.

When we look at the year 2001 over the year 2000, the increase for the year 2001 just on the direct payout of personal emoluments will be \$17.8 million over the year 2000. This takes into account the increase that was brought forward into 2001. However, when we look in terms of these incremental increases and the significant, all areas of recurrent expenditure, which includes personal emoluments and other charges will have to be examined in time against the likely revenue flows.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** I was looking for expenditure on capital development. Which areas are included in that where funds have been spent on capital development or transfers?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Capital development details have not been included as a part of the schedule handed out to Members. As the Member will note, the budget for capital expenditure for the year 2001 is \$28.2 million. Against that, the profile, which shows the expenditure through the end of August, is \$13.8 million. The actual expenditure through the end of August is \$13.7 million. That is the expenditure up through the end of August.

As I mentioned earlier, a portion of the loan relating to that expenditure has been drawn down. This information has been given in the answer.

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Can the Member say why only 54 percent of the budgeted amount for 2001 on line 58-000, "other statutory expenditure," has actually been spent through August as opposed to 66 2/3 which you would normally expect. I wondered if there

were any items coming up for payment in the last quarter of the year that would now bring us up to the tune of \$23 million to come up to the budgeted amount.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As the Member pointed out, payments are made on based on scheduled arrangements. The bulk of the payments against loans will be coming up towards the end of this month. This normally brings the expenditure in line with the profile budget.

As I mentioned earlier, it is likely that the actual expenditure through the end of the year will be what has been budgeted.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** I think I am correct in saying that there are 11 line items for the revenue items. I wonder if my conclusion is correct that in ten of the 11 areas where we see under-performance of collection in revenue represents some 90 percent failure rate.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** It is not a question of failure rate, Mr. Speaker. I can appreciate the views of the Member on this, but when we look . . . I pointed out the major items of variance when I gave the information before. We have movement up and down. I think we have to look at the overall position, which shows that revenue is down \$2,021,000 under budget.

However, concerns must be expressed in regard to the large items such as import duty and package tax. When we look at the area of stamp duty, this is a matter where earlier discussions with the Lands & Survey Department indicated that could be down in the region of \$2 million. We are looking at that very closely.

What we have in front of us will have to be taken as a given. It is not a question of failure rate because we have movements up and down. If that is the case, we could say that we have a major success item in the area of fees. I would not want to translate this into failure rate by the Government.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The Member spoke earlier to his concern about the cost of personal emoluments. I wish to invite the Third Official Member's attention to three of the strategies that underpinned the draft budget in relation to personal emolu-

ments and to ask him whether he can confirm that these strategies have been implemented and are being abided by.

- Curtailing all new services *except* for new staff at the Bodden Town, Savannah, George Town, John A. Cumber, and Red Bay Primary and Lighthouse schools and staff for the Family Protection Unit and the Financial Reporting Unit.
- Removing the amounts for vacant posts from the 2001 Budget except where recruitment is already actively underway.
- Implementing a moratorium on recruitment for the remainder of 2001 except for absolutely 'essential services' staff for new capital projects and new leased sites which come on stream in 2001 and where there are direct revenue or expenditure blocking offsets.

Can the Member confirm that these are being complied with?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** I am not in a position to confirm that the strategies are being fully complied with because in separate answers given by the Acting First Official Member, I think last week, it was pointed out where several new posts had been created and other developments have occurred in the area of human resources. In an attempt to address this, it is known that His Excellency the Governor has invited two consultants here from the Civil Service College in the UK to carry out a review of the civil service and to do a report. I understand a more detailed review will follow. This is in an attempt to link the necessary actions in order to try to move in the direction of achieving the outcomes being sought under the strategies.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I appreciate the difficulty the Member has in responding. Perhaps I can make it somewhat easier for him if I ask him to give this House an indication as to how many new staff has been recruited by the civil service since the passing of the budget.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** I do not have that information immediately at hand. However, I think this information was given by the Acting First Official Member last week.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Can the Member provide the House with the accounts payable as at 31 August, as

we know one of the weaknesses of a cash accounting system (as recently articulated during debate on the Public Management and Finance Bill) is that a lot of the activities of a current period could be hidden under "accounts payable" and paid during a later period. To get a true reflection of the activity between January and August 31 2001, it would be helpful if we could get a rough estimate as to what is left outstanding to be paid for that particular period.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** To respond, as at the end of August it shows that transactions processed through the system but not yet paid amounted to \$5.4 million.

The Member mentioned the deficiency of the cash system and I do recognise this. However, there is another side to accounts payable and that is called accounts receivable. While focus is made on accounts payable, recognition will also have to be given to accounts receivable. Under the new accrual accounting system, it is a question of the revenue that is earned. This is what will be reflected in the financials and not necessarily what is actually collected. The statement of cash flow will show the cash position at the end of a given period, but it will take into account payables and receivables. That balance will have to be arrived at in order to make a fair assessment of the Government's financial position.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I appreciate the answer provided by the Member and appreciate that accounts payable has to be balanced against accounts receivable, I was just following the trend of what was said earlier, where we continuously look at last year's position and only look at the accounts payable component inherited and not the accounts receivable.

My question now is on statutory expenditure, a shortfall of some \$5.4 million in payments out under that expenditure head. The statutory expenditure, by its nature is easily forecast because of its pre-arranged commitments. I am a bit confused as to how the profile budgeting for items such as pension and loan commitments that would be covered under statutory expenditure would be out by such a magnificent amount of \$5.425 million and I would ask him to provide this House with an explanation.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As that Member can appreciate, most of the payments made by the Government take place on a quarterly basis. The information we have in front of us is what is generated by the sys-



tem. This does not mean the Government is delinquent in terms of satisfying obligations. All of the amounts due in terms of statutory obligations in respect of pensions would already have been paid because that is a part of the monthly payroll.

The next bulk of payment to be made would be against loans due and payable. The bulk of those will be coming up at the end of September. Normally toward the end of September the Government will be billed by Caribbean Development Bank (CDB) and also based on payment schedules in respect of local banks that payments will be sent out.

This is why I drew attention earlier to say this was a matter of the scheduling of payments because there is no point pre-paying those amounts because the schedule of payments has to be observed. The Government holds to this schedule.

If the Government ever finds itself in a position where it is not able to satisfy statutory obligations, it would mean having to come to Finance Committee immediately because statutory obligations take precedence over recurrent ... over all other expenditure because these are payments due and payable under Law.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** I thank the Member for his comprehensive answer on that statutory expenditure item. I am still a bit confused on that particular item because by the nature of profile budgeting, the figure stated as at 31 August 2001 for the budgeted amount of \$32,705,000 would have reflected the fact that that was what the Government would have envisaged paying up until 31 August, given the schedule of its payments, and would not have included payments they would have envisaged paying at the end of September 2001. That is the reason we use profile rather than, as the Member indicated earlier, profiling it by dividing it by the number of months and multiplying it by eight months.

If we look at the budgeted amount for the year of \$50.144 million we can see there is a degree of profiling that resulted at the end of August 2001, having \$32.75 million. I am still puzzled as to why the profile budget would be \$5.4 million short as compared to the actual.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** I do not think the Member should have a difficulty in terms of understanding the concept of profiling.

Let me use an example. Let us say an entity has \$3 million to pay at the end of March. The profile would suggest that provision would have to be made for that payment. If you look at the financials of the

entity at the end of January, naturally under the profile you would expect to see \$1 million being provided.

Now, if you look at the profile at the end of February, you would expect to see \$2 million being provided. If you look at the profile at the end of March, you should see \$3 million being provided. Let us say the payment is to be made at 5 March and you take the financials, or you strike a balance as at 31 March, you would see a profile of \$3 million, but you would not see any direct payment being made. You would see profiled \$3 million, actual payment zero. At the end of April, you would see when the disbursement is made during the course of March and this is what you will have to do leading up to when the disbursement is made. To actually recognise that there is an obligation accruing and the system has been programmed in this manner, that obligation would not be recognised ... would be to be operating a system that would not be necessarily transparent and reflect the obligations that are due and payable by the entity.

**The Speaker:** I am going to allow four additional supplementaries.

The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** I better get my questions in while the getting is good!

I asked a question in this similar vein, and then I got bumped out of the line. On this same item of statutory expenditure, can the Member say whether or not the loan drawdown of the CI Government (which I take it happened sometime in the July/August area), is what is causing this amount to look out? In other words, because it was drawn down later in the year, even though you have done your profiles, those payments will then be scheduled to start in the latter part of the year, the interest would be accruing and paid in the latter half of the year. Is that what is causing the actual expenditure to be so much under what is in the profile budget?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** It is not a question of the drawdowns made against the loans for the year because the principal repayments will not start until the year 2002 and the interest as and when payable during the course of the year will be met from the existing provisions.

However, more precisely, as I mentioned to Members, the profiling takes into account trends over the last three years. The profile we have against the budget for statutory expenditure takes into account the trends for 1998, 1999 and 2000. The percentage disbursement up through the end of August is taken as a percentage of the actual budgeted amount of \$50.1 million. This gives the profile budget of \$32.7 million. This is why we have this figure.

When I gave the initial response to the question, I pointed out to Members that the focus should actually be on the actual expenditure up through the end of August. It is not a question that the Government is deficient in its payment, but this takes into account the percentage disbursements based on the actual expenditure in respect of statutory expenditure for the years 1998, 1999 and 2000.

It is not a material situation where we have an under-performance of \$5.4 million or that it means anything is wrong. I will assure Members that all loan payments, obligations, against existing loans up through the end of August and all payments in respect of pensions and other statutory obligations have been satisfied.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** I asked earlier about the requirement of the overdraft and maybe the need to increase it. I think the Member said that may be a possibility. In the interest of the ripple effect this memo of postponing the civil servants' pay has caused throughout this country, I wonder if the Member can say if he is receptive to moving ahead with Finance Committee. That is, to increase this overdraft facility so that we can get out of this business of talking about the country being broke and creating ripples and waves within the community.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The Member has raised a very useful and relevant question. I am quite receptive and the Government is quite receptive. It takes a bit of time to make an assessment of what is likely to happen in the foreseeable future. For example, on Monday, the Government met with the Council of Associations and got their views as to what the impact of the event on 11 September is likely to have on the Cayman Islands, and to take recommendations from that body.

On Tuesday afternoon, after Executive Council, the Government met with representatives of the Cayman Islands Tourism Association. The first meeting of a Fiscal Advisory Group was held to take into account recommendations made by the group, formed under the Chair of Mr. Bobby Bodden . . . It is a question of taking on board everyone's views in order to get a determination as to what is likely to lay ahead of us.

Yesterday, the Government met with the heads of the clearing banks and the Executive Committee of the Bankers' Association. I am saying this to tell the Member that, yes, the Government is receptive. However, the Government in coming to Finance Committee would not only be seeking to keep the overdraft limit in the region of \$15 million, but to give a sense based on the information gleaned from these discussions as to what the likely end of year position, or the

next nine months for the Cayman Islands, is likely to be and what remedial action is being taken at this time.

For example, in one of the meetings held on Monday, one merchant said that he had noted that imports were down by about 20 percent. If this is the case, that will have an effect on revenue. On the other hand, we see where excellent performance is taking place in company registration.

We will have to see what areas of the economy are performing to expectation, what areas are performing over expectation and wherever declines are occurring in those areas, to balance one against the other to get a sense in terms of what the end of year position will be, such as at the end of October, so that Members of the Legislative Assembly can be apprised on an ongoing basis as to developments as they are occurring. At this point, it is not a question of just holding Finance Committee every three months; the Government will have to be apprised on a weekly basis. This is why meetings are being held on a regular basis, for Members of the Legislative Assembly to be consulted on a regular basis so that corrective action can be taken until we get ourselves out of the immediate situation that the economy is in.

I must say that all of the meetings held with the Council of Associations, the representatives of the Tourism Association, the Fiscal Advisory Group and heads of the Clearing Banks, have been very positive, saying that they welcome the initiatives, this approach by the government to work together with the various sectors of the community as a whole in order to try to best manage the Cayman Islands economy.

**The Speaker:** The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** With reference to part (b) of your substantive answer, I can find by way of cross reference to the schedule, the recurrent expenditure of \$175.5 million, the statutory expenditure of \$27.3 million and the capital acquisition of \$1.5 million. However, I was unable to find the entry for capital development expenditure of \$13.8 million. Can you direct my attention to it? If it is not included, what impact will it have on the surplus deficit amount now reflected as \$7.71 million?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** As the Member is aware, as I mentioned earlier this item is not included as a part of the schedule. The capital expenditure for the year, which has been budgeted as \$28.2 million, has been funded by a balance brought forward of \$3,650,000. The Member is aware of the loan of \$55.5 million. There was a portion of \$24.5 million allocated to the capital development fund.

The total expenditure budgeted for the year is \$28.2 million, but that has been revised downward by the PWD to \$25.5 million.

Taking into account what is being projected at the end of the year is that this account will have a positive balance of \$2.7 million. I can give this information to the Member after we are through with Question Time. However, as the Member is aware, this is not a part of the surplus and deficit account.

Some time ago a decision was taken by the Government to establish a separate account for the capital development fund. Therefore, whatever surplus or unexpended balance remains against this account is normally carried forward into the succeeding year. So, it will not have a negative or adverse effect on the surplus and deficit account and neither will that balance be used in order to reflect a further increase in respect of the surplus and deficit account because it is not transferable.

**The Speaker:** Final supplementary.

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** My question goes back to the main 2001 Budget policy decision that has been discussed quite a bit during the past week. Since it is almost time for another budget, and we will probably be getting another policy, I wondered who defines, sets out or agrees to this policy. Is it just the Government, meaning Executive Council, or is it the Governor in Council which would include the Governor because as to what weight this policy holds will depend on whether or not the person is totally responsible for the civil service, namely, His Excellency the Governor, is in agreement with this policy decision.

If we have a policy that states clearly the decisions made curtailing and removing posts and implementing a moratorium, but then the person responsible for doing all the hiring and firing in the civil service is not on board with that agreement, then we will know the policy decision is not worth too much.

Can the Member say who decides and agrees on that policy just so I will know how much credence to give the next policy when it comes forward?

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** The policies set out in the 2001 Budget were agreed by the Governor in Council. Although His Excellency is the head of the civil service, he cannot implement this policy single-handedly. It means the entire civil service working together to achieve the outcomes being sought.

I will invite the Fourth Elected Member from West Bay and all Members to look very carefully at the policies set out as a part of any budget address and to hold the Government accountable to the implementation of the policy initiatives. I know the Government is very concerned, because up until recently this has

driven by the Leader of Government Business. It is one that will have to be looked at very carefully and a concerted effort made on the part of everyone in order to follow through to achieve the outcomes because the increase in personal emoluments over the year 2000 is \$17.8 million. With the new revenue measures put in place for the year 2001, they have been budgeted to yield \$19.8 million, just \$2 million over and above just the increase in personal emoluments alone. We know that increases have occurred in areas of other charges.

The country cannot continue to sustain the level of personal emoluments because when we look at how much money is used up, when more than the required portion goes into personal emoluments; it creates a shortage in terms of funds available in other areas and what should also be going into the capital development fund. This is why the Government has to resort to borrowing to make ends meet.

**The Speaker:** That concludes Question Time for this morning. I would recommend that we continue until 12.45, rather than taking a break.

Moving on to Statements. A statement by the Honourable Minister responsible for Education, Human Resources and Culture arising out of the Raising of a Public Matter, in accordance with Standing Order 11(6), by the Third Elected Member for George Town at the adjournment of the Sitting held Wednesday 26 September 2001.

## STATEMENTS BY MINISTERS AND MEMBERS OF THE GOVERNMENT

### GRATUITIES AT THE HYATT REGENCY GRAND CAYMAN AND LAYOFFS IN THE TOURISM INDUSTRY

*(Reply to Public Matter raised under SO 11(6))*

**Hon. Roy Bodden:** Yesterday, Wednesday, 26 September 2001, the Third Elected Member for George Town raised some questions regarding gratuities at the Hyatt and strategies effected as a result of the current economic downturn and layoffs in the hospitality industry. In so doing, he requested the Minister's response.

This is the response of the Minister responsible for Education, Human Resources and Culture and, by inference, the government.

First, let me attempt to deal with the gratuity situation at the Hyatt. It is true that this matter has been brought to my attention and after consultation I have taken the decision to write to the Hyatt's general manager, inviting him to discuss this matter with myself and the director of labour. The letter, which will be hand delivered, is designed to engage the concerned parties in a spirit of dialogue that is devoid of rhetoric, arrogance and insensitivity.

Given the history surrounding this issue, and in keeping with the objectives of arbitration, conciliation and mediation in employment matters, as Minister I wish to avoid making the mistake of responding to the immediacy of the problem by sacrificing our long term objectives and ambitions for the short term glamour of a false success.

There are important lessons to be learned from the recent unsuccessful prosecution of the Hyatt in what has now become the infamous "Gratuity Case." No constructive purpose can be served by resorting to litigation under the same or similar circumstances. Additionally, considerable efforts by the Permanent Secretary and me, as Minister, were expended in preventing acrimony and recrimination between some of the parties concerned.

It certainly serves the best interest of the Hyatt authorities to accept my invitation to settle this matter amicably and I look forward to an early positive reply from that establishment.

I turn now to the challenges facing the community as a result of the unfortunate events in the United States on 11 September 2001. These are challenges for which appropriate response must be crafted by us all—by government, because it is the Government's responsibility to ensure a level playing field; by the private sector, because this is a partnership and as such both private and public sector will have to make sacrifices in this case.

Over the past week the Government has embarked upon a series of discussions with various private sector entities—the Bankers' Association, the Council of Associations, and a high level delegation including representatives from the hospitality industry as well as representatives from other areas of the private sector.

While these discussions are for the most part still ongoing, I can say that the objective is to arrive at a national strategy. The essence of this strategy will be to present an economic package designed to stimulate the local economy while at the same time cushioning the fallout as a result of layoffs.

As of this time, it is apparent that the layoffs are primarily in the hospitality industry. Figures available to me as Minister indicate that as of Monday 24 September 2001, there were some 300 persons laid off.

The breakdown of these are as follows:

**Layoffs**

| Establishments                      | Caymanian/ Status | Work Permit              | Total |
|-------------------------------------|-------------------|--------------------------|-------|
| Cayman Tours & Travel               | 3                 | -                        | 3     |
| Treasure Island Resort              | 2 (painters)      | 8 (married to Caymanian) | 10    |
| Sleep Inn (projected)               | 2                 | 4                        | 6     |
| Indies Suites                       | 2                 | 2 (Cuban Cay)            | 4     |
| Kaibo (dining room closed Sept/Oct) | 2                 | 2                        | 4     |
| Grand Caymanian                     |                   | 1                        | 1     |
| Morrill's                           |                   |                          | 0     |

| Establishments                      | Caymanian/ Status     | Work Permit | Total |
|-------------------------------------|-----------------------|-------------|-------|
| Sunshine Suites                     |                       |             | 0     |
| Westin (breakdown unavailable)      |                       |             | 66    |
| Marriott                            | 29                    | 30          | 59    |
| Royal Reef                          |                       |             | 0     |
| Hyatt (breakdown unavailable)       |                       |             | 127   |
| Holiday Inn (breakdown unavailable) |                       |             | 20    |
| Comfort Suites                      |                       |             | 0     |
| Brac Reef                           |                       |             | 0     |
| Divi Tiara Beach                    |                       |             | 0     |
| Cobalt Coast Resort                 | 13 (no guests at all) |             | 1     |
| Total                               |                       |             | 301   |

The Government is concerned about this obviously grave situation and the Ministry of Education, Human Resources and Culture is exercising its authority to ensure that Caymanians are not disadvantaged under these circumstances.

With reference to the repatriation of workers from foreign jurisdictions, the Ministry is not aware of any problems in this area. Most organisations at this point seem to be adopting strategies of extended vacations (unpaid in many instances), reduced working time and other flexible exercises, resorting to layoffs in only the most extreme circumstances.

Finally, Mr. Speaker, as Minister, it is my responsibility to remain proactive, sober and responsible in these times. Cognisance has to be given to the long term objectives of the Government. There is in my opinion, no room to be insensitive, insulting and reactionary.

Considerable effort has been expended to build confidence, respect and a mutuality of interests and it would be most unwise and impolitic of the Government (and by inference, me, as Minister) if I let political expediency, the exigencies of the moment or any other detraction, deter me from the long term vision of an amicable relationship between employer and employee, between private and public sector, in which the Caymanian is guaranteed a fair share.

**The Speaker:** As this was raised under Standing Order 11(6), there shall be no questions.

Moving on to Government Business, Government Motion No. 7/01 Adoption of the Report of the Committee to Examine the Conditions Relating to the Recruitment of Caymanians into the Teaching Profession.

The Honourable Minister responsible for Education, Human Resources and Culture

## GOVERNMENT BUSINESS

### MOTIONS

#### GOVERNMENT MOTION NO. 7/01

##### ADOPTION OF THE REPORT OF THE COMMITTEE TO EXAMINE THE CONDITIONS RELATING TO THE RECRUITMENT OF CAYMANIANS INTO THE TEACHING PROFESSION

**Hon. Roy Bodden:** I beg to move Government Motion No. 7/01, which reads: **“BE IT RESOLVED THAT this Honourable House adopts the Report of the Committee to Examine the Conditions Relating to the Recruitment of Caymanians into the Teaching Profession.**

**The Speaker:** Government Motion has been moved; do you wish to speak to it?

The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Thank you.

This report is the work of a committee established by me, as Minister, on January 25, 2001. I would like to read the terms of the committee’s reference:

**“1. To determine how far the present supply of Caymanian Teachers meet the overall demands for teachers within the Education System in Cayman;**

**“2. To investigate the reason why Caymanian teachers leave the teaching profession, giving attention to the average length of stay and the alternative employment they choose;**

**“3. To determine ways and means of attracting Caymanians into the teaching profession giving particular attention to male Caymanians; and**

**“4. In arriving at its conclusions the committee should so structure its schedule as to present an interim report in April with the final report to be presented in to the Ministry of Education, Human Resources and Culture on or before June 30, 2001.”**

That Committee was chaired by the Second Elected Member for Bodden Town, Mr. Gilbert McLean; Ms. Debra McLaughlin, Principal of John Gray High School was deputy Chairman; Mr. Jonathan Tibbetts, teacher at East End Primary; Miss Vicky Frederick, teacher at East End Primary; Miss Joan West; Mr. Leonard Bodden; Mrs. Lenora Mendoza-Hydes, with Mrs. Edith Pagliacci from the school Inspectorate as advisor.

The Committee, I proudly relate, completed all its work on time. In recognition of this, I crave the Chair’s indulgence to read into the records of this House a letter that I wrote to one local media on May 3. I deem this important for two reasons: the first is that to the

best of my knowledge this was the first time an undertaking of this kind had been taken. Secondly, these persons whose names I just called gave of their time for gratis. It must have been taxing on all of them, as they all have full time occupations.

It is therefore important to know that this effort was concluded at no expense to the Government. I wish to record my gratitude to those persons involved, and I place this letter on record in the *Hansards* of this House as a token of my appreciation, not only of their completion in meeting the terms of reference, but also the excellent way in which the report has been tabled.

**“I write to publicly commend the members of the committee to examine the conditions relating to the recruitment of Caymanians into the teaching profession. The preliminary report is notable in many areas, not the least of which is the fact it was presented on schedule. Its most remarkable achievement, however, is that it is an excellent justification for what I chose to term the politics of inclusion. This new political directorate has come to the conclusion that it must no longer be business as usual.**

**“To this extent, as Minister of Education, I wish to set the example of building partnerships with private sector entities and also to include Members of the Legislative Assembly in any projects or undertakings in which they are capable and willing to participate. The fact that the committee members engaged themselves in this work after the normal working day is of special significance since it means that their approach was entirely unselfish.**

**“The Chairman of the committee, himself a trained teacher, is not only my colleague and best friend, but a man whose civil service career spanned many years. He is a man known for his meticulous bureaucratic good sense and the wide knowledge of civic and governmental affairs.**

**“Similar compliments could be paid to every other member of the committee were I not limited by time and space constraints. Suffice it to say in their regard that excellence must not only be pursued but acknowledged. So, I record my acknowledgement of their efforts. Having established the excellence of the panel, let me now turn to the report and its significance.**

**“An important part of the Government’s mandate is to foster educational development and training opportunities of Caymanians so that our people can take their rightful places in all areas of our society. No area is more critical to the development of Caymanian society than that of teaching. It is teachers who play an important role in the transmission of cultural values, social values, religious values and other values. It stands to reason therefore, that the successful transmission of Caymanian values can only be guaranteed by a predominance of Caymanian teachers. To strive to achieve this objective is not only logical and sen-**

sible, but also a guarantee that that entity known as 'Caymanian' will be guaranteed survival.

**"The Cayman Islands have always had a representation of outside teachers, and will continue to rely on such persons. However, no country can expect to successfully transmit its value system if it cannot guarantee that the vast majority of its teachers are its own citizens.**

**"Finally, I turn to the challenges for which appropriate responses must be created by us all. It is the Ministry of Education and by inference the government's responsibility to chart the way forward. I look to this with eager anticipation and await the committee's final report in June. Thereafter, the public can expect to receive the report after the various protocols have been met, following which the Government should be in a position to announce how it plans to address this glaring need. [Signed] Honourable Roy Bodden, Minister of Education."**

With that historical underpinning, we have come now to debate this report and ask this House to adopt its findings.

I am concerned and have been for many years, and during my tenure in this House I went on record many times stating that as far as our education system was concerned, we were recording our results on a faulty report card. I contend that one of the criteria as far as I am concerned as an educator, for the success of any system has to be the ability of that system to resuscitate, regenerate, and repopulate itself. That means that if we have an education system in the Cayman Islands that people claim is an excellent system, and yet that system fails to produce even the slightest majority of Caymanian teachers out of the total complement, I would have to question the efficacy and results of that system, particularly if I were in a position to have multiple tenure at the helm of such a system.

It stands to reason that any organisation or entity that fails to maintain or regenerate itself is an organisation fraught with risk. Here we are at a time when we are becoming Caymanian conscious, lamenting the loss of that entity known as the Caymanian, lamenting the lack of transmission of Caymanian values as important as they are. We find ourselves in a position where we lack a majority of our own people. Anthropologists will tell you that culturally that is a system designed to make some cultural entity extinct. If the situation is not remedied within the next little while, meaning the next decade, then those entities that claim they are Caymanian now will be by far a minority element in their own country.

This report was designed to bring some sobriety, some sense of direction to help us arrive at a sense of perspective and urgency to be able to secure the society by providing our own teachers. There could be no more eminent persons given the responsibility to do that than teachers themselves. So, the committee was predominately made up of teachers, chaired by a

teacher, and indeed all of those making up the committee had some direct interest in education and the transmission of values and culture in this society.

This report has been well received, well respected by the ministry over which I hold constitutional responsibility. From the feedback I have gained many people have found it informative, if not downright enlightening.

Mr. Speaker, being the realist you are, I am sure that you yourself are struck by some of the stark statistics of this report. There is absolutely no ground for anyone to object or raise any queries on the professionalism, the accuracy or format of this report because the report, for the most part, is factual. I have to say again, in complimenting the Chairman, I see him in every section of this report echoing down through the years I have been associated with him that underlying tenant that he always tells me, "the facts speak for themselves." If you give the facts, there is no room for any interpretation other than a factual one.

I am happy to stand here today and say that this report is devoid of any prejudice that any Member of the committee may have held. It is based on facts. The conclusions and recommendations are extrapolated from the facts. I say again, it is an excellent report.

I wish now to return to the stark figures. In all of the primary schools of the Cayman Islands there is but one male Caymanian teacher. That gentleman hails from your Island, Mr. Speaker!

One does not have to be a genius to understand that if this is the position we find ourselves in at a time when we have all kinds of dysfunction and breakdowns among male Caymanian students of a certain age, there is bound to be identity problems. I contend that I am a living example because that in the old days (and I am not romanticising) we were better off as far as producing teachers was concerned. We were better off in the system. We had Mr. C. A. Hunter, that famous Bodden Town educator/politician/attorney and other things. God rest his memory.

Our system was better off because he, as the Chief Education Officer, actively recruited those of us who showed some educational promise into the teaching profession. Ask the First Elected Member for Cayman Brac and Little Cayman.

The Chief Secretary was relating to us, one evening when we went to dinner, how he recruited him. It is no exaggeration to say that every week whenever that gentleman met me he would implore me to consider teaching. He was a teacher of great and high standards and a Mico man I might add, no less.

In these days, there is no one with such an interest at a time when we have to compete with the more attractive and sophisticated fields of work, like banking, Law, or being a CPA. No disrespect to those professions, but only teaching is described as the noble profession. I have not heard anyone describe banking as a noble profession, or even that of an attorney.

Its importance is underlined by the fact that if there were no teachers there would be no bankers, because teachers teach the bankers.

The thing that strikes me most about Caymanian society, my society, is that we are cockeyed. Our sense of importance and development is cockeyed because we before we developed a teachers' college, we made a Law school. That speaks volumes. I am not putting it down, I am just saying as a developmentalist that I have to query the direction we are going. That Law school is almost sacrosanct. We pumped financial and human resources into that before we pumped them into developing a teacher's college or school for training and developing teachers. I just want to bring the sense of importance of crafting and training our own teachers to the level we should be in this 21<sup>st</sup> Century.

I see it is approaching the time you wanted to adjourn.

**The Speaker:** You may continue until you have finished.

**Hon. Roy Bodden:** I have to caution the Chair that this is an emotional subject for me and I am not likely to finish any time soon.

**The Speaker:** We shall suspend until 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.48 PM

#### PROCEEDINGS RESUMED AT 2.20 PM

**The Speaker:** Please be seated. Debate continues on Government Motion No. 7/01. The Honourable Minister responsible for Education, Human Resources and Culture, continuing.

**Hon. Roy Bodden:** Thank you.

When we took the luncheon suspension I was making the point of the importance of having sufficient numbers of our own people so that, among other things, we can transmit the culture of the Cayman Islands.

I am further reminded of the precarious position in which we find ourselves in the Cayman Islands in regard to the recruitment of teachers, when we realise that over the past summer several jurisdictions in the Caribbean, the traditional recruiting grounds of the Cayman Islands, has been visited by large jurisdictions like the City of New York and the UK. I am speaking of efforts made over last summer in Barbados, Trinidad and Jamaica to recruit teachers for the city of New York and later the UK.

Some commentators have pointed to the danger in this that these jurisdictions themselves will experience a shortage of teachers themselves if their graduates continue to be lured away to jurisdictions like the City of New York and the UK.

Our position is even more precarious when we consider that in the first instance we do not have sufficient numbers going into the profession and those who do go have to be so dedicated that they can withstand the attraction of what seem to be the more lucrative professions of banking, accounting, legal studies, et cetera. However, the position in the Cayman Islands is even more difficult by the fact that we have a sterile and prolix bureaucracy that instead of giving teachers leeway and flexibility bridle them with a lot of demands for paperwork, some of which is entirely unnecessary, irrelevant and unimportant to their duties of teaching and classroom management. The study highlights this shortcoming and sets this down as one of the things that deter people from going into teaching.

There is a need to reform the bureaucracy. I wish I could stand here today and say that my own ministry and department does not bear some responsibility for what happens. I am trying as best I can under the circumstances to make things more attractive for new people coming in, and for those to remain. However, when teachers are governed by General Orders ... and I want to draw attention to an article in the *Caymanian Compass* of Monday, 10 September 2001, in which a teacher wrote a letter to the editor outlining what she called the challenges of teaching.

It was a letter that I, as the Minister, read with interest. I found nothing objectionable in the letter. Indeed, I welcome these kinds of public expressions of frustration. I was dismayed by the fact that this young teacher (teaching at John Gray High School) lamented an act of vandalism upon her car, presumably by some student. She was venting this as a frustration. Well, as far as I am concerned, that was well within her democratic rights. The language was acceptable and she was totally impersonal: only to receive a letter from the Chief Education Officer reminding her of General Orders and that she had breached protocol.

In this era of human rights do you want to tell me that someone, who I thought was justified in venting her frustration, having her mode of transport vandalised by someone she was trying to help, does that person not deserve to vent her frustration in an innocuous letter to the paper? If we are going to stifle and bridle teachers in these ways, it is no wonder that we cannot get Caymanians into the profession. This is a simple exercise of a person's democratic right.

Among all the other contending elements, attractive salaries, more lucrative vocations, prestige, now we have this business of teachers being unnecessarily bridled. I am at odds with the establishment. I see nothing wrong with that. I welcome the teachers' expression, even if it is dissent against the policies of the Ministry. That is what democracy is about. We cannot have a robust democracy if we stifle that kind of expression.

I want my teachers to be able to express these things publicly; after all, it affects them. How can they

be effective teachers if their public expressions are stifled? I am sure they realise and understand that they should not resort to libel, slander or defamation. Other than that, I say it is time to throw the General Orders out now and have a modern code of practice in keeping with trends in the 21<sup>st</sup> century that allow people to exercise their democratic and human rights.

Then we have to improve the lines of communication. We have to shy away from this 'Big Stick Old Hat', kind of leadership style and open the lines of communication so that teachers and administrators can feel that their opinions are not only heard, but valued. I would love to see a teachers' association formed, where teachers as a professional body can come together, discuss and formulate ideas and directions that are common to the vocation where they can have a collective voice.

I understand that some persons are discouraging this. I have expressed it to the teachers on more than one occasion. I would welcome this. It happens in every other modern jurisdiction, it should happen here also. There are the challenges that face us if we are to attract and recruit more Caymanian teachers.

It is interesting that among the things listed as deterrents for Caymanians coming into the profession, salaries did not rank first. Teachers gave other reasons, particularly those who left. While it is true that salaries have to be important, it was not the most important thing. Any dedicated teacher knows he can never be paid what he is worth. Other things need to be done, among which is recognition by officialdom, recognition and appreciation.

I am afraid that we are on the verge of losing our good teachers if there is not a dramatic improvement in conditions and if their expressions of what they see needs to be done in the vocation if someone does not take it seriously. Need I say that we can ill afford to lose these persons who are dedicated and who have a record of solid performance?

We need immediately to improve the lines of communication and the seriousness with which we receive some of these concerns. I have chalked it up to a matter of personality. I get complaints about certain persons in the Education Department, the lack of professionalism. I was glad when I was able to table the Millett Report. I told the Chief Education Officer that I wanted

an improvement in the Education Department.

It is my understanding that they have re-written the job descriptions. I am going to stand upon them and insist that not only is there improvement but obvious and remarkable improvement. I want to lessen the complaints. Ministers have no administrative responsibility so I am not able to terminate anyone's employment, but I am telling you that there is much to be desired in the professionalism of some members of the Education Department.

There are solid and stalwart workers there and I will not identify any person or position, but I have brought it to the attention of the Chief Education Offi-

cer that certain staff members need improvement. I have even suggested that some be recommended to take courses the Chamber of Commerce holds in dealing with front office personnel. It is unthinkable that professionals in this day and age can treat people in such unprofessional ways and get away with it in a vocation as important as teaching.

I look forward to the implementation of the recommendations of the Millett Report and to see the improvements in the Education Department. I am encouraging them but I am not Job.

I believe that it is not necessary for me to say any more in the introduction. I commend the Motion to Members. I am certain from my discussions with Members that all know the importance of us finding, training, attracting and maintaining Caymanian teachers if we are to develop along the lines of a successful community. I commend the Motion to Members.

**The Speaker:** Does any other Member wish to speak? (Pause) Does any other Member wish to speak? (Pause)

The Second Elected Member for Bodden Town.

**Mr. Gilbert A. McLean:** I have the opportunity to speak on the report which has been laid on the Table, the adoption of which has been moved by the Honourable Minister responsible for Education, Human Resources and Culture. I was part of the committee appointed by the Minister on 25 January, along with the other Members who he mentioned.

This exercise was extremely hard work. It was something done within certain time constraints and it was done by all of us after we had put in a day's work. I wish to personally thank the deputy chairman, Miss Debra McLaughlin, Mr. Jonathan Tibbetts, Miss Vicky Frederick, Miss Joan West; Mr. Leonard Bodden; Mrs Lenora Mendoza-Hydes for their service, their time and efforts.

I think it is also fitting that I make special comment about Mrs. Grace Wright who was not originally appointed to the Committee by the Minister, but who had such ongoing interest in education that she called me about it and in consultation with the Minister was co-opted as a member of the Committee. Her contribution was significant in every way including the fact that she has worked both in the Government system and in the private sector. Her effort was quite outstanding.

I personally wish to say that these teachers informed me about the state of education in a way that I doubt very seriously I could have otherwise learned. Having direct contact with Caymanian teachers in this way was one of the most enlightening experiences I have ever had.

I would also like to make a special mention of two of the teachers who did a lot of legwork, delivering questionnaires, Vicki Frederick and Jonathan Tibbetts. Jonathan Tibbetts in particular, who was somewhat longsuffering like Job, because he acted as our daily secretariat and worked many times into the night. As



we changed a sentence a dozen or so times trying to say what we wanted to say, he never rebelled. However, I think at one stage we all became a bit concerned if his marriage would hold together! (I say that in jest.)

This whole report was produced by him using his laptop computer. This report would not have been finished in time without him because there was not available to us a secretary or even a permanent place. I want to thank all of those persons immensely.

I also thank the Minister for his kind remarks. I appreciate them. I trust this will be the first of other such follow-up studies that will be done to examine and look into the conditions affecting education so that they may be corrected as time goes by.

Members have questioned why this report includes two signatures on the first page, on the letter presented to the Minister. Well, it is very simple. We had one report, which was the interim report, where all the signatures were on one disk. When we did the second part, we did not use that same disk, and when it was printed, some of the Members of the Committee were off the Island. So, that is the reason. However, the Minister has one with all of the signatures that were actually signed on the evening it was presented to make sure he had the signatures of all Members. I promise Members that I will get that page for them.

We agreed that this report should be as brief as we could make it and that it should contain hard, cold facts as best as we could discover, analyse them and place them in understandable form.

While the teachers were aware of the immense disparity between Caymanian and expatriate teachers, I never could comprehend until this occasion the difference in numbers. I do not make that comment to say there is something socially or economically wrong with that, but I make the point that it is a major challenge for us to find persons to enter the teaching profession.

I agree with the Minister of Education that this has to be one of the most glaring priorities in this country. At the end of February 2001 there were 561 teaching posts in the country, taking into account that there were 32 vacancies. Of this there were 119 Caymanian, and 410 expatriate teachers.

In this mix of teachers, we had teachers with only teaching diplomas up to masters' degrees and teachers' aides and support assistants who were not formally qualified in teaching, but were within the system.

Another thing that was more outstanding was that there were so few men in the teaching profession. One of the terms of references was to find ways and means of attracting Caymanian men into the profession, and to find out why there was not enough interest in it.

Out of the total number, 372 teachers were female, with 96 being Caymanian, and only 157 were male, 23 who were Caymanian. As noted by the Minister, there is only one male Caymanian classroom teacher in the primary schools.

We had the opportunity to interview one male Caymanian who was most impressive. He served for 13 years in the primary schools and left. It was my understanding that he would consider going back into teaching (and I trust he will, as he stated his love for it). He told us that he would not return until his wife, who was then pregnant, had their child and the child began school. That has since happened, and he will consider going back into teaching. I passed that on to the Minister and I am sure he is following up on the matter to see that this male Caymanian returns to the service.

At the time of this study, 134 teachers were in administrative positions. There were 53 positions in the primary schools—15 male and 38 female. A breakdown shows that the majority of male administrators were expatriates with only three being Caymanian. In the case of females, 19 were expatriate and 19 Caymanian.

Conditions vary between primary, middle and high school. These are contained in tables in this report which show the primary school specialist, the middle and high schools specialist areas. The data and statistics were not available within the Education Department at the time of this report. In fact, it came as a result of a questionnaire that we sent to all of the schools on the Island. I thank all the schools all the principals both in the public and private sector for the way they responded. They were passed out and collected by hand.

We discovered that of the total number of teachers in Cayman's public schools, there are 343. Out of that number 91 are Caymanian. This means that in all of our public schools 72 percent of the teachers are expatriate, and only 28 percent are Caymanian.

In the private schools it is even smaller—out of a total of 142 teachers 131 are expatriate (92 percent), and 11 Caymanian (8 percent).

The overall percentage of teachers on the Island as a whole, 73 percent are in public schools, and 27 percent are in private schools.

As we collected and analysed more data we saw the average length of stay for teachers in teaching was 8.7 years. The terms of reference asked us to determine why Caymanians leave the teaching profession and what alternative employment did they chose. We did a questionnaire on this and we posed a number of questions developed as a result of a panel of eight teachers meeting who determined what were their reasons or potential reason for them leaving the teaching profession. Each wrote a list and we saw which reasons were repeated. From that we developed a questionnaire.

What came out of that was that the thing which led the way was not the lack of salary, although that was part of it. What stood out was a lack of incentives (loan facilities, travel, negotiable salaries) teachers saw as necessary to keep them teaching, which were all absent at this time.

The number two position was tied by lack of staff development opportunities and training, the lack of promotion and monetary recognition based on professional qualifications, lack of support—departmental, parental, administrative—and from the business sector as well. In these areas this is a real feeling of those we interviewed directly and those who filled out the questionnaire.

In third place was salary. It seems that while salary is important to us all, for the teachers there are other things they feel they need to execute their jobs properly. These areas are now known and I trust they will be addressed.

We also did a breakdown by age, from 22 to 27 years, from 28 to 33, from 34 to 39, from 40 to 45, from 46 to 51 and 52-plus. It was interesting to see how the emphasis changed in the different age ranges. When we get to age 52, the chief concern was salary. After all they have spent their time and are now reaching the age of retirement.

Teachers leave the teaching profession to go into various fields, significantly business. Teachers leave the profession to go into business for themselves. There are some (not a high percentage) in the finance and banking area and others in a variety of employment.

The terms of reference number 3, asked **“To determine ways and means of attracting Caymanians into the teaching profession giving particular attention to male Caymanians.”** This was a very interesting area. Through discussions, interviews, and data collection we saw what was most repeated by teachers as being means of attracting Caymanians into the teaching profession.

I would just like to refer to some of these now. The very first is the creation of incentives. They saw among the things that would be an incentive to them “the establishment of a mortgage loan facility for teachers.”

One thing that came up over and over is that they want to own their homes. Some of them said that they had difficulty qualifying for a loan, and if they did, it took such a high percentage of their earnings. They felt that if a scheme could be put in place for them as teachers, that that would be a way of attracting them.

They also thought that rather than fitting into a scale, if they had the opportunity to negotiate their salaries by experience and qualification they would be happier. Their suggestion was that they should be assessed on their performance and that they should earn increases in salary on performance rather than just the usual one increment, even when there were times when some worked and performed very well.

Another thing the teachers were interested in was an opportunity for continued education in their field of interest. An archaic concept that exists in the civil service is that the Government only pays for a first degree. I left the service in 1983 and it was in place before then. To imagine that it still goes on now rather boggles my mind.

**Hon. Roy Bodden:** True!

**Mr. Gilbert A. McLean:** What would be the sense of someone with a Bachelor's going on to study for another two years in a particular field, becoming more informed, more capable, then coming back to be told his salary will remain the same? That is absurd! This was one matter that was repeated over and over again.

There was also interest in training opportunities in fields of specialisation both locally and overseas. One thing that came out of this study was the fact that most of the specialist teachers in the Cayman Islands are from overseas. The Caymanian teachers said that they would like the opportunity to specialise, by getting funding, or being able to have their salaries continue (as has been done in the past) while they go off to study and specialise in a particular field. That would provide an incentive.

Another thing pointed out to us was that there should be a provision through the Community College for a teaching degree or certification. The Minister spoke about the Law School. That has been flourishing for many years.

However, there is no similar opportunity for teachers. They felt there would be persons interested in becoming teachers if they could start their education locally, reach a certain degree and then go on. This course could be run in the evenings too to include working people who are not able to attend during the days. There are housewives with some time available during the day and some cannot simply leave for training due to financial commitments. However, if something could be done locally, it would be a start in the right direction.

The question of higher salaries certainly came up. It was made clear by some that salary was important to them. One of the things teachers asked for was that the point of entry for teachers be increased and have a separate salary scale allowing progression through additional qualifications, specialisation training and seniority. That made sense to me. They clearly saw this as something that could attract teachers.

They also suggested increasing salaries to compete more effectively with careers outside of teaching and to allow bonuses for veteran teachers mentoring beginning teachers. That seemed fair. I understand this is done in the US. It is recognition that a veteran experienced teacher is helping a new teacher to learn teaching techniques that cannot be taught in university.

Bonuses were also suggested for teachers who regularly commit to various committees. It seems that teachers are asked to serve on various committees that fall outside of their work day. A recognition of being paid an extra \$100 or \$200 (and not necessarily an increase of 10 percent), especially to those who work regularly on committees, would make them feel that they do count for going that extra mile.

Another area was support for teachers, largely from the Education Department. We heard over and over that communication needed to be improved between the Education Department and teachers. It is interesting how that very thing is identified as a top priority in the Millett Report. The Millett Report dealt with a wider spectrum of teachers, we had a more defined group to deal with but this was repeated over and over again. Teachers feel that they do not know what is going on, or what is expected of them, there is no kind of pre-warning that they have to do something until it happens. When they in turn feel they must get in touch with the Education Department, the hoped for response is not forthcoming.

I want to make a point here that I do not really know who works in the Education Department, other than three or four who have been there for a long time. I am not directing my comments to any particular person in the department, but I am speaking of the Education Department as a point within the system and that the system needs to be corrected. The Millett Report seemed very specific in this area.

Teachers feel that parents need to become more involved in their children's educational development. One could easily glean that teachers have the feeling that parents largely bring their children to school to become the property of the teachers and the parents can largely extract themselves from it. There seems to be a real problem in this area, even when parents are contacted about misbehaviour.

They also suggested that the community should be educated in ways of becoming more involved in the teaching process. Here they were talking about the involvement of businesses in assisting the teaching profession through assistance to PTA's, allowing the children to visit on field trips, through give-aways or whatever. They mentioned numerous ways. Of course, seek to encourage businesses to supplement the process for all students, practical work experience and the like.

It was felt that a forum, where teachers could meet policy-makers and education managers to exchange views and opinions would improve the teaching profession. We gathered that one of the problems is that there is not ready access and it is something that could only do good if allowed. I heartily recommend that to the policy makers.

The development of workshops to provide opportunities to improve interpersonal skills and better working relationships, was also seen as something that would bring about an incentive toward attracting teachers into the profession.

We heard of various instances where teachers are in a school and the relationship is no more than those teachers coming to the school, attending to their classrooms and within their staff room, one little group gets off by themselves and another group is off to themselves. There is anything but good interaction.

The Minister spoke of the paperwork requirements. That too was a subject that was often re-

peated. The teachers believe that there is too much paperwork and that administrative assistance should be provided in the school. The paperwork seems not to really deal with teaching or the methodology of teaching or lesson plans that this is taking up too much of the teachers' time and this is really not their job. Their job is to teach our children. Not to say that they were saying there was no need to provide certain paperwork but it should be within the confines of teaching.

The creation of opportunity for promotion and monetary recognition based on qualification was seen as a major need within the teaching profession. The teachers said that there should be succession planning in the schools. There are those who have taught for so many years and there is no succession plan to bring about some monetary incentive. They felt there should be some managerial and supervisory training provided. That makes sense. They have to offer certain supervisory assistance in the classrooms and the whole process.

Teachers also said that travel benefits should be offered as a means of attracting teachers into the profession, passage or leave passage where they could travel and see how education is handled in other locations. This would be an incentive.

One thing that came out over and over is that there has to be parity of benefits between Caymanian and expatriate teachers, equal pension benefits, which in effect comes down to contracted officers' supplement (COS). There was not a single teacher that did not comment on this particular situation, or did not understand that the Cayman Islands does not have sufficient teachers and has to look to other jurisdictions. Their argument was that there should be fairness and equity.

I certainly believe this is so. I know that many years ago in the civil service, we had a lot of mosquitoes, not a lot of qualified people for the various jobs in the public service and otherwise. The country at that time had to pay additional money to persons who came from overseas to attract them here. That is no longer the case. The salaries paid now are in keeping with those you will find in just about any jurisdiction in the world, including teaching, although in the US they are increasing salaries to attract teachers. However, this was pointed out over and over again.

How do you have a Caymanian teacher, who has a MSc in math and an expatriate teacher with a MSc in math, and you are paying the Caymanian, let us say, \$4,000 per month and you are paying the expatriate \$4,000 per month, and on top of that 15 percent more each and every month. How can we expect our most educated and intelligent people to believe they are being treated fairly? I can assure Members that the teachers do not believe they are being treated fairly and they believe that should be changed. The question of COS should be addressed.

**The Speaker:** If I may interrupt you, would you care to take the break?

**Mr. Gilbert A. McLean:** That will be fine.

**The Speaker:** We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.35 PM

#### PROCEEDINGS RESUMED AT 3.53 PM

**The Speaker:** Please be seated. Debate continues on Government Motion No. 7/01. The Second Elected Member for Bodden Town, continuing.

**Mr. Gilbert A. McLean:** Thank you.

When we took the break, I was speaking to the idea of the creation of parity and benefits between Caymanian and expatriate teachers, speaking on the COS, which is a major bone of contention.

Teachers feel a sense of being treated unfairly, but it is remarkable how well they do their work each day, not upsetting the system. However, they have the right to make this representation and we as the people who are elected to represent the people, do have the right to do something about the situation. I feel most strongly about this. It is not something that happens today.

My first employment was as a teacher. I have been through the civil service and I know that this disparity in pay, purely because someone comes from another destination, has always been a point that has brought a sense of unfairness and resentment.

That is why I can afford to stand firm, along with my colleagues, that there has to be a change in this policy.

Another area brought to the forefront is the concern for safety and security in the educational environment. I visited the high school compound. The principal was a member of the committee. We got firsthand the problems and difficulties she has running that school. One thing I would recommend to the Minister of Education, if ever the money can be found, to bulldoze down those buildings and get a multi-storey building where teachers can control the students.

What is there now is specially designed for any kind of mischief that children can conceive of. There are buildings all over that acreage. I am sure one-tenth of it could be used to house 3,000 children in a multi-storey building. Right now it is one of the most awful situations I have ever seen and also at the middle school. I mention this now because I think the only way teachers can be called upon to really control the behaviour of students is to take down the buildings at the high school and middle school and build multi-storey buildings. Once a child is inside the building he can be found, and if he is outside he can easily be seen in the yard.

This also relates to the lack of security, the need for security and safety within that compound. Children

misbehave, teachers try to correct it, can get into fist-cuffs with a child and before the other teachers know of it ... who knows what could happen.

Teachers have a fear that a parent may walk onto the compound and decide to beat up a teacher. The response to it is, as I understand, is to not say anything about it because it would look bad on the education department.

Things happen in this world; people die, people get diseases and accidents do happen. We have to get to a point of understanding in our education system that things happen—kids will use drugs on the compound, a kid will harm another, and saying it is not there and does not happen, does not mean it is not there. We have to face with and deal with those situations. What perpetuates the bad is when nothing is done about it. One would think that teachers and the education department would want the public to know about these types of problems because it is one way of harnessing the support and concern of the public at large for the teachers.

The teachers made it very clear both on the questionnaire and in our interviews that there is a growing concern for their safety. This is a matter I think has to be addressed in order to keep the teachers we have now, and to attract others. People thinking of becoming teachers are concerned about what happens in the schools, and understandably, they do not want to have to deal with it.

In this regard, teachers also spoke about receiving some authority of dealing with misbehaviour in the classroom, where they can apply certain sanctions. We often hear people say that from the day they took the strap out of the schools the education system has been going down. Well, I do not necessarily believe that, but one of the problems we saw is that teachers are left helpless when there is misbehaviour in the classroom.

Picture 20 students in a class. One misbehaves. The teacher has to take that one child, walk a quarter of a mile to find the principal, if you can find him, and leave the other 19 there to take charge of the classroom. It is absurd! It is a problem that has been identified. There has to be the ability to bring about certain sanctions.

I understand that it has become so ridiculous that if children are fighting and teachers move in and physically remove them from one another or restrain them; that can be looked upon now as an assault. The children say, in some instances, "You take your hands off me, I'll sue you for assault."

Those are the types of things this study has uncovered which obviously need to be addressed. These can be addressed by having clear discipline and authority policies and on what sanctions can be enforced by teachers in the classroom. Children cannot go to school believing that their parents can curse a teacher or the education system they can do what they want to with impunity.

That comes to another point that was made by the teachers: there needs to be clear and unambiguous policies in education. This is the identical recommendation made in the Millett Report on the very same thing. Certainly, it is something teachers seem to want very badly—clear statements of what is expected of teachers, that it does not change from day to day, week to week; and that they know the national goals, the schools' goals and that the public at large be aware of that; and to develop some means of collaborating between educators, the policy-makers and parents in creating realistic policies.

I would just like to refer to the Millett Report. One of the weaknesses it identified was the absence of **“clear lines of accountability which cut across the service as a whole from minister via the department to schools.”**

I would like to comment on another one the report identified, **“poor professional standards, poor relationships, and an absence of trust within the department has created a culture in which staff fail to work cooperatively and seek to avoid the acceptance of individual and collective responsibility.”**

I think the teachers are aware of these things and they are affected in ways they say will drive them from teaching and will not attract persons into teaching if they do not change. Therefore, these are within the recommendations to assist the means of attracting teachers into the profession.

One other quote from the report, **“Weak consultation and communication with schools parents and the wider community over major plans and policies for education.”** I can assure you this was not quoted in the report ordered by the Minister, but in reading the Millett Report it was amazing how our findings were similar.

The committee made certain recommendations to the Minister. The report shows the meat of these recommendations, but for the record I would like to read the captions:

- "1) Initiate preliminary teacher training studies in the Community College up to Associate Degree level with a long term plan to complete teacher training if found realistic.**
- "2) Improve overall Communication from Ministerial level down to schools to ensure that all entities in the process understand and are working toward the same goals.**
- "3) Create written educational policies to cover all areas ensuring circulation to schools and every employee within the education system.**
- "4) Provide staff development opportunities for teachers to create incentives for improvement, promotional opportunities and financial consideration.**
- "5) Create a plan whereby teachers are eligible for sabbatical leave after 5 years and can leave teaching for a year to continue studies or work in some other field.**

**"6) Create equality in pay between Caymanian and Expatriate teachers including allowances for travel.**

**"7) Establish a special fund to assist Caymanian teachers with first-time homeownership.**

**"8) Create a unit of specially designated persons in the Education Department who would function as public relation officers to answer queries, take suggestions, listen to complaints, and take appropriate action to reach satisfactory resolution.**

**"9) Start a major national advertisement campaign to promote teaching as a viable, respected and satisfying profession.**

**"10) Initiate action to attract ex-teachers and professionals in the Private sector to teach.**

**"11) Include and emphasize more vocational training in schools such as craft-work, hairdressing, electrical, plumbing, auto mechanics, air-conditioning, and floral design etc. utilising volunteer professionals in the field.**

**"12) Allow Principals of schools to have more flexibility in the daily operation of their schools including timetabling and time to deal with administrative matters.**

**"13) Provide appropriate management training at all levels throughout the education system particularly within the Education Department and for Principals, Deputy Principals and other administrative personnel.”**

I could talk much more on this, but the report is in the hands of all Members. They can read the depth and length of it. I firmly believe there are major challenges to be met in the field of education and in finding our own teachers, which is what this report is all about and why it was commissioned. What is bothering teachers and what can be done to attract teachers? How do we get men interested in becoming teachers? The challenges are major and many require finances. Government's finances have to be split in so many ways, but if we are looking at areas of expenditure to give extra dollars, I think education has to be one of those. I give my support to the Minister in his efforts. I wish to assure him that this report has the facts and the data. I believe he will rise to the challenges and bring about the changes that must be made; the majority of the teachers in this country will support that and will also rise to his assistance through their support in the field.

I wish to emphasize that we are in a situation where we are highly dependent on other jurisdictions for teachers. The major need in the teaching profession today is fairness and equity. I think that in itself, if corrected, will have a major impact on the teaching profession in the Cayman Islands. I support the Minister in his endeavour and look forward to an improved Cayman Islands through an improved education system.

Thank you.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you.

Since it was so late in the evening, I thought we would take the adjournment and start again tomorrow.

**The Speaker:** We still have ten minutes of exercise.

**Mr. V. Arden McLean:** Thank you.

Here we are debating a report by a committee relating to the recruitment of Caymanians into the teaching profession. I applaud the Minister for having initiated this review and the appointment of so many qualified people to review this profession.

When we really think of it, we need to look at the reason we have reached thus far. When we look back at the history of this country, when citizens such as the late Mr. Hunter from Bodden Town, encouraged young people to go into the teaching profession, in those days the teaching profession was revered and respected. That is no longer the case.

In those days Caymanians tried to ensure that they had teachers to teach their children. One of my siblings was a teacher. In more recent times she too left for greener pastures. Maybe it was because we did not have the financial industry, tourism and all the industries that provide greener pastures for our young people.

However, in those days teaching was honourable. I recall when the Minister of Education and the Second Elected Member for Bodden Town were headmasters in East End. I saw those two individuals put elbow grease into the teaching profession by taking a personal interest in each child in the district of East End. I have witnessed the present Minister of Education take off his shoes and socks and roll up his pants to take kids out of the water and drag them—literally—into the classroom. That was the time when parents in this country (East End, in particular) respected teachers – when whatever Roy Bodden and Gilbert McLean said or did in East End was well done. Those were the days when the teachers were supported by government, parents, and they were respected by the children. They demanded respect.

This report prepared by the chairman and teachers, such as Mr. Jonathan Tibbetts, Miss Vicky Frederick, Miss Joanne West, Mr. Leonard Bodden, Mrs. Grace Wright, and Mrs. Lenora Mendosa-Hydes, while well received and highlights many of the problems experienced by teachers, it speaks of how the community and this country view the teaching profession. It is obviously in need of some serious injection by the Government and the country as a whole. It shows the lack of respect and support of Caymanians going into that profession.

I wonder if we turn our minds back to where we came from as individuals if we would understand what a teacher is all about. The majority of a child's life dur-

ing the day is spent with a teacher. A child is influenced by that teacher. Value systems are instilled in that child. If we do not respect the teacher, then the children will not respect the teacher.

I personally have made it clear to the teachers of my children that I will not ask them to discipline my child at school for what he does at home. Therefore, I do not think it is fair for a teacher to ask me to be the first line of discipline for what my child does at school. I will be the second line, but the teacher has to discipline the child there and then so that the respect will be in place. How can I instil in my child that he must respect the teacher, when I discipline him at home for what he did at school?

The Second Elected Member for Bodden Town spoke on the discipline at school and the behaviour of students as one reason for people not getting into the teaching profession. What can we expect when students are vandalising teachers' vehicles and are prepared to fight teachers?

When I went to school under teachers such as Teacher McField and Mr. McNamee, I stood on the straight and narrow, or they would bring me back to the straight and narrow. Beside that, they called my parents who brought that straight and narrow down even smaller!

#### MOMENT OF INTERRUPTION—4.30 PM

**The Speaker:** You will not be finished in another five minutes or so?

**Mr. V. Arden McLean:** No, Mr. Speaker. You made me start it. I will not be finishing now.

**The Speaker:** I would appreciate the Motion for the adjournment.

**Hon. D. Kurt Tibbetts:** Before moving the adjournment, I just need you to guide me right.

I think this is the last bit of business we have for this meeting. I know we will be here tomorrow. However, I just wanted to make Members aware that the vast majority of questions remaining to be placed upon the Order Paper are to be answered by Honourable Ministers who were off the Island and will not be back until next week. If the House adjourns and all questions are not answered, I believe that Members would prefer to ask the questions at the next meeting as opposed to having them answered in writing. Perhaps you could use your judgment and relate to that tomorrow.

The other thing I wanted to say is that the Minister of Education, who brought Government Motion No. 7/01, is going to be off the Island on official business starting Monday. We can deal with that tomorrow. I just wanted Members to have a clear indication.

## ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House until 10 am tomorrow.

**The Speaker:** The question is that this Honourable House do now adjourn until 10 am tomorrow. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM FRIDAY 28 SEPTEMBER 2001.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**28 SEPTEMBER 2001**  
**11.14 AM**  
*Twelfth Sitting*

**The Speaker:** I will ask the Honourable Third Official Member to say prayers.

**PRAYERS**

**Hon. George A. McCarthy:** Let us pray.

*Eternal Heavenly Father, from whom all wisdom and power are derived: we beseech Thee so to direct and prosper the deliberations of the Legislative Assembly now assembled, that all things may be ordered upon the best and surest foundations for the glory of Thy name and for the safety honour and welfare of the people of these islands.*

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

Let us say the Lord's Prayer together:

*Our Father which art in Heaven, Hallowed be Thy name. Thy Kingdom come, Thy will be done in earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil. For Thine is the Kingdom, the power and the glory, forever and ever. Amen.*

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

**Proceedings resumed at 11.16 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for absence from the Honourable First Official Member and the

Honourable Minister responsible for Community Development, Women's Affairs, Youth and Sports who is off the Island, and from the Honourable Minister responsible for Education, Human Resources and Culture who will be arriving later this morning.

Moving on to item No. 3: Presentation of Papers and Reports.

The Honourable Minister for Planning, Communications and Works.

**PRESENTATION OF  
PAPERS AND REPORTS**

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I beg to lay on the Table of this Honourable House four Reports which have been prepared in accordance with the requirements of the Governor Vesting of Lands Law (1998 Revision).

**The Speaker:** So ordered. Do you wish to speak to them? Please continue.

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker. The Reports detail four matters that have been in the works for a while. As is required by the Law, the details of the lease and three transfers have been published in the Cayman Islands Gazette of 30 July 2001 and a local newspaper, namely *Cayman Net News*, issue 94, dated 20-23 July 2001.

Also, as required by Law, three valuations were carried out on each property. Each valuation report forms part of the overall report and each provides an indication of the value of land that the Government now proposes to lease and transfer.

**REPORT AND RECOMMENDATION OF THE  
MINISTER RESPONSIBLE FOR LANDS ON THE  
GEORGE HICKS HIGH SCHOOL HOME SCHOOL  
ASSOCIATION'S REQUEST FOR THE LEASE OF A  
PORTION OF CROWN LAND BLOCK 15B,  
PARCEL 249**

**Hon. D. Kurt Tibbetts:** One report deals with a small portion of Crown land, Block 15B, Parcel 249 part, the property on which the George Hicks High School and the Truman Bodden Sports Complex are located.

The site in question is where the schools' Home School Association has built a small uniform shop from where it sells miscellaneous student supplies and uniforms. The area to be leased to the Home School Association measures about 416 sq. ft. (or .0095 acres) and the Government proposes a lease term of 25 years at peppercorn. The valuations on



Block 15B, Parcel 249 part, estimate the lease value to be in the region of CI \$150-\$250.

Mr. Speaker, in the other three reports the Government proposes to transfer the title of land as a result of requests for Crown grants unclaimed. Such requests are for land that was unclaimed at the time of Cadastral and was later registered in the name of Crown as described by the Law. In accordance with legal procedure for claiming such property, the requests were investigated by the Director of Lands and Survey. His report on the results of the investigation, along with the evidence supplied by the claimant were then reviewed by the Legal department and found to be in good order in each case. The requests were then submitted to Executive Council for consideration and were ultimately approved.

**REPORT AND RECOMMENDATION OF THE  
MINISTER RESPONSIBLE FOR LANDS ON THE  
REQUEST FOR CROWN GRANT (UNCLAIMED)  
FOR BLOCK 44B, PARCEL 204**

**Hon. D. Kurt Tibbetts:** One request for Crown grant unclaimed is to Louis Berry for Block 44B, Parcel 204. Valuations on this property estimate the value range to be from CI\$4,000-\$5,000.

**REPORT AND RECOMMENDATION OF THE  
MINISTER RESPONSIBLE FOR LANDS ON THE  
REQUEST FOR CROWN GRANT (UNCLAIMED)  
FOR BLOCK 4D, PARCEL 6**

**Hon. D. Kurt Tibbetts:** The other request for Crown grant unclaimed is to Rose Adelaide Barnett for Block 4D, Parcel 6. The valuations on this property estimate its open market value from a minimum of \$6,500-\$9,000.

**REPORT AND RECOMMENDATION OF THE  
MINISTER RESPONSIBLE FOR LANDS ON THE  
REQUEST FOR CROWN GRANT (UNCLAIMED)  
FOR BLOCK 44B, PARCEL 205**

**Hon. D. Kurt Tibbetts:** The final report for Crown grant unclaimed is to the estate of Thomas William Berry for Block 44B, Parcel 205. The valuations on this site estimate the open market value to be between \$10,000 and \$15,000.

Thank you, Mr. Speaker.

**The Speaker:** Item number 4 on today's Order Paper, Government Business: Motions. Government Motion No. 7/01, Adoption of the Report of the Committee to Examine the Conditions Relating to the Recruitment of Caymanians into the Teaching Profession.

The Elected Member for East End.

## GOVERNMENT BUSINESS

### MOTIONS

#### GOVERNMENT MOTION NO. 7/01

**ADOPTION OF THE REPORT OF THE COMMITTEE  
TO EXAMINE THE CONDITIONS RELATING TO  
THE RECRUITMENT OF CAYMANIANS INTO THE  
TEACHING PROFESSION**

*(Continuation of debate thereon)*

**Mr. V. Arden McLean:** Mr. Speaker, when we took the adjournment yesterday, I had just begun to debate the Report of the Committee to Examine the Conditions Relating to the Recruitment of Caymanians into the Teaching Profession. It has been indicated, Mr. Speaker, that the Honourable Minister will not be here next week and in so doing it is in the best interest to close this debate out today. In so doing I will try to keep my debate short even though I have many tabs, as you can see, outlining areas that I would like to address. However, I will do my best to condense it, Mr. Speaker.

**The Speaker:** We shall be grateful.

**Mr. V. Arden McLean:** Mr. Speaker, first of all let me say that this Report is certainly an indictment of the lack of respect that this country has paid to a time-honoured profession. As I went through it, I was amazed. We have heard so many times of teachers not being treated well and leaving the profession. Mr. Speaker, when one reads this report done by those teachers, it leaves one to wonder what has happened over the past years.

Mr. Speaker, when we look at the 17 general reasons given, the ones that really stand out are:

- 1) The lack of staff development opportunities and training;
- 2) Lack of promotion and monetary recognition based on professional qualification;
- 3) Lack of incentives, monetary loan facilities, travel, negotiable salaries, et cetera;
- 4) Lack of support: departmental, parental, administrative, businesses, et cetera;
- 5) Last, but not least, salary.

Mr. Speaker, first of all let me address number 4—'Lack of support.' When we look at the Millet report and study both of these together, they are two separate and distinct reports but they are both saying the same thing. The Millet report is by a consultant, and the report on conditions relating to the recruitment of Caymanians was conducted by current teachers. Both reports say the same thing: teachers are not getting the support from the top. The Millet report in essence talks about the disarray within the Education depart-

ment. Mr. Speaker, I understand why this was not tabled until more recently.

Then we look at teachers' cries for support from the businesses. My appeal again is to the Chamber of Commerce. In this country the Chamber of Commerce has a membership of the majority, if not all, of the businesses. That is where our students will eventually go. It is in their best interests that they support the education system in this country, Mr. Speaker; it will relate into profitable bottom lines for the businesses. We must stop thinking about making the quick dollar. We must also think of how to make that and one of the ways is to support the Education system. I am not saying that they do not, Mr. Speaker, but obviously the teachers think that they are not doing enough.

This Report speaks about the lack of support from parents and the lack of appreciation for teachers from parents and children—students. Mr. Speaker, it is unfortunate that our teachers have to plead to be treated properly. However, Mr. Speaker, if parents are going and cursing off the teachers in front of their children, then the children are not going to respect the teachers. Parents in this country have to 'step up to the plate' and show support for our teachers.

Mr. Speaker, males do not seem to be interested in the teaching profession. The Report highlights that there is only one male Caymanian teacher in the Primary school and I believe that male teacher is in the East End school. I put the Minister of Education on warning that we will not part with that teacher, even though he hails from your district, Mr. Speaker!

The teachers at East End school have brought a whole new prospective to teaching in that district and in particular, the Principal, Mr. Tibbetts and Miss Frederick. These are very good teachers and it is going to be a very long time before we decide to let them go. I challenge the Minister to use Mr. Tibbetts as an advertising model for other young Caymanian males to enter the Education system. Certainly, Mr. Speaker, we know that Mr. Tibbetts may very well be moving on because of his abilities; we cannot stifle them.

Mr. Speaker, when we look at the number of males versus females, it is mind-boggling to think that some of the reasons given for leaving (or not coming into the profession), that men are in that category also. I would just like to highlight some of the recommendations made by this Committee, in particular: (1) To initiate preliminary teacher-training studies in the Community College up to associate degree level with a long term plan to complete teacher training if found realistic. This is the perfect way to get the Community College back to what was intended instead of trying to turn it into individuals own personal education system.

Another recommendation (2) To improve overall communications from Ministry level down to schools to ensure that all entities in the education process understand and are working toward the same goals. Mr. Speaker, the Millet report spoke of the lack of communications. I know that the new Minister has a challenge on his hands but he has given this country an

undertaking that he will rise to that challenge and Mr. Speaker, I give him my full support in whatever areas I possibly can.

One recommendation I took special interest in was (6) **"To create equality in pay between Caymanian teachers and Expatriate teachers including allowances for travel."** Well, Mr. Speaker, the last part of that 'including allowances for travel' would certainly in most instances fall away if the pay was proper. But the 'equality in pay between Caymanian teachers and expatriate teachers' [when we look at (c) under that recommendation, it says] **"Contracted Officers' Supplements (COS) should be replaced with pension as received by Caymanian teachers."**

Mr. Speaker, ever since being elected in this Honourable House many of us have been preaching from that same page. In particular, the Report speaks of ... and I quote, **"This is unfair and is a cause of resentment in the Teaching profession. It creates the feeling that expatriates are treated better than Caymanians."**

Mr. Speaker, it would be interesting for the higher echelons of Government to read this report and then they would understand where we have been coming from during the last few months. We get representations from the same civil servants who played a part in this report. If the teachers are saying it—that is approximately 500 teachers and only just over 100 Caymanian teachers—the voice is much louder in the remainder of the civil service. For some reason it is believed that we just pluck contracted officers' supplement (COS) out of the sky and want to make it our own personal goal. Mr. Speaker, that is not true. As far as I am concerned my responsibility is to represent the people in this country, and in particular the people of East End. When the people have an issue I believe it is my responsibility to present the views of the people to this Honourable House and to Government.

Mr. Speaker, we have said to the Governor that it is causing resentment in the Civil Service. I want to make it abundantly clear right here that I am not advocating not paying the teachers, or any of the expatriate civil servants. I do not support taking anything away from anyone. I stand for equality. It is impossible for me to comprehend how we can put two teachers in the same environment, the same classroom teaching the same subject; teaching the same children, expecting the same results; one is Caymanian, the other is expatriate and we give one more money than we give the other.

All I am saying, Mr. Speaker, is to bring the Caymanians up so that they can feel equal, and respect the other individual. Mr. Speaker, they have said it. The feeling of expatriates being treated better than Caymanians is wrong. That should not be a part of this community in the 21<sup>st</sup> Century. Then we hear the argument that it is because we need to attract good teachers. Mr. Speaker, my question is: What are the Caymanian teachers? Are they not teaching from the same syllabus? If they are delivering it in the same

manner as the expatriates they deserve to be paid the same amount of money.

Mr. Speaker, others have done what they have had to do, therefore it is incumbent upon us here in this Honourable House to also do what we have to do to create the equality that our people are calling for. We just had a whole week of human rights symposium and we continue to segregate and (maybe) discriminate, in my opinion, Mr. Speaker.

I want to see our teachers walk into the classrooms where there is mutual respect. One is no more or less than the other: they have jobs to do and they must be paid accordingly.

Mr. Speaker, the Caymanian teachers have talked about [the need for] some kind of scheme to be developed to assist them in qualifying for a mortgage. Most of the teachers coming back to this country are single and cannot get into their own home on the salary they receive, but nevertheless we expect them to go into the classrooms and teach our children values. These include the value of getting a home; the value of this, the value of this and that. At the same time, we are not paying them in accordance with the responsibility that they hold—the responsibility of teaching our children, the responsibility of the future of this country.

Mr. Speaker, the same children who are being taught now by the Caymanian teachers are one day going to be in this Honourable House. Anyone who thinks that he is going to be in here forever has missed the boat. We must ensure that our children get good education, but at the same time our teachers must be compensated in such a way that they can live comfortably in their own country. Our teachers are running from the teaching profession. They are running, trying to get enough money to be able to build a little home. They are running into other professions to get some respect and we sit down here and pay lip service to the teachers. It is not only this Government, the Minister for Education has just started. History will tell us what he will do to change it, because no one else has. I applaud anyone who goes into the teaching profession.

Mr. Speaker, look at the First Elected Member from Cayman Brac: this lady spent many years in the teaching profession, became frustrated, went into Law and eventually into politics because she too realised that she was 'spinning her wheels in mud'. Now we are leaving other teachers 'spinning their wheels in mud' and nobody is doing anything about it. I sympathise with the new Minister of Education, because he has a serious challenge on his hands. I trust that he will not get his heart so full because of sympathy for the profession that *he* had to leave also and that then his hands will be empty. The Second Elected Member from Bodden Town, was another teacher who had to leave the profession.

The Millet Report talks about the Education Department, Mr. Speaker—not paying cognisance to the profession. No respect! Taking these people for granted! Mr. Speaker, it is so easy for us to do that. If

we reflect on where we came from, there were teachers in our lives. That is what has brought us thus far and I am sure we too now take them for granted. However, Mr. Speaker, we must not. We talk about the financial industry; we talk about the tourism industry; we talk about us being the fifth financial centre in the world. How do we think we got there? It is through the teachers who taught us!

Mr. Speaker, we are all teachers. We all have to play our part in teaching our children. Some years ago I was on a panel discussing whether it was the teacher or the parent who had more responsibility for teaching our children. Mr. Speaker, my argument is that parents have more [responsibility] than the teachers; they must complement each other. The Governments (the political directorate of this country) have sat idly by over the years and have done nothing to integrate those two entities and include the Education department into that relationship—nothing!

Mr. Speaker, in this report, teachers talk about the lack of support such as teachers' aides so that they can be given a break. Teachers, especially in the primary schools, seldom get the opportunity to eat. Since coming to this Honourable House I asked a question about teachers' aides for East End school. They are needed throughout the schools to support the teachers. When Savannah can have nine and East End one, that is not the way it should be!

Mr. Speaker, when the graduating students were surveyed they listed three reasons why they would not choose teaching as a profession: The salary is too low; teachers are treated badly; it is not an appealing job. Now, if one believes that that does not say a lot. They are saying that the same people who just brought them to graduation level are being treated badly. They did not qualify that, so it may be—I do not know whether they are talking about administratively, or the students treat the teachers badly. Mr. Speaker, either one of those is bad and uncalled-for and needs to be corrected immediately.

How can a student say that the teaching profession is not an appealing job? Why? Because the whole country has changed its value system, Mr. Speaker, to be recognised in our country.

*[Inaudible comments]*

**Mr. V. Arden McLean:** That is where our children are getting it from.

Now we as a country need to change it. We need to show our teachers more respect so that the children who they teach will see them as role models and we will get more Caymanian teachers. When they see their teacher drive up to school in a piece of jalopy, what kind of respect are they going to show that profession? Then they see that they can become a lawyer or accountant and drive around in top-of-the-line Mercedes Benz.

Mr. Speaker, they talk about the lack of an unambiguous policy for Education. That is a challenge

again for the Minister. I have every confidence that because he was a teacher that he will straighten this out. I have had the privilege of visiting the East End school with him on two occasions. I have had the privilege of discussing education and the school system in East End on many occasions with the Minister and I know that he is committed. However, Mr. Speaker, this country has been waiting for a Roy Bodden for a very long time too. Now the torch has been passed to him albeit barely lit. We are looking to the Minister to brighten that torch for teachers and I am sure he will. In his reply I know he will tell us of his plans.

Mr. Speaker, another area of recommendation is to provide staff development opportunities for teachers. Many of them are so busy that they can never develop by going on to continue their education. The Minister again has a challenge to ensure that our teachers develop—get personal development. Interpersonal skills: They talk about that.

They talk about equal opportunities based on qualifications for the administrative posts in Education in this country and not by favouritism. They have said it, Mr. Speaker, not me. They have said that it is their opinion that a number of these placements are done based on who you know and not who knows you—not on qualifications. Mr. Speaker, that has to stop. I am sure the Minister will deal with that one too.

Next, they talk about those who go on to further their education after being in the profession for a while and come back and they are not compensated for it. Mr. Tibbetts, the young man I spoke about earlier at the East End school, has a Master's degree in Education. Mr. Speaker, he is probably getting paid like anybody else with a certificate in Education or little above. That is not fair. These people have committed their lives to teaching and going and spending that extra time. They must be compensated for it; they have made the sacrifices.

Mr. Speaker, there is so much more to be said on this Report and the lack of respect for teachers. In the interest of time, even though it is difficult for me, I am going to close. The teachers have spoken: they have spoken in a loud and clear voice. It is now up to this country to hear them and respond. We hear that the teachers have spoken. More importantly than speaking, is that it be heard and that something is done about it. I would venture to say that the majority, if not all, of the candidates in the last general election gave this country a commitment that they were going to support education. That was the one thing that rang throughout the three Islands, education, education, education! Now it is time for those of us who were elected to step up to the plate.

I think that I can say with some degree of certainty (from talking to them) that all of these Members in this Honourable House, are committed to supporting the Minister. As the Minister said, he is quite passionate about this subject and I support him because I am also passionate about it.

I would like to thank the Committee for a well-rounded report that is not only about the Caymanian teachers because they also talked about the expatriate teachers. It also reflects the bad treatment that expatriate teachers are receiving. In some instances it is a little different, but nevertheless it is the same bad treatment which must stop.

I would again like to thank the Committee. I would like to thank the Minister for initiating this review and I call on him to do what he can to bring the teaching profession out of the doldrums that it is in. I call on him to take that report on the recruitment of Caymanian teachers, the Millet Report, and ensure that recommendations where possible, are implemented. This country needs it. I also ask the Minister to pass this report on to His Excellency the Governor and all those so that they may touch on the relevant spots of it that affect the decision-making process, particularly that with COS. Thank you.

**The Speaker:** Honourable Members, in view of the late start this morning, can we waive the morning break and continue until 12:45 pm? Agreed?

The Floor is open to debate; does any other Member wish to speak? The Third Elected Member for George Town.

**Dr. Frank S. McField:** Mr. Speaker, I will try to make my contribution brief and try to give what I might consider an overview of the issues contained in the Committee's Report on the Conditions Relating to the Recruitment of Caymanians into the teaching profession.

We need to understand that the teaching profession, like any other profession in our society, is one that is rewarded financially and we live in a society where money is considered to be one of the most important means used to acquire other goods and services. The fact is that we receive our importance from the possession of or access to goods and services and we live in a totally materialistic society. It has failed to recognise the importance of being a part of the system that can somehow provide us with the opportunity to be creative and inventive. Therefore, in terms of human value we could be seen to be playing a very important role.

When we look at the types of activities that we must perform in society; the lack of autonomy or ability for any kind of decision-making responsibilities over the way in which we work and produce the quality or usefulness of our products; intelligent people should be involved in the teaching profession. That is, rather than be in a profession where at the end of the day you have financial purchasing power but no control over your creative power and abilities.

So, we are at a point where it seems to me that we are not just dealing with a question of money, but rather a question of a moral, philosophical or ethical choice. At the end of the day those of us who choose to become accountants rather than teachers have to

also ask the question, Do we have more control over our lives, our creativity and productivity as accountants, lawyers, bankers or as teachers and principals of schools?

Now, we can obviously wait until children are grown before we present them with this predicament or question. It must be presented at a very early stage in the socialisation of our children and adolescence. So the making of a teacher is a process that begins in the home that is reinforced in the primary schools and the secondary schools. The education institutions, families and the entire society must be involved in the process. It is important that this process be co-ordinated by the Department of Education and the Education Ministry.

However, let us not simplify the dynamics that are involved in getting people to change their professional orientations. It is not simply a question of monetary reward and I refuse to accept that. Especially in times when we see people in other parts of the world willing to give up their lives very readily and Americans at this particular point; firemen and policemen in New York, some who are not-too-well paid, dying to save persons in industries that are making thousands and thousands more dollars per year.

It our understanding of their function and usefulness in society that is important because then the respect shown to those persons will depend on how we act towards them. It is a mistake to blame or to believe that any future or present political administration can solve the problem without getting to the root causes and without a holistic approach, to get more Caymanians involved in the teaching profession. Mr. Speaker, I do think that we have to learn to make the necessary changes that will assist the profession.

Now, if we compare the percentage of expatriate teachers with the Caymanian teachers and if we understand the growth of the Caymanian economy; in order for human resources to fill the position, then the serious question will be, Will we ever be able to have enough teachers? Will we not always be dependent on expatriate teachers even if we were to do a good job in changing some of the conditions?

So, Mr. Speaker, we are not just therefore to speak about how there is an unequal treatment between Caymanians and expatriate teachers and that expatriate teachers receive more money. I believe that the Caymanian teachers should receive the same amount basically as the expatriate teachers. There should be equality in what they receive, but, at the same time, I believe that the expatriate teacher should also be encouraged or rewarded in different ways. There are teachers that come here to teach for a very long time because at the end of the day we are interested not just in Caymanian teachers, we are interested in good teachers to teach our children.

There has to be a point when we come to say that the child will probably better off when he has graduated from school and he is walking down the road and he sees someone who he knows as a

teacher. Those teachers are not just teaching in school, they are also important social control agents. In other words, when the child has left school at 17 years and might not go further, there might be another 20 years or more of interaction between that child and the teacher, if the teacher remains a part of the established respectable society. We seem to have lost the idea that teachers are a part of the social control agency in our society and as such they work outside school. When we treat them as expatriate teachers and in doing so criticise or castigate them politically, we see them as an unwanted group of people, as a group of people that have caused certain types of complexities in our social system, the children also begin to identify them as being such. As a result, their ability to discipline, educate and to gain the necessary trust of our children in order to get them to learn and respect them, becomes more difficult.

We have to understand that giving expatriate teachers a respected position in our society is not just with increased pay but by perhaps by allowing them to become Caymanians. They will be seen by us a very important part of the social control mechanisms in our society rather than as a threat to the society. So, some people will not say, well this old 'this' and 'that' they do not know what they are talking about anyway, they are not really interested in our children." Otherwise, the children may believe after a while that the large percentage of teachers that are teaching them, (some 72 percent in public schools and some 92 percent in private schools) might not necessarily be here for their best interest. We have to try to deal with that realistically and talking about conditions, conditions and recruiting the Caymanian teachers as well.

If the treatment of the expatriate teacher will somehow depress the conditions under which teachers struggle, then Caymanian teachers will be less attracted. Caymanians will see it as a less respectable tradition if the respect towards a teacher is less as the result of saying that they are just expatriate teachers anyway.

When I went to Germany on the 1970s, it was very difficult for people to get a job as a teacher because they had been over producing teachers. They had very stringent conditions to get accepted to obtain a teaching scholarship and to even get a position as a trained teacher. Once you got a position as a teacher, you were considered to be a '*baampta*', a civil servant. A *baampta* is not like a civil servant here because their whole bureaucratic traditions, place a lot of power and prestige and status with those persons that are *baamptas* or civil servants. In being a part of a privileged group that plays a very important role in socialising the population, teachers are supported in terms of job security based on the time they need to spend in the profession in order to qualify.

At one time when I was in New York I realised that a lot of women were attracted to the teaching profession because it meant that they could have families where the man and woman could go out to work.

However, rather than the woman going out to work as an accountant or a lawyer and neglecting the family completely, the woman could now use the teaching profession to also subsidise the family without being absent. This was a good way for the women to become involved in the teaching profession as well. In different societies people over a period of time have become involved in the teaching profession for different reasons.

It is a hard job to be a teacher and even more difficult when many parents are not supportive and not involved. I know that in this particular study there is the recognition of that issue. We see that even the question of changing the conditions for the Caymanian teachers or for teachers in this country is not going to be something that is going to be accomplished without the co-operation of parents as well. We can see how everything is inter-related and why at the end of the day there must be an holistic approach in solving this particular issue.

I think enough has been said by the Minister of Education, by the Second Elected Member for Bodden Town who have done the study and by the Member from East End that I do not have to belabour the specific points. In concluding I want to say that we must have a holistic approach to this particulate issue. We must not isolate it, we must understand what it is that we want to achieve at the end and we must understand that we have to look at the expatriate teacher population in looking at the Caymanian teacher population because they interact and affect each other. Perhaps it is also time that we see the expatriate teachers here as human capital; that we need somehow to give some kind of permanency in our society.

I think it would be sort of important if I made a comment about the Minister of Education as he did a very eloquent delivery of a message to the Community College during the recent graduation ceremony. Mr. Speaker, he did not speak about becoming a teacher, he spoke to the people about information technology and the importance of information technology. I thought to myself, here is the Minister of Education talking about the importance of information technology at a very important graduation of students from our community college. Now would that not have been a great opportunity to speak to people about becoming teachers; to persuade as many of those that had the Associate degrees to now apply to the Government for a scholarship to become teachers?

What we will find is that we will all have to be advertising, promoting and encouraging people to become involved with the teacher's profession. Parents, politicians, teachers, people in business must do it, because at the end, as others have said, without the teachers you do not have the accountants and the lawyers. The industry knows that at the end of the day that it will suffer if we do not have our teachers. I do believe that one of the reasons why we do not have more teachers is because people have not at an early

enough age realised that it is not what you make but the quality of how you make it. Children should realise that there is a big difference between just working in a job taking other person's instructions, not being able to be creative and being inventive, or doing a job where you have no choice and doing a job where you have some choice. Doing a job when you are actually going to help to build a life, to create a future and doing a job where you are not even somehow knowledgeable or related to those persons for whom you are producing.

I think again the question that we are dealing with is still nevertheless a moral and philosophical rather than a purely economic one. Thank you.

**The Speaker:** The Floor is open to debate, does any other Member wish to speak? The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker, for this opportunity to offer a few words and views on this very important report by the Committee to examine the conditions relating to the recruitment of Caymanians into the teaching profession.

Those who have gone before me have eloquently and extensively addressed many of the technical issues which are outlined in the report and given my dislike for repetition, and my penchant for economy of words, I do not propose to examine the report in detail, as is my usual way. I propose to deal with this matter, albeit somewhat briefly on a more philosophical plain.

I come from a long line of teachers. My paternal grandfather and grandmother were teachers; one of my uncles is a trained teacher having attended that august institution of Mico College, the Alma Mater; his colleague, the Second Elected Member for Bodden Town, my uncle Haig Bodden of blessed memory, was also a teacher, and one of my sisters is a teacher and currently the principal at the John Gray High School. My father as well, was a pupil teacher, having taught at West Bay and Cayman Brac for a number of years in the late forties and early fifties. So, I may be considered as something of an aberration, something of a misfit, not quite having made the mark and not having joined what the Minister of Education described as the only truly noble profession.

Having been exposed at so many levels for all of my life to teachers, I have only the highest of regard for their patience, concern, care, diligence and their long suffering. It takes all of those characteristics and more to be able to carry out properly the function and duty and profession of teaching. I believe to have some understanding of how we have arrived at a situation where the question of recruiting and retaining Caymanians within the teaching profession is such a crucial issue that a report was commissioned and a committee set up to examine this situation. I believe we have to take a long look at our recent history and our social development over that period.

In the early days of my grandfather and father, teaching in these Islands was really the only avenue available to intelligent ambitious Caymanians who wished to pursue a course of higher education. There was very little else besides the sea that was available to anyone. So, those who were ambitious proceeded to become pupil teachers and in latter years many of them went to Mico College and in my grandfather's time a select few had the opportunity to attend places like Cornwall College also in Jamaica.

Mr. Speaker, in those times teachers were highly valued, highly respected. They were leaders in the community, leaders in the society, individuals to whom everyone would turn for all sorts of advice. They performed many functions in addition to teaching children in the classrooms. Indeed, they in many ways taught and assisted much of society. They were paid, certainly in grandfather's day, something of a novelty to have a monthly income paid by the Government. However, far more I believe than the simple issue of obtaining a decent regular salary was the question of respect and value which being a teacher brought to the individual.

What has happened, I believe over the course of the last 20 or 30 years, is that Cayman has become far more prosperous as more and more opportunities have become available. As we have seen the development of business, commerce and the financial industry, there has been significant value shifts because those industries pay far more. They entitle the individuals employed in them, the lawyers, the bankers, the businessmen, to exert far more influence on what transpires in the society. It is these individuals who are the movers, shakers and moulders of legislation, of the social framework of this country while the influence of teachers on the wider community is seen as less.

As a result, the teachers themselves are accorded less and less obvious respect within the community. Their salaries reflect the lack of support that they receive from parents, from government, that tend to convey the impression and feeling to all and particularly the young people, that this really is not a terribly good profession to be employed in. They get little or no respect, little or no support, they are not paid a great deal and they have to put up with all sorts of difficulties. In these days they have to worry about personal safety. They are subjected to tremendous stress and the young person is bound to ask: Why should I aspire to be a teacher?

We have always had expatriate teachers in this community from the very, very early days. That is not a new factor. Just about everyone that I know in this community has come under the influence, direction and instruction of a teacher who came to the Cayman Islands from somewhere else. We cannot place, I believe, a value on the tremendous contribution that expatriate teachers have made and continue to make to this society. The reality is that teachers are responsible for the education of everyone. Those that become

doctors, lawyers, bankers, ministers of Executive Council and teachers, affect all Mr. Speaker. It is difficult to know where their influences on individual lives extend.

I believe in looking at this whole situation and the conditions relating to the recruitment of Caymanians into the teaching profession, we have to look at the situation and the conditions relating to the recruitment of teachers generally. It is the conditions that are present within the education system and the various schools at which these teachers work that are the source of the concern. The reality is that all teachers are affected by these conditions but the result in numbers is that the number of Caymanian teachers continues to decline each year until we are now at a point where of a teaching force of some 529, only 119 are Caymanians and 410 come from somewhere else.

The Honourable Minister for Education has spoken at some length about the difficulties and the problems that are present in the education system and the Department as he has come to find it. My good friends, the Elected Member from East End and the Second Elected Member from Bodden Town, have also referred extensively to the Millett Report, which must be considered as condemnation of much of the way the Education Department is structured and functions.

The Minister has on more than one occasion, including speaking to this particular Motion, outlined what he thinks should be done to address the problems raised in the Millett Report and the problems, many of them, which overlap that have been raised in the Report of the Committee to examine the conditions relating to the recruitment of Caymanians into the teaching profession.

Not a great deal of it comes as any surprise to any of us who have paid any attention to what has transpired with education in this country over course of the last 16 years or so. I have spoken on more than one occasion about the problems as I see them and I am not proposing during the course of my debate to articulate those problems. I have also heard, like other Honourable Members, the Honourable Minister for Education express some of his frustration over the current constitutional constraints which prevent him from exercising the sort of administrative authority that is absolutely critical in my view, to ensure that the problems discovered by and explained in the Millett Report and indeed this report on the recruitment of Caymanians into the teaching profession.

I hear what the Honourable Minister says, I understand his frustrations but, Mr. Speaker, it will be a travesty if those constitutional constraints allow the current situation to remain unaddressed. That is, if the problems identified and reported on do not get the attention that they require and that the education system, and particularly the structure and functioning of the Education Department remain unattended.

Mr. Speaker, I believe for the first time in the history of this country we have at the helm of the Ministry

of Education an individual whose entire life, prior to politics, is devoted to education. An individual who holds the requisite qualifications and experience to make the kind of fundamental changes to the system that are absolutely critical, if our young people are going to have presented to them the types of opportunities, instructions and directions that are necessary. So, that they graduate from the education system armed with the educational tools and qualifications which will enable them to move into tertiary education or into the work force with the abilities to carry out sophisticated technical challenging roles; which are required of those who have to work in this 21<sup>st</sup> century.

I am happy to offer my support to this Motion seeking to adopt this Report. I believe it will have the support of all Honourable Members of this House. I urge the Honourable Minister to do whatever it takes to ensure that this report and the Millet Report which had been hidden for some time, do not collect dust on some shelf hidden deep in the labyrinth of the Department of Education. These matters are too critical for them to be permitted to be ignored.

I wish to address the importance of the Caymanian teacher in the education system and in the school's system. I mentioned a little earlier how valuable the contribution of expatriate teacher has been and how valuable it still is. Indeed if I may say so, I believe that expatriates are without a doubt, the most altruistic group of immigrants who have come here and I have had the benefit of them during my educational career.

Again, I can speak from experience. It is so important to the development of one's self worth and overall development that during the course of one's educational career one is able to have the benefit of another who speaks like you do; who comes from the sort of background that you do; who understands the cultural nuances and idiosyncrasies of one. Again, if throughout your educational career your opportunity to be exposed to and meet with teachers who are Caymanian is severely limited because the number of Caymanian teachers is so limited. It is bound to have a profound effect on your overall view and value of the teaching profession. If this profession is so good and so valuable, why are there not more of my people involved in it?

I remember when I was at the High School in the early 70s there were not very many Caymanian teachers there even then. I remember when two came, Mrs. Joy Basdeo and Mrs. Deanna Look Loy and how joyful most of us were. In fact we thought it was something just short of a miracle that there were individuals who had gone away to University, qualified and were able to teach who came back and spoke with a Caymanian accent. Certainly for me, Mr. Speaker, that had a profound impact and impression upon my psyche and my sense of identity and 'Caymanism'. We must do whatever we can to improve the conditions that keep Caymanians away from the profession and cause them to leave. I believe the Com-

mittee has done an exemplary job in identifying many of these. We need to reach a point where the issue is not one of salaries.

Teachers, I believe understand that they can never expect to earn the huge salaries of some extraordinary successful lawyer and I do not believe that many of them aspire to that. However, they must have an all around sense of worth, sense of support, sense of community respect and value added to the package that makes being a teacher worthwhile in every sense.

I remember quite a few years ago, when I was still in Law school and an articled clerk. At that time my sister (now the principal at John Gray High School) was a teacher at that school. Mr. Speaker, as an articled clerk, I was earning significantly more than she was as a qualified teacher with two degrees. Something fundamentally is wrong with that Mr. Speaker. I also remember the level of frustration that she encountered in trying to deal with the red tape, the bureaucracy and the unwillingness to move with the times, and the constraints placed upon imaginative, ambitious and able teachers to do things the way they had been taught in university and not the way that their superiors had been taught a generation before.

I also remember that this combination of frustrations caused my sister to make an application for admission to the Cayman Islands Law School and caused her to almost quit the teaching profession and move on to something else. That I believe would have been something of a tragedy in more than one sense because she would have been extremely unhappy doing anything but teaching.

Again, Mr. Speaker, I commend this effort; I commend the report. I pray and hope it will find fertile ground where it really needs to grow and that it will be accepted that it will be implemented. That in due course, we will see a teaching profession which takes on the new vibrancy which retains Caymanian and expatriate teachers and is an attractive vocation to young people who are coming up through the system.

I thank you, Mr. Speaker.

**The Speaker:** At this time, we will suspend proceedings until 2.30 p.m. for lunch.

#### **PROCEEDINGS SUSPENDED AT 12.57 PM**

#### **PROCEEDINGS RESUMED AT 2.53 PM**

**The Speaker:** Proceedings are resumed. Debate continuing on Government Motion No. 7/01. Does any other Member wish to speak? The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker, this Motion which seeks the adoption of the report of the Committee to examine the conditions relating to the recruitment into the teaching profession here in the



Cayman Islands, is one that I see of paramount importance to us as a small island jurisdiction.

Mr. Speaker, this Committee was charged with four things, primarily:

- 1) To determine how far the present supply of Caymanian Teachers meet the overall demand for teachers within the Education system in the Cayman Islands.
- 2) To investigate the reasons why Caymanian teachers leave the profession giving attention to the average length of stay and alternative employment they choose.
- 3) To determine the ways and means of attracting Caymanians into the teaching profession giving particular attention to male Caymanians.
- 4) Finally in arriving at its conclusions the Committee was asked to structure its schedule so as to present an interim report in April with the final report presented to the Ministry of Education, Human Resources and Culture, on or before June 30 2001.

First of all I would just like to say a worthy note of congratulations to the Chairman of the Committee, the Second Elected Member for Bodden Town, and indeed all the Committee members, and all those involved in putting together this most thorough and enlightening report.

Now, Mr. Speaker, to say that some of the findings are shocking, would probably not be the most accurate statement in the world. I think a lot of us have had hunches developed over the years as to why it is difficult to recruit Caymanians. What appears to be even more disturbing is why does it seem so difficult to retain the Caymanians we do get to go into the teaching profession?

Mr. Speaker, I think I attend one of the smallest congregations on our Island. In that congregation alone, there are three Caymanians who are all qualified teachers who have all left the profession. The first thing that I would like to say is, that I believe this report is an admission of the new Minister for Education of what is a national crisis and a cause for national concern. I have said time and time again any society that cannot police itself, judge itself, doctor itself and finally teach itself, there are fundamental questions all of us should be worried about.

In fact, Mr. Speaker, in my former profession we had to determine whether or not our clients were a going concern. That is, looking at the industry and looking at their strength and weakness and looking at their market, whether or not it can be reasonably expected that they would survive financially. If we as a community of Caymanians had to try to go it alone in this world, those four criteria that I just listed would indicate to any reasonable person that we are not a going concern. Indeed, Mr. Speaker, of most fundamental importance we cannot teach ourselves. After all it is the teachers who teach the doctors, the police and the judges.

I would first like to say that having gone through this exercise, the community should be hopeful be-

cause this is the first step in getting us to where we belong; in getting us to where we need to be; identifying the problem; analysing the problem and coming up with some potential solutions to the problem. However, if any of us expect that over the course of this administration—or indeed I would beg to say probably over the next three to four administrations—that we are going to solve this issue we will be sadly mistaken. In fact we are setting ourselves up for failure and disappointment.

Mr. Speaker, the teaching profession is a calling; it is a noble calling. It is like missionaries. Right now the world does not have enough missionaries. Teaching is for very special people. Intellect, Mr. Speaker, is important, but it is the caring, nurturing, patient type of individual who is needed in order to be successful. Mr. Speaker, I believe a lot of us in here who have received tertiary education would quickly admit that we probably do not have those sets of special traits that would be required to be very good teachers.

Mr. Speaker, certainly in the past teaching was the primary avenue for persons who were academically inclined to channel those talents. We now have to recognise that in today's world the teaching profession has a lot of competition when it comes to those who are academically inclined. Mr. Speaker, I can remember when we went through our Career days and Career lessons so many people telling the teachers at the High School, '*Why would we want to become teachers?*' I can honestly and safely say that the two Career teachers that I had (both Caymanians), encouraged students to consider teaching as a career—to consider it their lifelong ambition. However, Mr. Speaker, while economics do play an important role in life, I believe that because of the sheer size of our population when we carve out the number of people who truly have that calling, we are reduced to such a small number. Therefore, for us to make a sizeable, meaningful dent in this problem it is going to take many years and it will take a lot of work.

Mr. Speaker, as I said earlier, what is most distressing is the number of Caymanian teachers who leave the profession. I think each of us here can identify five to ten Caymanians without really thinking long or hard who have left teaching. So, Mr. Speaker, by this committee being charged with that as a mandate to investigate the reasons that Caymanians leave the profession, I believe they were right on target. Obviously there always has to be a concerted effort to bring Caymanians into the profession. However, I believe that when we have that small number of people who answer this special calling, it is of utmost importance to keep them, to maintain them in the profession.

Mr. Speaker, because we see right here that when the persons who have this calling and for whatever reason, feel like they are being treated fairly, we see them stay on forever. Just recently we had the privilege of having a retirement ceremony for a lady who taught for some thirty years at the West Bay Pri-

mary School. Thirty years, Mr. Speaker. If memory serves me correct, she did not even change the grade or year that she taught. For as long as I can remember she taught Primary 2. Mr. Speaker, last year when all of us campaigned I think the Member from East End is quite right that a lot of us campaigned on education as being the bedrock of any society.

Therefore, if we accept that education is the bedrock, then by default we admit that teachers lay the most critical of foundations for a society. I took the opportunity at that time to speak to six young Caymanians (5 females, 1 male) who had left the profession. When asked the reason they left, the one that I remember the most, is that they felt that when they first came home they were being taken out to the drop-off, thrown off the boat and told to sink or swim. So, Mr. Speaker, it was no surprise, then, when I looked at figure 2.2 in the Report at the reasons quoted by the teachers who were surveyed as to those who left the profession, and saw that one of the highest response rates came to the issue of feeling—a feeling of isolation.

The other thing I was told was about the lack of tangible goals and targets. Again, not surprising, we see in this report a lack of motivating factors on the job as being one of the primary reasons. Mr. Speaker, I believe that this problem is going to be one where, as the report has indicated, the approach to solving it is going to have to be by default, multi-faceted and creative. We can talk about the economics of it all we want.

I can remember persons who went to school with me who said to our Careers teacher that they could not be paid enough to teach. Some of them have gone on to be accountants, lawyers, engineers, computer technicians—I remember them quite well, Mr. Speaker. They could not be paid enough to teach. Mr. Speaker, I think that is the proof; it is a special calling. We have to recognise that yes, we have to deal with the economic side of it and deal with that effectively. However, this is not a problem where you can put some monetary incentives in place and all of a sudden you are going to make tangible inroads in regards to solving the problem.

Now, Mr. Speaker, having said that, when we look at the responses that were forthcoming in the Report, two of the highest reasons for people leaving are item 14, Lack of incentives, monetary loan facilities, travel, negotiable salaries and item 16 salaries. So, obviously, the monetary situation cannot be left out. In fact one of the teachers ... I think it was the Elected Member from East End who alluded to this point.

I almost get the feeling that we must have spoken to the same person, because she shared quite eloquently with me the problems that she had in procuring a loan to build a house, and she was a teacher. What was most disheartening about her story was that after leaving the profession and going into the private sector there was then a subsequent increase in sala-

ries across the Civil Service. At that point in time she felt that she could go back into the profession. The story she relayed to me in terms of the obstacles that were put in her place—and she still has not gone back in regards to re-entering the profession—I found very disheartening—extremely disheartening, Mr. Speaker.

I would think that any Caymanian who wants to get into teaching would be welcomed with open arms. Indeed, anyone who was in the profession and did a good job and left on good terms and wanted to go back, I think that should have been a non-issue, but apparently that was not the case. I think that in itself speaks volumes to the task that the Minister for Education and each of us has on our hands in regards to trying to solve this issue. Mr. Speaker, it is not going to take just any Minister for Education to solve this. This is going to take years and years of hard work. It is going to take all of us in the community, honouring and respecting teachers and elevating that profession back to the status that it should hold in this community, and not dampening spirits of those who might have the calling Mr. Speaker. Because I believe with the current mood that exists in this Island that even those who inside might have that calling would not gravitate toward teaching as a profession. I say that for a number of reasons.

I had the displeasure during my years at the West Bay Primary School, of seeing parents come there and curse teachers and try to fight teachers. When I think back on those parents and on the children and I went to school with the children so I knew what the children were like in school. You see where some of them have now wound up, what their lives have become and then you think about the impact that had on all of us as young children to witness this.

Some would say you have to be half crazy to have seen something like that from your very own people and then want to get into this profession. I, certainly as a CPA (Certified Public Accountant), have not had any fears of any client coming to my office and beating me up, nor have I ever heard of such madness. Yet it happens.

I believe that this report and this exercise is the first step from a long journey for us as a community. I believe it is incumbent upon all of us in the community to hold each other accountable in this issue; to hold our families accountable; those who will go to schools and try to curse teachers and try to fight teachers. We do not know how many potentially great Caymanian teachers are being turned off by these senseless and immature acts. I believe that with a lot of work and a lot of prayer that we can continue to build a community and a society that is sustainable, but there has to be focus.

I am glad that the Minister of Education has recognised this as a problem of national concern. In other countries where the governments and political directorate see matters that they believe are of national concern, they do all sorts of what is considered, in economic theory, crazy things. In fact in the United

States they see farming as a matter of national security, so what do they do? Their farmers are not as efficient or as cost effective as farmers in other countries and if you follow economic theory then they should import those particular foods, because they can import them cheaper than they can produce them. However, Mr. Speaker, they recognise it as important and they subsidise it.

I have heard speakers mention this issue of equality in terms of pay and I am not so sure that I subscribe to that theory. I believe that when we find Caymanians with a calling we have to ensure, within reasonable means that they are adequately compensated so that compensation will not be the driving factor in them leaving the profession. Obviously most of us would recognise that you cannot pay a teacher what well paid accountants, doctors and lawyers in the community receive.

However, I believe that if we are going to truly be serious; have a holistic approach; admit that a lot of this will require us to bring up our children differently; recognise that unless we tell people in tangible ways that we need them here and in the classroom; we may not succeed.

So, I personally would have no problem if the Government were to ask me to vote for measures whereby Caymanian teachers get increased salaries. If that is what it takes— and certainly from the responses that we see in this report, two of the top three responses are either salaries or one that mentions monetary reward— then I believe we have to address that with our Caymanian teachers. A society that cannot teach its accountants, potential doctors, potential engineers, potential lawyers in my mind calls into question what you can truly consider yourself.

Again I would like to congratulate all those who had any part to do with this report. I would like to publicly congratulate the Minister of Education for recognising a national issue. Certainly I would like to encourage him to stay the course on this issue. I can pledge my support to do whatever it takes, to shake whatever empires have to be shaken to ensure that we are able to start to address this national crisis.

Thank you, Mr. Speaker.

**The Speaker:** The Floor is open to debate. Does any other Member wish to speak?

The Second Elected Member from Cayman Brac and Little Cayman.

**Mr Lyndon L. Martin:** Mr Speaker, I have a very short contribution to make to Motion No. 7/01 calling for the adoption of the report of a committee to examine the conditions relating to the recruitment of Caymanians into the teaching profession.

Mr. Speaker, I would like to join with my colleagues in congratulating the Minister with constitutional responsibility for education and the entire committee who was granted the task of conducting this review and preparing what has turned out to be a very

informative, comprehensive, detailed review and recommendation as it relates to Caymanians in the teaching profession.

I would like to particularly thank the Minister for including in the committee two Cayman Brackers, namely: Mr. Jonathan Tibbetts, Mr. Leonard Bodden and third, an adopted Cayman Bracker, the Chairman of the committee—the Second Elected Member from Bodden Town—to ensure that this review covered representation from all three of the Cayman Islands.

I would like to take this opportunity to acknowledge all of the praise that has been given here today to a young, ambitious, educated and qualified Cayman Bracker, a teacher of East End Primary School, Mr. Jonathan Tibbetts. I receive these congratulations with pride because I know the young man quite well and his family and I know the importance that he placed on this very issue of assisting in the promotion of Caymanians in the teaching profession. I do place the Member from East End on alert. We are very much interested in having young Tibbetts return to his homeland of Cayman Brac to join the teaching ranks in that particular district.

Mr. Speaker as you will certainly be aware, teaching and Caymanians in teaching is of special importance to our district of Cayman Brac and Little Cayman. However, there are very few professions in which we can offer opportunities within our particular unique district. When we educate accountants we educate them to leave and to come over to Grand Cayman or other locations to work. However, when we educate a teacher in the Cayman Brac and Little Cayman we are giving them an opportunity that they can return to their own district to be with their families, watch their young ones come up and play a part in the growth and the development of their own district.

Teaching in Cayman Brac would be representative of the statistics provided here where it is predominantly dominated by expatriates which offers and avails itself to an opportunity to young Cayman Brac students to pursue this opportunity. For (like myself) many of them would like to find an occupation that allows them to grow to their full academic and intellectual capacity, but at the same time offers them an opportunity to be in their homeland. After many years of exploring with many occupations, I have had to turn to politics to ensure that I can be with my people and my family in Cayman Brac. I encourage the young people of that district to give serious consideration to the teaching profession.

I would like to make a special note that as a result of recent efforts this year, the Ministry of education through the Education Council granted three scholarships for young people in Cayman Brac to pursue teaching. Mr. Speaker, that is a significant number when you look at our population. I would also like to give special recognition to young Vicki Myrie who has recently returned to Creek Primary School as a qualified, licensed, teacher and is now participating in the process of educating those who come after her.

When we talk of creating incentives and the right conditions to attract Caymanians into the teaching profession we must also examine our culture. This culture has always placed some degree of superiority on the foreign national who spoke with the foreign accent. Recently, I was told a story about a qualified Caymanian who presented a report to his supervisor, who then took it and thought it appropriate to hire a consultant from overseas to conduct a similar review. However, in the wisdom of the foreign consultant, when he arrived he spoke to the Caymanian who had recently carried out the exact exercise and found his report to be comprehensive. He simply took the same report and presented it, with the only difference that it was presented with his national accent and the supervisor accepted the report. We must look at this culture in which we do not place a significant amount of confidence in our own people. It is a weakness that we have and we must strive to make these changes.

The Cayman Islands Government has for many years been criticised for continually hiring consultants. I have argued that we have a lot of local expertise and this particular report has convinced me that the use of our local experts can provide the same type of quality review and reports that we would normally spend an exorbitant amount of funds to commission from an overseas consultant.

When I reviewed this particular report and also the Millett report—two reports which I consider of equal value and equal quality—one is provided by a group of local individuals who are involved in the Cayman community and who understand the Cayman setting and more importantly understand the profession in which they are reviewing as compared to soliciting a foreign national or foreign consultant to come in and provide a glossy report with in many instances not a whole lot of substance; and that is an opinion.

Mr. Speaker, as I committed to, I intend to be very short. I would just like to conclude by offering my support to the Minister for the Motion in which he has brought to this House. I will support this Motion and all efforts necessary for the implementation of the recommendations contained in the referred report.

Thank you very much, Mr. Speaker.

**The Speaker:** The Motion is open for debate. Does any other Member wish to speak? The Motion is open for debate. Does any other Member wish to speak? Final call. The Motion is open. Does any other Member wish to speak? No other Member wishes to speak?

Does the Honourable Minister wish to exercise his right of reply?

The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, thank you.

I have listened to what Honourable Members had to say about the Report and I have registered their comments and observations. Mr. Speaker, I would

caution against any notion that this is going to be an easy exercise or that its results will be immediately obvious: far from that, Mr. Speaker. It is going to involve painstaking, time consuming efforts at arriving at strategies and solutions, which will have to be crafted in such a way that the temptation to make short term gains is overridden by the more long term, more permanent and far reaching objectives.

An important part of the mandate of this political directorate is the provision of opportunities for Caymanians to educate and equip themselves to take their places in the Caymanian community. Mr. Speaker, I re-emphasise the point that this is not about the importance of any one element over the other. It is not that we do not register or appreciate the efforts of those who come from outside the community. It is, Mr. Speaker, an acknowledgement that we would prefer to see more of our own people in the teaching profession for obvious reasons.

I have said on many occasions before, that the Cayman Islands have always depended on expatriate teachers and will continue to do so for a long time. Indeed, Mr. Speaker, I think it should be encouraged that we have a certain percentage of teachers from outside the Cayman Islands. This allows us to expose our children to another perspective and different view points. It reminds us that we should not be ethnocentric or insular in our own thinking or that we should think that the Cayman Islands are a world unto themselves.

It is also true that you can take from the smallest jurisdiction to the largest, the objective of all these countries. That objective is to have a majority of their people in positions where it comes to imparting and transmitting the values of the society, the community and the nation. It stands to reason that the best transmitters of the Caymanian way of life are Caymanians themselves and those who become Caymanians.

I make the point about those who become Caymanian because I have said too (and I concur with those Honourable Members who made this point), that we should be far more flexible in allowing persons like teachers who come here, to get what the anthropologist call acculturated in our system. We should have a far easier mechanism for them to be able to transform themselves into citizens of our country. It is the one thing in which we are lacking sophistication and a broad-minded world view.

Some years ago there was a move here by some persons, which I criticised, to give teachers long-serving awards. I said then as I say now, that it is better to offer them the opportunity to become Caymanian citizens, if they so wish, instead of giving them some award which has absolutely no meaning to them: just something to put on a shelf and gather dust. That is what I stand for and would like to see. That is what I tried to do, but bureaucratic snags, insularity among some elements, prevented this from being done.

Until we come to certain realisations and understand that these are the long term objectives and steps that we need to take, our country and our society is not going to be any better off. So, I want to go down on record as saying that as the Minister of Education I would love to be able to offer every teacher in this system, who is not now a Caymanian, the opportunity to become one if they so wish. Not only to them, because if they have demonstrated intention to be domiciled here I would extend it to their immediate family. This is one way of immediately closing the gap. Certainly, Mr. Speaker, it is done in other jurisdictions.

Several years ago I immigrated to Canada and the rules were clear cut. As a matter of fact, the Department of Immigration and Manpower has listed in your immigrant visa that you will be expedited if you fall into certain categories. At that time there were tool and dye makers, technical people; people in the computer world. Several years before it had been teachers because there was a shortage of teachers.

I contend these are the kinds of approaches that we in the Cayman Islands should take, but we will not be able to take them until we remove the blinkers that have been colouring so many people's vision for so many years. So, I want to make it emphatically clear that I have no prejudice against any expatriate teacher.

I have always said that the best way to protect Caymanians is to educate them and train them to compete. Any other way is a political fallacy. We cannot talk about Caymanian protection and expect that we are going to make some law to exclude outsiders in a world that is borderless and in a system that is crying out about international human rights. It is a political fallacy and any politician who believes that is a fool and does not deserve to be elected. Politicians must be responsible and preach that the people must get themselves educated, trained and equipped to compete. That is the best guarantee of protection of Caymanians.

Mr. Speaker, it is unfortunate that the Government finds itself in the predicament in which it finds itself now, because to embark on a campaign to attract teachers into the teaching profession is going to necessitate considerable financial resources. It has to be a broad and comprehensive campaign, and one should note as was evident in the Report, that while salaries and financial incentives are mentioned, those are not at the top of the list as preventing and discouraging teachers.

There is a general lack of professional and managerial leadership in schools; working in a threatening environment; a feeling of isolation; lack of motivating factors on the job; overwhelming paper work requirements; extreme moralistic requirements for teachers, for example dress code and impractical rules regarding single parents; the sense of disparity between Caymanians and non-Caymanians; the lack of feeling physically secured in the school environment—these are all things that the Education Department

and by inference the Ministry should be working to solve, because these are not things that are going to take millions and millions of dollars to craft.

However, we are lagging behind. We are lagging behind because there is a breakdown in communication, because the Education Department is just beginning to organise itself because of the Millett Report. We are lagging behind because it seems to me—and I say this without fear of successful contradiction – that too often too much energy is expended in the Education Department on petty rivalries and prejudices and people drifting off into their own little cocoons with no attempt to see the bigger picture. It is no exaggeration to say that, I am approached daily by people who tell me that they are interested in teaching, but are discouraged by the attitudes of some people.

Mr. Speaker, I have spoken about this to the Chief Education Officer and I have told my Permanent Secretary of the need to correct these kinds of attitudes. Heaven knows it is good that I do not have administrative responsibility, because I would have to red card several people! I would red card them, similar to when you are playing soccer and the referee gives you a red card that means you are off the field. I would have to send them out, Mr. Speaker, if I had administrative responsibility, because we have no time for these kinds of attitudes. We have no time for this kind of discouragement.

It is not how I feel about somebody. It is not me—I am a public servant. I have a job to perform and I cannot take my prejudices, I cannot take my personal business, I cannot take my feelings and vent on other people who do not deserve that treatment. The broader view has got to be taken and I am insisting. Heaven knows I am insisting that this be done because we have to find more people of our own making to bring into this profession!

It stands to reason, Mr. Speaker, we will not be able to make it unless we do. We have to make it attractive for them and so it brings me to this point. I am working on a package to bring to the Government, to the Executive Council including costing. So, that it would be up to the Government to say whether they accept the Minister's recommendations and his plan to embark on a campaign to attract Caymanian teachers. In this package I am going to include such things as training. I would like to see, Mr. Speaker.

There is no reason the first two years of teacher training cannot be done at the Community College here, which will give people the option of studying at home, because I do not necessarily believe, Mr. Speaker, that it should be exclusive to school leavers. I believe the programmes should be so flexible that if we have people who want to change careers they should be able to do so. I did a comparative exercise in preparation for debating this Report and I notice that some years ago the Government had an arrangement with the University of Miami for teacher training.

I was not surprised to find that the cost to train a teacher at the University of Miami, was twice as much as it would have cost sending them to a Canadian University. At the Canadian University, they could have gotten two degrees! The only inconvenience of course, is the greater distance and perhaps the climate, but the University which I attended has a concurrent degree programme for teachers. It runs for four years and the teachers get a Bachelor of Arts or a Bachelor of Science Degree in a discipline or they can single major or double major. In addition to that they would get a Bachelor of Education Degree and teacher certification.

The Bermuda Government had an agreement with Queens University some years ago, where if they had twelve students enrolled in this programme, Queens University sent down the professors during the summer and during the first two years. For the final two years of study, the students had to go to Canada to the campus of Queens University. I believe that such an arrangement would be attractive to many Caymanian people. I believe that we should explore these kinds of programmes.

Certainly now with all of the universities going online we should explore distance learning. I have been in contact with the University of the West Indies school of continuing studies, with a view of that school taking a higher profile in the Cayman Islands in the distance learning unit the UWIDITE (University of the West Indies Distance Teaching Experiment system they call it). I shall explore the possibility of helping to develop a teacher education programme, which will allow Caymanian candidates to stay at home for a period, possibly going on to a university campus for the final year or two years. I am awaiting the report from Professor Lawrence Carrington so that I can include this in the package which I hope to be taking to the Government.

Then too, the Government has to change its policy of not paying past the first degree. I think that is an antiquated policy. Many teachers now have a Bachelor of Arts or a Bachelor of Science as well as a Master of Education Degree. I think the Government needs to change its policy where it recognises and compensates people with second degrees. In many instances now a first degree is only recognised as the entry level requirement. In many fields you go into now you need at least a Masters. So, there are all these contingencies which we have to remove, vault, or hurdle over if this exercise is to be successful.

Then, Mr. Speaker there is a third, I believe (and I have said as much to the technical people in education that the time has now come in Cayman), where we get away from choosing school principals purely on the fact that such and such a person has spent x number of years in a school. In the United Kingdom and Canada you have to take exams to qualify as a school principal. That should be the case here. I have been speaking with the school's inspectorate about developing such a programme because school princi-

pals are special people. They have to be trained in administration, to be trained in personnel management, to develop the appropriate interpersonal skills and not the least important they have to be a master teacher.

If you are responsible for others under you it stands to reason that you have to have acquired the mastery of the skills to such a level that you can look at somebody and say, you know this could be better imparted by doing it this way or this is the new method now, or this is what we are currently doing. Mr. Speaker, for me they must be introduced to information technology (IT) skills. It is of critical importance—and it is the *sine quo non* to qualify for principalship in any school in any modern jurisdiction—that you be IT literate. You have to be IT literate because the world is “on line” at this time. Mr. Speaker, these are things that we have to do.

Mr. Speaker, the fifth is “mentoring”. I would love to see a system—and one Honourable member raised it. I think it was my colleague the Second Elected Member for Bodden Town, where senior teachers are responsible for shepherding the younger teachers. There is a weakness in our system and, Mr. Speaker, I have lamented it. Young teachers coming from College and University are thrown cold turkey into the classroom, sometimes with little or no assigned supervision and left to flounder. Fortunately for us, Mr. Speaker, the majority make it but some do not: it is not because they are weak, unqualified, or were designed not to be teachers, but because they were left with no assistance – to walk in the dark blindfolded as it were.

I would love to see us develop a system where, when these teachers return are entrusted under the care and tutelage of a senior teacher who would shepherd them along. Who will mentor them as it were until they can cut their wings and then they will be left pretty much on their own. It is true, Mr. Speaker, the system in the Cayman Islands has significantly changed from the time I left the profession many, many years ago. However, I would go further than that. I would really like to see the Government put together a package of financial incentives.

I was talking with some young teachers, two couples. They were telling me of the difficulties they were having trying to acquire a house. Mr. Speaker, if we are really serious about this, we should look about setting aside a pool of money where these young persons, especially young couples can be accessed at reasonable rates. So that they can content themselves and do not have to worry about what they are going to do when siblings come along. Mr. Speaker, we should desist from being so exact and holding them down for every penny like we were some “*Shy-lock*”, not taking into consideration that often they go over and beyond what is required of them. So, I would like to see the Government consider that and make it easier for them to acquire scholarships for them to pursue post graduate studies.

I am working, Mr. Speaker, on a teacher exchange and sabbaticals whereby Caymanian teachers will be given six months and one year sabbaticals so that they can teach in other jurisdictions, vary their experiences, break up the routine and strike up relationships with other school systems and other schools.

I come now to what has to be regarded as the most sensitive. I have witnessed this first hand. We need most urgently to design a code whereby teachers understand their relationship with the students. It is of critical importance. I have requested it of the Chief Education Officer. In this era of human rights, in this era where there is no corporal punishment it is impossible to think that there is not going to be any contact between the teacher and the student.

Teaching is what I would call a human and an affectionate profession. Mr. Speaker, I have seen cases and I have witnessed cases where teachers get into trouble because they are forced to restrain students, they may be sometimes forced to take action to defend themselves or to save somebody from harm or even save somebody's life. I believe that it is entirely unreasonable for anyone to expect that a teacher should be charged with assault if that teacher intervenes to restrain one student from harming another student. I would frown upon anyone who expects me to pursue a case against that teacher under those circumstances. Just as I would frown upon anyone if a teacher is defending him or herself from assault by a student.

We have to get these things straight and parents have to understand that they have no licence, absolutely no licence to come on school compounds, to trespass on school compounds to assault teachers either verbally or physically. As a Minister I do not condone that and any parent who does that must feel the full force of the Law.

These are some of the things that teachers record as affecting whether they stay and come into the profession. Parents need to learn that teachers must be respected, that there is a procedure if they wish to come on the school's compound. The mechanisms and the process are in place. Teachers have recourse to complain, parents have recourse to complain against teachers but no parent has a licence to trespass on any school compound to curse or physically assault a teacher and I want to send that message this afternoon, loud and clear. It will not be tolerated by this Minister.

Mr. Speaker, the students themselves have to understand that the teacher is to be respected, but these things have their genesis in the breakdown of our societal values. The dress code: I see how some of these students go to school with their uniforms, their trousers down by the bent of the leg and shirts so big that *Cimboco* could use it as the main sail. I have spoken and I have told my people in the education establishment that we have to establish some sensi-

ble code of dress and I have made suggestions, Mr. Speaker, which I need not go in here.

However, I am sure when they become known they will be flexible enough because I believe that senior students should be given responsibility, should be encouraged to dress in a certain way that their individual identity can be recognised but I cannot, for the life of me, I cannot tolerate any general breakdown and a uniform is exactly that: uniforms must all be the same or similar.

Mr. Speaker, these are not insurmountable challenges but these are challenges which have the base in a change of attitudes—a paradigm shift—a change of cultural attitudes and norms. Mr. Speaker, it might not even be completely realised within the next three years. However, we have to begin and this must be the beginning point.

I said when I received the Report that it would be taken to Executive Council, which it has been; and that it would be tabled in the Legislative Assembly, which it has been. I also said that I would be prepared to tell the country what I saw as the way forward. When we leave here this afternoon, Mr. Speaker, if the Legislative Assembly votes to adopt the Report, as Minister it is my responsibility to put together a package to bring it to the Government and ask the Government to adopt that package or elements there from as the strategy to encourage, retain and embark upon some programme to have more Caymanians into the teaching profession.

I would expect, Mr. Speaker, to come back to this Honourable House within the next six months with such a package after it has met the approval of the Government. I hope that the Government, after accepting it, can make arrangements to have the money so that we can embark on this programme.

Mr. Speaker, I thank all Honourable Members who have spoken for their support. However, I caution them that, while I am cognisant about what needs to be done, I am really not a miracle worker. This is a formidable challenge and I appreciate their confidence in my ability. I appreciate their offers of help. I believe that together we can accomplish this objective and I look forward in now returning to my office and getting on with the work of crafting this programme so that I can present it to Government. Mr. Speaker, I believe that is challenge enough and I shall not take up any more time of Honourable Members in this course.

Before I conclude, Mr. Speaker, I would like to offer an apology to Mrs. Grace Wright whose name I omitted when I was calling those persons who had served on the committee. I am most impressed by this lady who I vividly recall was one of my brother's teachers when he was at high school. I know of her ability and her commitment from that time. I was most impressed when she called me volunteering her services. I put her in touch with the Chairman of the committee and I am happy that he and his committee saw fit to utilise her services. For, Mr. Speaker, it is teachers like these who have over the years laboured

sometimes with no acknowledgement, no public acknowledgement, to make the Cayman Islands what they are.

Mr. Speaker, I am committed to bring the teaching profession up to the level of respectability and acceptance that it deserves and I am committed not to differentiate between any expatriate or any Caymanian teacher in this society but to respect all and sundry.

Thank you.

**The Speaker:** I shall now put the question on Government Motion No. 7/01 with its Resolve sections reading as follows: **“Be it resolved that this Honourable House adapt the report of the Committee to examine the conditions relating to the recruitment of Caymanians into the teaching profession.”**

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 7/01 PASSED**

**The Speaker:** Moving on to Government Business, Bills. First Readings. Suspension of Standing Orders 45, 46(1)(2) and (4) and (47). The Honourable Second Official Member.

#### **SUSPENSION OF STANDING ORDERS 45, 46(1) (2) (4) AND (47)**

**Hon. David F. Ballantyne:** Mr Speaker, I rise to move the suspension of Standing Order 45, 46(1), (2) (4) and (47) in relation to the Bill entitled The Evidence (Amendment) (No. 2) Bill 2001.

**The Speaker:** We shall put the question that we suspend Standing Orders 45, 46 (1) (2) (4) and (47) in order to proceed with these Bills through the three readings. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 45, 46(1) (2) (4) AND 47 SUSPENDED.**

## **GOVERNMENT BUSINESS**

### **BILLS**

#### **FIRST READING**

##### **THE EVIDENCE (AMENDMENT) (NO. 2) BILL, 2001**

**The Clerk:** The Evidence (Amendment) (No. 2) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and set down for Second Reading.  
Second Reading.

#### **SECOND READING**

##### **THE EVIDENCE (AMENDMENT) (NO. 2) BILL 2001**

**The Clerk:** The Evidence (Amendment) (No. 2) Bill 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I beg to move the Second Reading of a Bill entitled The Evidence (Amendment) (No. 2) Bill, 2001 be read a second time.

**The Speaker:** If you wish to speak to it, please continue.

**Hon. David F. Ballantyne:** Thank you, Mr. Speaker. This is the residue of the sitting and it is also the residue of this particular Bill. It seeks to insert an amendment, which was inadvertently omitted during the Committee stage process of the Evidence (Amendment) (Spouses, Experts, Foreign Convictions, Alibis, Etc.) Law, 2001, which was passed on 26 July. When the Bill came forward for assent, I noticed that a committee stage amendment, which had been tabled was not included and on inquiry it became apparent that although it had been circulated in the Committee stage amendment, it was not in fact directly spoken to at the Committee stage and accordingly was not included.

It is an object lesson that despite care, things can occasionally be overlooked and I have taken the point on board that in future any committee stage amendments will be read out verbatim so that they can be incorporated in the record rather than relying on the notice as partially occurred in this case. I apologise to the House for this omission. We lawyers have an expression “errors and omissions excepted” and I trust that you will accept my explanation.

The Amendment contained in the Bill provides that a person other than the accused may give evidence through a live television link in proceedings in a



youth court. That was the omission and you will see that the provision for video recording allows video recordings to be used in four settings:

1. a trial on indictment;
2. in court of appeals setting;
3. in a summary trial for a category B offence, that is an either way offence;
4. and in a youth court.

The provision regarding television link was meant to tie up the two sections so that a young person giving evidence by video recording could then be cross examined, if necessary, by television link on that video recording. The provision would also allow anyone to give evidence by television link in a youth court. These measures are designed to both be sympathetic to young persons who have to give evidence and who may need special consideration and also the economy of the country in terms of the administration of justice.

So, with those remarks, Mr. Speaker, I would ask that the Bill be received by the House. I would like to take the opportunity of saying that I appreciate the co-operation in dealing with this matter in this way, which avoids it being mixed up with other issues later on which deserve the greater attention of the House.

Thank you.

**The Speaker:** The question is that a bill entitled The Evidence (Amendment) (No. 2) Bill, 2001 be given a second reading. The Bill is open for debate. Does any Member wish to speak? Does any Member wish to speak? If no other Member wishes to speak would the Honourable Mover wish to exercise his right of reply?

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Speaker. I wish to thank the House for its co-operation in this regard and to move that the Bill proceeds to a third reading.

**The Speaker:** I shall now put the question, on a bill entitled The Evidence (Amendment) (No. 2) Bill, 2001. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Bill has accordingly been given a second reading.

**AGREED: THE EVIDENCE (AMENDMENT) (NO. 2) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The House will now go into Committee to consider a Bill entitled The Evidence (Amendment) (No. 2) Bill, 2001.

**HOUSE IN COMMITTEE AT 4.12 PM**

**COMMITTEE ON BILL**

**The Chairman:** Please be seated. The House is now in Committee. With the leave of the House, may I assume that as usual we should authorise the Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk please state each Bill and read its clauses?

**THE EVIDENCE (AMENDMENT) (NO. 2) BILL 2001**

**The Clerk:** The Evidence (Amendment) (No. 2) Bill 2001.

- Clause 1. Short title and commencement
- Clause 2. Amendment of section 27(C ) of the Evidence Law 1995 (Revision) Evidence through Television Links.

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. No debate? I shall put the question. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: CLAUSES 1 AND 2 PASSED.**

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Mr. Chairman.

Just to clarify that in fact the title of the Bill is The Evidence (Amendment) Bill, 2001, which is how I introduced it. It was expected that it would be entitled, The Evidence (Amendment) (No. 2) Bill, but that in fact is not necessary because the previous bill had a much longer title. So, if the House is satisfied that the proper title of the Bill is The Evidence (Amendment) Bill, 2001 then matters may proceed.

**The Clerk:** A Bill for a Law to Amend the Evidence Law 1995 (Revision).

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye; those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: TITLE PASSED.**

**The Chairman:** The question is that the Bill be reported to the House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The House will resume.

**AGREED: COMMITTEE TO REPORT TO THE HOUSE.**

#### HOUSE RESUMED 4.17 PM

**The Speaker:** Please be seated. Proceedings of the House are resumed.

Bills, Reports. The Honourable Second Official Member.

### REPORT ON BILL

#### THE EVIDENCE (AMENDMENT) BILL 2001

**Hon. David F. Ballantyne:** Mr. Speaker, I beg to report that a Bill entitled The Evidence (Amendment) Bill, 2001, has been considered by a committee of the whole House and has passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Bills, Third Reading.

### THIRD READING

#### THE EVIDENCE (AMENDMENT) BILL, 2001

**The Clerk:** The Evidence (Amendment) Bill, 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I rise to move that a Bill entitled The Evidence (Amendment) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled The Evidence (Amendment) Bill, 2001 be given a third reading and passed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE EVIDENCE (AMENDMENT) (NO. 2) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

#### SUSPENSION OF STANDING ORDER 23 (8)

**The Speaker:** I now recognise the Honourable Member responsible for planning, communication and works to suspend Standing Order 23 (8).

**Hon. D. Kurt Tibbetts:** Thank you, Mr. Speaker.

As I mentioned yesterday afternoon before the adjournment, I would wish to seek your indulgence so that we could suspend Standing Order 23(8) in order to allow Members to resubmit those questions that were on the Business Paper, but not able to get to the Order Paper so that those Members can resubmit them for our next meeting, Sir.

**The Speaker:** For clarity in accordance with Standing Order No. 23(8) the proviso reads:

**“If all other business for the meeting has been disposed of, such postponed questions and all other questions listed upon the Business Paper but not placed on the Order Paper shall be answered in writing, by the Member of the Government to whom the question was addressed, and copies of the answers shall be sent immediately thereafter to the Clerk, who shall send a copy to the Member in whose name the question stood.”**

We are asking that we suspend that proviso to allow the Members to resubmit all unanswered questions appearing on the Business Paper but have not reached the Order Paper. The answers will be given orally.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER NO. 23(8) SUSPENDED TO ALLOW MEMBERS TO RESUBMIT QUESTIONS LISTED ON THE BUSINESS PAPER, BUT WHICH WERE TO BE PLACED UPON THE ORDER PAPER, AT THE NEXT MEETING OF THE HOUSE.**

### ADJOURNMENT

**Hon. D. Kurt Tibbetts:** Mr. Speaker, I move the adjournment of this Honourable House, until 10 am Wednesday, 14 November 2001.

**The Speaker:** That concludes the business on the Order Paper.

As this is the last day of this Sitting, I would like to take this opportunity to thank Honourable Members for their courtesy and tolerance to the Chair. Thanks also to the Clerk, the Deputy Clerk, *Hansard* officers, the office staff and the Serjeant-at-Arms for their very efficient and capable service performed. I cannot close without thanking Miss Anita for her kind assistance to us.

I shall now entertain a motion for the adjournment of this Honourable House. The question is that this Honourable House do now adjourn until 10 am Wednesday, 14 November 2001.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AT 4.21 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM WEDNESDAY, 14 NOVEMBER 2001.**

**OFFICIAL HANSARD REPORT  
SPECIAL MEETING  
THURSDAY  
8 NOVEMBER, 2001  
10.18 AM**

**The Speaker:** I will now ask the Third Elected Member for Bodden Town to say Prayers.

**PRAYERS**

**Mr. Anthony S. Eden:** Let us pray.

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

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

Let us pray the Lord's Prayer together:

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

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

**Proceedings resumed at 10.22 am**

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

**The Speaker:** Please be seated. The Legislative Assembly is in session. Item No. 2 on today's Order Paper, Reading by the Honourable Speaker of Messages and Announcements.

Honourable Members, I rise this morning to ask for co-operation. This is a serious moment in the history of the Cayman Islands. This is a meeting of our

Parliament, the Legislative Assembly. I want to call to the attention of strangers in particular, that, under the provisions of section 18(1)(f) of the Legislative Assembly (Immunities, Powers and Privileges) Law (1999 Revision)—“**18(1) Whoever—(f) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly while the Assembly is in sitting.**”

This is a Sitting of the Legislature and again I ask for your co-operation. Thank you.

Item No. 3 on today's Order Paper, Other Business, Private Members' Motions, Private Member's Motion No. 24/01 to be moved by the Second Elected Member for West Bay.

**OTHER BUSINESS**

**PRIVATE MEMBERS' MOTIONS**

**PRIVATE MEMBER'S MOTION NO. 24/01**

**SHORTLY ENTITLED REVOCATION OF  
MINISTERS OF EXECUTIVE COUNCIL**

**Mr. Rolston M. Anglin:** Mr. Speaker, I beg to move Private Member's Motion 24/01. It reads:

**“BE IT RESOLVED THAT as provided for under Section 6 (2) F. of the Cayman Islands Constitution Order 1972. The election to the Executive Council of the Honourable D. Kurt Tibbetts, JP, and the Hon. Edna Moyle, JP, be revoked and that the two vacated positions be filled.”**

**The Speaker:** Do we have a seconder? The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Mr Speaker, I beg to second this Motion, thank you.

**The Speaker:** Private Member's Motion No. 24/01 has been duly moved and seconded. Does the Mover wish to speak to it? The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, as the Motion clearly states, it is a Motion of revocation and certainly this matter has drawn considerable national interest and national debate and at this time I have nothing further to contribute.

**The Speaker:** Private Member's Motion No. 24/01 is open for debate. Does any Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. The absence of any explanation speaks far more volume than any amount of debate that the Second Elected Member for West Bay could have contributed. Mr. Speaker, as we fight one another for the *power and the glory*, the *kingdom* goes to waste.

This is a day which shall live in infamy in the annals of Caymanian history. Mr. Speaker, this is the kind of day that causes people everywhere to hold such a jaundice view of politics and politicians. This is a day that exposes to full view the darkest and ugliest side of the Democratic process. This is a day that demonstrates what happens when we allow personal ambition to override responsibility and the national interest. This is the day that we face now.

Mr. Speaker, today one year ago, this country went through a general election and the significance of this date should not be lost upon everyone, because if anyone believes for a moment that this was not a carefully planned and carefully executed coup, then they need to think again.

**Mr. Gilbert A. McLean:** Mr. Speaker, on a point of order.

**Mr. Speaker:** Let me hear your point of order, Second Elected Member for Bodden Town.

#### POINT OF ORDER

**Mr. Gilbert A. McLean:** Mr. Speaker, the Member just referred to what is happening in this Honourable House as a *coup*, Mr. Speaker, it is inconceivable! I draw your attention to that, Sir.

**Mr. Speaker:** That is a point of order and I ask you to withdraw that particular phrase.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, I withdraw the remark that this is a *coup* I simply say *that a rose by any name smells just as sweet*. Mr. Speaker, the Government that was formed following the General Elections and which assumed office on 15 November 2000, came together under very difficult and very controversial circumstances. For the part I played in that, I accept full responsibility. I was persuaded, Mr. Speaker, that given the choices we had chosen the lesser evil. I was wrong, Mr. Speaker, and I apologize.

**Dr. Frank S. McField:** Mr. Speaker, on a point of order.

**Mr. Speaker:** Third Elected Member for George Town. Let me hear your point of order.

#### POINT OF ORDER

**Dr. Frank S. McField:** Mr. Speaker, there is no evil in here. I think that we need to understand as a point of order, that if we are going to have order in the debate the Member must stop persuading his audience that what is happening here is dark, negative and evil.

**Mr. Speaker:** I think the Second Elected Member of George Town is expressing his personal feelings. Am I not correct, Mr. Second Elected Member of George Town?

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. I am very grateful that you are preserving the freedom of speech which is so integral to the Democratic process.

**Mr. Speaker:** It is my responsibility to do that and I would ask that you phrase it in such a way that it is your opinion. Thank you.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker. That is my very carefully, considered and deeply held opinion, Sir.

Mr. Speaker, that Government which came together assumed office facing very difficult situations. On the international front the world was facing the recession, which we all know has now come about. In addition, Mr. Speaker, there were the many supra national initiatives which had grave ramifications for the future of the financial industry of these Islands.

On the domestic front, Mr. Speaker, the Government assumed office to find that the country was in grave financial danger as a result of the reckless spending of the previous government. As a result of all of that, Mr. Speaker, we faced a budget session.

**The Speaker:** May I interrupt you for a moment? Again I ask that you phrase this as being your personal opinion in reference to the part of the Government spending.

**Mr. Alden M. McLaughlin, Jr.:** I am so sorry, Mr. Speaker. That is my opinion, Sir. Mr. Speaker, as a result of all of that, the new Government found it necessary to produce a budget that required the borrowing of some \$28 million to fund the deficit in recurrent revenue. Since then the global economic position has worsened, particularly after the horrific events of September 11.

Then, Mr. Speaker, to compound those already dire circumstances, we were visited this last weekend with two terribly destructive hurricanes. And if we think that *Michelle* has caused devastation and reeked havoc and disaster, I submit, Sir, that disaster pales in comparison with the storm that we are now riding out. Mr. Speaker, the drastic and unprecedented actions employed by the members of the newly announced United Democratic Party are in my opinion, without doubt, the worst conceivable example of irresponsibil-

ity and the pursuit of personal ambition. Mr. Speaker, how can any—

**Mr. Rolston M. Anglin:** Mr. Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** Second Elected Member of West Bay, let me hear your point of order.

**Mr. Rolston M. Anglin:** Mr. Speaker, our Standing Orders which all of us responsible Members are supposed to follow says that, "No Member shall impute improper motives to another Member." The Second Elected Member of George Town, although you have ruled, it is his opinion that the formation of the United Democratic Party is the pursuit of ambition and power. That is an improper motive, Mr. Speaker.

**The Speaker:** I hear your point of order and that is a point of order. I would ask you to be very cautious in phrasing your words as we are here to personify a correct position. Please withdraw that and rephrase what you are saying with your own personal opinion. Thank you.

**Mr. Alden M. McLaughlin, Jr.:** Thank you. Mr. Speaker, I did indicate when I began that sentence, Sir, 'that in my opinion'—and I was not suggesting that the formation of the party was the worst conceivable example of irresponsibility and the pursuit of personal ambition. I was saying, Mr. speaker, that the actions that they have employed, in my opinion amounted—

**Mr. Rolston M. Anglin:** Mr. Speaker, you have made a ruling, Sir. We are not supposed to debate your ruling.

**The Speaker:** Second Elected Member of West Bay, I understand, but please let us take our time. We are here to deliberate this to the very best and highest standard of parliamentary procedure. I would ask the Second Elected Member for George Town not to go further on that but be careful in phrasing your words that you clearly not contravene any of our Standing Orders. I think you are as familiar with them as any other Member here and I beg that we try to make this procedure as proper as possible. Second Elected Member for George Town, please continue.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, I shall endeavour to do my best to obey the Standing Orders of this Honourable House and any ruling of you, Sir, for whom I have the greatest respect.

Mr. Speaker, I ask (and I have asked myself over the course of these last few days), 'How can anyone, whatever the motive—good, bad or indifferent—how can anyone possibly believe that this action that we are going through, can be in the best interest

of this country at this particular time?' I have searched myself and I have reflected upon the relationships that I have developed with all Members of this Honourable House over the course of this last year. And, Mr. Speaker, I can say I hold no Member of this Honourable House any ill will whatsoever. In fact I have grown very fond of many of the Members over the course of this past year, in particular, the Second Elected Member of West Bay. But I have a duty to do, Mr. Speaker, and *I will do my duty and be blessed, or do my duty and be damned, but I will do my duty.* When it is all over and the votes are cast, and the results have been executed, I will resume my place in the Common Room as friendly as I have ever been.

As far as I am concerned, the same camaraderie which we shared over the course of the last year will still abound certainly from my perspective. This is nothing personal. This is the national interest. I was elected to do what I thought was in the best interest of this country and I shall endeavour to do it until the day that the Lord calls me home or the people of George Town send me home.

Mr. Speaker, there is a Motion for a Resolution before this Honourable House. It was read and moved by the Second Elected Member of West Bay and seeks to revoke the election to the Executive Council of the Honourable D. Kurt Tibbetts and the Honourable Edna Moyle and that the two positions which they vacate be filled.

Mr. Speaker, I must say I was not at all surprised. In fact I anticipated that the Second Elected Member for West Bay would say nothing to this Motion when he spoke. And that is not his style, Mr. Speaker. He is a very able spokesman who speaks loudly and long to most motions. But when I heard, Mr. Speaker, the reasons put forth by him in the infamous meeting and subsequently in the address he made on national television, I said to myself, '*not even the most biased jury in the world having heard those charges laid against the Ministers could possibly convict on the evidence*'. As I said at the start of this contribution, Mr. Speaker, the fact that nothing has been said speaks volumes.

But what was put forward in the meeting and subsequently, has been that I have not heard anything put forward in relation to the Honourable Minister for Community Affairs. It has been said, Mr. Speaker, in relation to the Honourable Minister for Communications and Works and the Leader of Government Business that he failed to communicate with the Members of the Government-supporting Backbench; he failed to demonstrate any real leadership and that the country needs leadership at this critical time.

Mr. Speaker, I will make this absolutely public, I do not believe that anyone has been more critical of the Honourable Minister for Communications and Works in relation to certain issues of leadership than I have. He is one of my dearest friends, Mr. Speaker, but the principal criticism which I have made of him and which the public have made of him is that he ap-

peared to be allowing the Honourable Minister of Tourism to assume his role. The evidence that this was going to happen has been staring us in the face for months. I first heard rumours about this, four or five months ago. *Cayman Net News* carried this possibility in their "Heard on the Marl Road" column, months ago. In some of the scenarios it was the Honourable Minister of Health, who was trying to assume the Leader of Government Business role in some of the scenarios that were put to me and some of the scenarios that appeared in *Cayman Net News*. This rumour has been rife for a long time. I have expressed my concern to the Honourable Minister of Communication and Works and Leader of Government Business many times about what I was hearing, about the so-called power struggle in Executive Council.

However, Mr. Speaker, if there is one quality about him which can be very frustrating (I am speaking, Mr. Speaker, about the Honourable Minister of Communication and Works and Leader of Government Business), is that he does not like trouble. He does not like confrontation. He is a peacemaker and he would say to me it is alright, it is alright, it is alright, disclosing absolutely no details about what was transpiring in Executive Council and that is quite proper, Mr. Speaker. But it is very difficult to deal with, when you believe that those that he believes are supportive of him and closest to him are trying to undermine him and to assume the role, which he has.

If further evidence is necessary, Mr. Speaker, that this was a carefully planned and executed operation, let us all ask ourselves: The bombshell is dropped on Friday evening; I left the meeting just after six; by Monday morning we have a new party; we have a new Government which has reassigned the Ministries; the new Government has announced that it is preparing its manifesto and details of it will be forth coming shortly. All of this in forty-eight hours? I do not believe so, Mr. Speaker! There are some very, very smart people for whom I have the greatest respect of their intellect, involved in this United Democratic Party. They can put it together, Mr. Speaker, but they could not do it in forty-eight hours, no matter how smart they are!

Now, Mr. Speaker, let us assume for the moment that the Leader of Government Business position did carry with it the authority to actually lead and make decisions independent of Executive Council, which is not the case. Mr. Speaker, no matter what his nature, no matter how charismatic and loving and endearing he may be, how could any individual—even the current leader of Government Business the Honourable Minister for Communications and works—lead an Executive Council which, all along has been planning to get rid of him?

Yes, Mr. Speaker, there have been problems in leadership; there have been decisions taken and not taken, with which I disagree. I too have had concerns about some of the things that the Government was, or was not, doing. That is my job, Mr. Speaker, I am a

representative of the people. But it is amazing for all of us who understand collective responsibility that no Member of Executive Council can carry out any action without the support of the other Members of Executive Council. It is a collective decision-making process, but all of a sudden to justify the switch of the roles from the Honourable Minister of Communication and Works to the Honourable Minister of Tourism the entire responsibility for whatever has gone wrong, for whatever has not been done in whichever Ministry, has become the fault of the Honourable Minister of Communication and Works and Leader of Government Business. A tremendous leap of logic, Mr. Speaker!

Now, Mr. Speaker, it has been suggested that there has been no measurable achievements of the Government during the time that the Honourable Minister of Communication and Works and Leader of Government Business has held that position. Let us look at where the country was when this new Government assumed responsibility and let us have a closer look at some of the achievements.

Mr. Speaker, when the Honourable Minister of Communication and Works became Leader of Government Business, this country was blacklisted by the Financial Action Task Force, a matter that caused grave concern and uncertainty about the future of the financial industry in these Islands. Mr. Speaker, the Honourable Minister for Communication and Works, headed up the delegation known as the negotiating team of which the Honourable Minister for Health, myself, the Honourable Financial Secretary and the Honourable Attorney General were members. Mr. Speaker, six months after assuming office these Islands were de-listed, but I suppose that is not an achievement; it does not count.

Mr. Speaker, fiscal reform: every one of us in this House and many people outside this House have been advocating the need for major fiscal reform; a need for a radical change in the way Government conducts its financial business. Mr. Speaker, while the Honourable Minister of Communication and Works was on the Backbench, he advocated the need for a major shift in the way the finances of this country were operated. Again, Mr. Speaker, within ten months of having assumed office, this Government passed the Public Management and Finance Law, which when it is completely implemented, will bring sweeping changes to the way Government conducts its financial affairs. Mr. Speaker, I know that if he had not led the charge on that, it would still be sitting on the shelf where it has been for quite a long time.

Let us talk about the Budget, Mr. Speaker. I can talk openly about this, because I, like other Members of the supporting Backbench, was involved in the Budget process that took place earlier this year. The Government discussed with us the difficult circumstances that they were facing in trying to produce a budget. Mr. Speaker, when the first draft of the Budget was produced there was a \$100 million shortfall of revenue over expenditure. After much pushing and

shoving and working long, long hours, we wound up with the position that we did for the 2001 Budget \$28 million shortfall.

This time around, Mr. Speaker, when the first draft was produced for the Budget Session that is supposed to take place next week, there was a \$12 million shortfall even though the budget produced was five percent below the current budget. Does any Member of this Honourable House believe that that has just happened? It has happened because of the tremendous efforts that the Honourable Leader of Government Business has made over the course of this year, Mr. Speaker, to convince all involved at the Civil Service level that we have to radically, drastically, reduce the expenditure and the cost of the Civil Service. The Message has gone through, Mr. Speaker, and I do not believe that any Member of this Honourable House could stand up and say that the issue of Government expenditure is not one of the most critical matters that this country is facing. And so, Mr. Speaker, they say they have lost confidence in the leadership of the Honourable Minister for Communication and Works and they have proposed that the Honourable Minister for Tourism replace him—we have more confidence in him.

Now, Mr. Speaker, the only Member of this Honourable House currently sitting, against whom any allegations of misconduct have been made, is the Honourable Minister of Tourism. Mr. Speaker, do the people of this country really want to be led by a Minister who would write the kind of letter on Government letterhead that the Honourable Minister of Tourism wrote to Mr. Mario Ebanks? The language employed in that letter is so bad that I cannot use it in this Honourable House, and I will not attempt to, but all Honourable Members and all members listening in the public know what that letter said. Before you can govern others, Mr. Speaker, you must learn to govern yourself.

All sorts of other allegations have been made. In fact, to the best of my recollection that Honourable Minister resigned his seat in the Executive Council the last time around because of allegations, Mr. Speaker, of impropriety. I wonder, Mr. Speaker, if he would have run the gauntlet as the Honourable Minister of Communication and Works and the Honourable Minister of Community Affairs have done. Why did he not let it come to this?

I believe they have lost confidence, Mr. Speaker, in the leadership of the Honourable Minister of Communication and Works. I believe that. We can no longer say with any confidence that they can deliver to the persons who have supported them, the kind of packages which they could have otherwise done if he were not sitting in that seat in Executive Council. That is the confidence they have lost, Mr. Speaker.

#### POINT OF ORDER

**The Speaker:** Fourth Elected Member of West Bay let me hear your point of order.

**Mr. Cline A. Glidden, Jr.:** Mr. Speaker I am sure you are aware that again the Member is imputing improper motives of a Member of this House.

**The Speaker:** I have been listening very carefully to that. I think he has been very crafty in phrasing his words and I shall watch it and ask [him] to be very cautious.

Please continue Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Mr. Speaker, I need say no more about that; everybody fully understands.

The Third Elected Member for George Town is reminding me that I voted for him the last time round when we formed a government. I said that at the beginning. The whole world knows that. I would ask the Honourable Third Elected Member for George Town, who is [asking] me *sotto voce*, that if his character was so bad why did I vote for him? I ask him to remind—

**The Speaker:** I am going to ask that we do not bring the debate down to this level. We are debating and please do not entertain cross-conversations. You are debating to this Honourable Legislature, please continue your debate. But let us not inject what other people are trying to put forth.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I would ask the Honourable Third elected Member for George Town to play again the tape, which I know he has, of the meeting which he held on the Court House steps on November 14<sup>th</sup> and remind himself of what he said about the Honourable Minister of Tourism. Mr. Speaker, I believe I have said enough about the reasons why they no longer have confidence in the Honourable Minister of Planning, Communication and Works.

But Mr. Speaker, I am even more nonplussed at why they have lost confidence in the Honourable Minister of Community Affairs. What has she done? There has been not even a shadow of an allegation about her. The only thing that is wrong with her is that she is loyal to, and believes in, the current Leader of Government Business. That is what is wrong with her: found guilty by association.

Mr. Speaker, I have said to my people through all of this, that what is being done is constitutionally well within the parameters of our constitutional framework. But, Mr. Speaker, can anyone stand up? Obviously the Mover could not, but I am sure other Members will say something. Can anyone tell me what is so bad, what is so wrong with the character, with the ability of the Honourable Minister of Communication and Works that disqualifies him from the leadership



role? Then tell me what it is that is so good, so pure, so true about the Honourable Minister of Tourism that qualifies him to assume that role? I ask all Honourable Members of this House to look deep within themselves and compare the characters of those two individuals and tell me which one is better qualified to lead this country.

**Hon. W. McKeeva Bush:** Mr. Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** The Honourable Minister of Tourism.

**Hon. W. McKeeva Bush:** Mr. Speaker, the Second Elected Member for George Town has been debating all his time on the Minister of Tourism.

**The Speaker:** What is your point of order please?

**Hon. W. McKeeva Bush:** Mr. Speaker, I think I have to tell you and then you will understand.

**The Speaker:** Please continue.

**Hon. W. McKeeva Bush:** Thank you.

Mr. Speaker, this Motion before you which you have, which you agreed on, which we are debating, is not about the Minister of Tourism. I would ask you, Sir, to stop the Member if you are going to keep control of the House. Stop the Member from debating anybody's character. This is not about character. I can answer when that time comes. I have already answered.

Thank You, Mr. Speaker.

**The Speaker:** I listened very carefully to what you have said Honourable Minister. I want to be as fair and impartial as is humanly possible to anyone presiding over a meeting such as this, but I must have parameters set. I would ask the Second Elected Member for George Town to let us not . . . And I am not saying at this time that there is any character assassination—that is not the purpose here. Every Member following should be cautious that he really sticks to what is before this Honourable House, and that is the revocation of the seats in Executive Council of two Members. Please continue, Second Elected Member of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

I abide by your ruling, Sir. I would not for one moment wish to challenge that. I simply wish to explain, Mr. Speaker, that this Motion seeks to revoke the election of two Ministers. Allegations have been made as to why that is. He has been asked to step down as Leader of Government Business and to allow the appointment of the Honourable Minister of Tourism.

That is why, Mr. Speaker, I found it necessary to make reference to the qualifications of the two individuals. How else can anyone compare? How else can anyone conclude that one is better suited to the job than the other? That was the whole purpose for my reference to the Honourable Minister of Tourism.

Mr. Speaker, I can only say how very, very deeply saddened I am that this would come to this, particularly at this very crucial point in this country's existence. I shudder to think what the ramifications are going to be. A country which changes a government every year—that ought to inspire investor confidence. Do we not think about these things, Mr. Speaker, when we take such drastic actions? What is more important, Mr. Speaker, where we get, or where the country gets? Mr. Speaker, it is the eleventh and a half hour but I ask all Honourable Members of this House to look deep within themselves, search their hearts, listen to what the people who elected them are saying and decide not to carry this through, Mr. Speaker.

You know, Mr. Speaker, I have done a lot of reflecting over the weekend. I remember the situation with Cayman Airways when it was felt very strongly by the Members from West Bay, that before they could take a decision on a position on whether the country wanted to shut the Airline down or allow it to continue, that they must hold a public meeting to ascertain what public opinion said. They even went through the process, Mr. Speaker, of passing out ballots and counting the votes.

Now, Mr. Speaker, Cayman Airways was an important issue and still is an important issue. But it does not come close to this—a brand new Government and a brand new Leader of Government Business? We did not need to hold a public meeting. If they have not heard what public opinion is saying now, then they are deaf or sleeping. But you see, Mr. Speaker, we set the rules and we play by them when it suits us and when it does not suit us the rules no longer apply.

Mr. Speaker, I could go on. I could filibuster the four hours, I am quite capable of speaking for that length of time, but it would serve absolutely no purpose. I have said what I have said, it has offended some, it has encouraged some, but nothing I have said is anything but the cold hard truth.

Now, Mr. Speaker, the challenge is, you had nothing to say when you moved the Motion, you had no basis to give why those two Honourable Ministers should be removed, not one reason was put forward. I, Mr. Speaker, have made the case for the reasons why they should not be removed and why the Minister of Tourism should not be allowed to assume the role of Leader of Government Business. Now, Mr. Speaker, I wait to see whether they will meet my response, my defence, with silence.

One year ago to the day, the people of this country spoke and all of us who are here were very happy with what they had to say. Today, the people

have spoken again and the majority of us here are unhappy with what they say. Let us remind ourselves that we are instruments of the people. We are here to do what is in the best interest of the people, to do what the people wish us to do, we are not here to elevate ourselves we are here to pursue and further the national interest.

I know, Mr. Speaker, the die has been cast, but there are many, many more times for other die to be cast and I do not believe, Mr. Speaker, that the people of this country will ever forget this. I ask all Honourable Members, before they vote, to hold tight to the seats in which they currently sit, for unless they perform the economic miracle, I wager I will have new friends next time around.

Thank you, Mr. Speaker.

**The Speaker:** The Floor is open to debate, does any other Honourable Member wish to speak? *(Pause)* The Motion is open to debate; does any other Honourable Member wish to speak? *(Pause)*

I want to say to Honourable Members that I am not going to prolong this. If anyone wishes to speak please indicate it. If not we will—the Elected Member for East End.

**Mr. V. Arden McLean:** Thank you.

Mr. Speaker, first of all let me take this opportunity to wish all Honourable Elected Members of this House, Happy Anniversary! Mr. Speaker, today is the anniversary of our election. Maybe the West Bayers and the George Towners cannot say that because they were one day later, but I can.

Mr. Speaker before I begin to get into my contribution to the Private Member's Motion that is laid before this Honourable House, I would ask that you allow me to read parts of my maiden speech in this Honourable House, which was delivered on 15 November 2000.

Mr. Speaker, in my maiden speech after thanking my family, my supporters and my committee, I said, and I quote, Mr. Speaker:

**“Whilst my acceptance speech may be short, one should not interpret this as an inability to deliver as much as will be needed in the coming years. Today marks the beginning of my political career, which has as its genesis, my personal commitment to honesty, integrity, and justice. A commitment that I maintained throughout my campaign and now bring to this Honourable House.**

**“Over the years I have observed the erosion of dignity and respect in the conduct of Members within this Chamber. I intend to conduct myself in the manner that befits and is expected of any citizen of these Islands who is afforded the honour of serving in the capacity of Members of the Legislative Assembly.**

**“The political, social, and economic fabric of these Islands has been painstakingly woven by**

**the hard work of our ancestors and astute political forefathers. By progressively establishing and nurturing the core values of our heritage, the groundwork for our existing success was laid. As the beneficiaries of these achievements, it is imperative that we instil these fundamentals in successive generations.**

**“I, therefore, find it incumbent for me to challenge my colleagues to strive to uphold the high standards of decency and integrity expected of this august body. Now that the campaign is over, the country has spoken and the Government has been formed, we must put the bickering behind us and get down to the serious business of addressing the many complex issues that face this country. We, as Legislators, must tackle these issues together in the interest of the people who elected us.**

**“In anticipation of a challenging term I expect to work tirelessly with all Members of the Legislative Assembly in the best interest of these Islands. In the same vein I will be equally vigilant and unrelenting in my scrutiny of good governance at all levels. It is not my intention to oppose merely for opposition sake, nor will I support frivolous and untenable positions. My mission here is specifically to represent the people of the district of East End and generally to safeguard the wellbeing and success of the Cayman Islands.**

**“As I reflect on my success at the polls, I wish to pay tribute to the impressive showing and support of the younger generation of Caymanians. My hope is that they will continue to actively participate in the political process at all levels, and one day they will reap the success from such involvement.**

**“In conclusion may the strength of God pilot us, may the wisdom of God instruct us, may the way of God direct us, may eternal power be our support and may eternal wisdom scatter the darkness of ignorance.”**

Mr. Speaker, that was my maiden speech. Now it would not be good of me to not be reminded of it. I read it merely to remind my people of this country, of the commitment I gave to them on November 15, Mr. Speaker.

Mr. Speaker I am not here to ‘assassinate’ anybody because I certainly do not want to be assassinated. I have two sons and the rest of my extended family that I have to take care of too.

Mr. Speaker, after the General Election last year I joined with seven other Honourable Members of this Legislature as MLAs elect. I was not a Member of the Legislative Assembly until I took the Oath of Allegiance, and that was done on November 15. Mr. Speaker, among that group were the two Honourable Members from Cayman Brac, the Leader of Government Business, the Second Elected Member from George Town, the Third Elected Member from George Town, The Second Elected Member from Bodden

Town, and the First Elected Member from Bodden Town.

Mr. Speaker, between 10<sup>th</sup> November and 15<sup>th</sup> November it was much negotiation among that group and all other groups to form a government to lead this country. It was decided by two members of that group, namely, the First and Second Elected Members from George Town to go and join a different grouping which was made up primarily of the four elected Members for West Bay. Mr. Speaker, I made a decision then not to go. I listened to the people of East End who as far as I remember elected me. Those Members on Tuesday by that time had gotten the First Elected Member from Bodden Town to join them. I stood on the steps of the Court House in this country and I told the people that this is the perfect opportunity to see and examine what was wrong with our Constitution. I did not 'assassinate' anybody then and I have no intention of doing it today. Mr. Speaker, the Government was formed and in my maiden speech that I just read, I said '*my job here is to work in the interest of the country*'.

On 15 November 2000, we entered this Honourable Chamber to be sworn in. When the vote was taken to form Executive Council, Mr. Speaker, five members of the nine at that time, walked the aisle and took their respective seats as the new political Government. The votes, as I remember, were: the Honourable Kurt Tibbetts 9, the Honourable Roy Bodden 9, the Honourable McKeeva Bush 9, the Honourable Edna Moyle 9 and the Hon. Linford Pierson 14. Mr. Speaker, I am here today to tell my country that I was the person who did not vote for the Honourable Linford Pierson. The Honourable Member is related to me, Mr. Speaker, and upon leaving this Honourable Chamber that day I thought it was incumbent upon me to let him know that, and I did.

Mr. Speaker, I have nothing against either Member of the Government—not one of them; but if I cannot vote for all, I certainly will not be voting for one. Those are the principles that I was brought up on, and those, Mr. Speaker, I will live with.

Mr. Speaker, in the last year since I was sworn into this Honourable House, I have demonstrated that I have come here to do a job. There were times that I supported that same Government that I had no part in electing; there were times that I opposed them. That is the commitment I gave to this country.

Mr. Speaker, I am not the majority, I am but one Member of this Honourable House and whichever government is elected in this Honourable House as a result of the majority, I will support that government when it needs it, when it warrants the support. When it does not, Mr. Speaker, I will stand here and I will oppose it. But I have no intention of opposing for frivolous reasons.

Mr. Speaker, we have come full circle. I, Mr. Speaker, campaigned in the district of East End to my people—and my slogan for the Election campaign was *Honesty, Integrity, and Justice*. Mr. Speaker, after

the Election a Member asked me to give my interpretation of honesty, integrity and justice. Mr. Speaker, I replied that I could give my interpretation of honesty, integrity and justice and that I could debate it all night, but that would not satisfy anybody, Mr. Speaker. The only interpretation of honesty, integrity and justice is time. If it does not have time, Mr. Speaker, you cannot interpret honesty, integrity and justice. When I stand before my country today and I say to my country *judge me on my honesty, my integrity and my belief in justice*, that is how it must be judged.

Mr. Speaker, last week Friday I was called by the Honourable Kurt Tibbetts, the Leader of Government Business, and was told that there was a meeting of the Backbench supporters—and there were many times I had been invited. My understanding of it was to do with some update and I suspected it was about the upcoming Budget session. I told the Honourable Member that I could not attend because I had other business in East End and I later sent my apologies by one of my colleagues.

Later on that evening, Mr. Speaker, the Second Elected Member from George Town called and wanted to see me. I saw him later on in the night and he explained what had transpired. Mr. Speaker, at the time I did not take it seriously because we all have differences. I have had differences with all the Ministers, but we have continued to live; we have continued to operate. I thought that by Monday it would have been resolved. Because I was not part of the meeting, I did not know the intricacies of what transpired. I received a number of telephone calls and made some to other Members as well, because I wanted to understand what was going on. By Monday, Mr. Speaker, this thing came into being.

Mr. Speaker, I am not here to defend anyone because everyone has his personal reason for doing what he does; I am here on principle as I see it. Mr. Speaker, the Motion is to revoke the appointment of two Ministers of Executive Council and I have some problems with it on principle.

Mr. Speaker, I went to the radio and the papers on Monday and I said that I am very concerned that I am now faced with having to come to the people of these Islands and in particular the constituents of East End electoral district as obtained with a similar situation following the general elections less than one year ago—to be exact 362 days! I have not been party to any of the discussions or activities leading up to the current political crisis and I am sure the Members in this Honourable House will attest to that. I wish to offer a word of caution to all involved that they be mindful of the greater interests of these Islands.

Finally, I simply warn that the personal political agendas must not have precedence over the national interests—particularly at the time of serious economic downturn locally, and extremely unfavourable and sensitive conditions internationally. Mr. Speaker, that is my concern.

If we are going to run our country, we have to do it responsibly. Ten Members of this Honourable House have now decided that they have no confidence in the Leader of Government Business and the Honourable Minister responsible for Social Services and Women's Affairs and they have decided that these two Honourable Members must leave the position of Executive Council. Mr. Speaker, I cannot support that; I cannot on principle.

Mr. Speaker, regardless of who was responsible, regardless of who was right or wrong, there are very few countries in the Caribbean or in the world that would not allow the political tenure to run its course. Mr. Speaker, no matter what happens in a government it is usual—even in Jamaica as badly as we talk about the politics of Jamaica.

Yes, Mr. Speaker, I know Members will get up here and talk about Cabinet reshuffling. I understand that, Mr. Speaker, but Cabinet reshuffling is different from what we are doing today. So then, whoever is responsible for it not being a cabinet reshuffle it lies squarely on their shoulders: it does not lie on my shoulders.

Mr. Speaker, in recent political history, it has only been Haiti and Grenada in the Caribbean that did not allow at least one term to run its course. I am not comparing the Cayman Islands to Grenada and Haiti, but we all know what happened there.

Mr. Speaker, my concern is that the Motion brought by my colleague from West Bay does not have reason in it—there is no reason! I thought that the Second Elected Member from West Bay would have spoken to it because I know that he is not afraid to speak. Mr. Speaker, I really believe that these Honourable Members should tell the country why they have lost confidence in the ability of the current leader of Government Business. There has to be a reason! Mr. Speaker, the electorate in this country—do they consider that reason enough to shake a whole government up?

Over the last year I have developed very good relationships with all Honourable Members of this House and in particular, the Second Elected Member from West Bay. During the development of that relationship I found that gentleman to be reasonable in his approach, to have reasons for his approach. So I do not understand his very short Private Member's Motion 24/01.

Mr. Speaker, if there is a lack of communication with the Leader of Government Business, I would think that you should see a pile of letters asking to pay more attention to communication between Government and the Backbench supporters. At the very least, Mr. Speaker, letters and discussions should prevail. I also find it amazing that of the five Members of Executive Council who were properly constitutionally instituted, only two have the blame for the downturn.

Mr. Speaker, I heard the Honourable McKeeva Bush on *BBC* last night and I think the interviewer asked him, since he was deputy leader, should he not

take some responsibility also? While I respect the Honourable Member, I think I need to ask him the same question. Mr. Speaker, I think that is fair.

*[Response from audience in Gallery]*

**The Speaker:** Silence, please!

**Mr. V. Arden McLean:** Mr. Speaker, if two people or more are going to share responsibilities, then they have to take all the blame too. Mr. Speaker, I have not had any problems with the five Ministers when it comes to communication. They have responded to all I have asked of them. There were times when it was difficult to get in contact with them, but if you tried hard enough you could at least find them. That is my interpretation because I was not a part of the Government.

Now the interpretation of communication with the Government that the Backbenchers, I have no knowledge of that. What their interpretation of that communication should be they have to speak to that, Mr. Speaker, I cannot speak to that.

Mr. Speaker, I said earlier that the Second Elected Member from Bodden Town and the Third Elected Member from George Town were Members that I supported during the leading up to the swearing in to the Honourable House. Mr. Speaker, those are the two Members of this Honourable House that they propose—a new party proposed to replace the Leader of Government Business and the Honourable Edna Moyle, Mr. Speaker. I have not had any problem communicating with them either, until this weekend. And they did not call me. Mr. Speaker, I found that a little strange and I am sure my colleague from Bodden Town will explain that to me, be it today or later on, and my colleague from George Town will, also.

Mr. Speaker, I have developed relationships with all of these Members and if those two Members . . . Let us assume that the United Democratic Party wins this Motion today and they move across there. I would expect no less from them than I expect from any government in this country. I am the representative from the district of East End and the basic needs of East End must be met, or they will not be fulfilling their responsibility as leaders of this country.

And there shall be no threats against Arden McLean. Let me reword that, Mr Speaker, threats may come, but I am not afraid because I believe that this country knows by now—and in particular the other fourteen Honourable Members of this House—that when I stand, I stand. And they also know that when I say, I have said.

Mr. Speaker, I am not particularly worried about the public getting to me in whether or not I do something right or wrong. Mr. Speaker, I have bigger fears about my family because the public is only going to get *manavilins*. If I do something wrong in this country my siblings are going to strip the skin off me.

So I know, Mr. Speaker, my father, God bless his soul, is on his dying bed. He is not leaving his children very much materially, Mr. Speaker, but he is going to leave us a legacy of honesty and I have to carry that on. And, Mr. Speaker, principle! No man can point his finger in my father's face! And I pray to God that no one—and I know that no one is going to do that to me . . . I may be wrong, Mr. Speaker, but this is not principle-oriented; there is no principle in this, Mr. Speaker.

We do not have any power. Do you really think the fifteen Members of this Legislature have any power? The power is behind the throne and for those who did not recognise that, I trust that they will now. We were elected by the people of this country. We did not elect ourselves. And, Mr. Speaker, we must act accordingly: we must listen to the views and the position the people of this country take. Mr. Speaker, I really cannot be party to something that has the potential of destabilising forty-odd thousand people because I want to be able to go home tonight and every night thereafter and sleep well, and I think I will.

Mr. Speaker, again, please let me make it abundantly clear that I have no ill will against any Member of this Honourable House, but I stand on principle.

Mr. Speaker, this country right now is in an economic downturn. I was up very late last night, and I was surfing the net. In the *Financial Times* of the United Kingdom of yesterday, the first line of an article captioned, "The Americas and International Economy, Caymans shaken as political party is created", the first line in that, Mr. Speaker, says that "**rebellion has come to the Cayman Islands but this has little to do with the Islands 600 banks and trusts.**" Mr. Speaker, regardless of what this says, that is the international press. We should learn by now, and, if we have not, we should look around because the country is now in an economic downturn. This country has placed itself in a position where it requires and it needs foreign investment. If this is the kind of bad publicity that gets out on the street—gets out into the international market—Mr. Speaker, we suffer. But, Mr. Speaker, not only fifteen people are suffering; there are forty thousand people suffering!

Let us forget about us. Politicians come and go, but the country remains. If this is my time to go, so be it! Maybe I am a little different from most, Mr. Speaker, because I view this as a job on behalf of the people of this country and in particular East End. And when they are ready to tell me that they do not want me anymore, I will go and do something else. But I will assure the public and all my opposition out there that it will not be through a by-election unless I die. I have no intentions, Mr. Speaker, of stepping down. I am going to be here awhile—at least until 2004!

Mr. Speaker, I will never forget when Motion 3/90 came to this House. At the time the Honourable Benson Ebanks said that the Backbench must always have its say, but Government must have its way. Well,

Mr. Speaker, I recognise that in any parliamentary structure Government is going to have its way, but Mr. Speaker, Arden McLean is going to have his say too! This is my country and I am not putting any letters in the papers signed by 'a *concerned Caymanian*'. I am going to speak and with the help of God I am going to conduct myself with decorum, with respect for every Member of this Honourable House and for the people of this country. And they, Mr. Speaker, the people of this country, will measure me. They will decide like they did on November 8 one year ago.

Mr. Speaker, we have to respect the democratic process. I know that other Members may say that this is the democratic process too, and that is true, but there is a bigger one every four years. Now if you think that one will not catch you sleeping, then you have made the biggest mistake of your life. And if any politician, or potential politician, wants longevity he has to respect the people's wishes.

Mr. Speaker, the Third Elected Member from George Town, who is my good friend, knows that I am right. I want to make it abundantly clear that the Third Elected Member from George Town (another relative) has my utmost respect for him and for his abilities: the Second Elected Member from Bodden Town, also. But what we are attempting to do will have some adverse effects on this country. And I am also saying to my good friend the Honourable McKeeva Bush. I am saying, Mr. Speaker —

**The Speaker:** I would ask that you refer to him by the Honourable Minister for Tourism.

**Mr. V. Arden McLean:** Thank you. Mr. Speaker, I do apologise, Sir.

Mr. Speaker, I have also worked very closely with the Minister for Tourism, particularly with trying to get affordable housing in this country. And I trust that that will not . . . assuming, that they get the amount of votes to carry this Motion because, Mr. Speaker, I am appealing to each Member to look into his conscience and think about this before the vote is taken.

I wonder if we recall years ago when the hospital—the Dr. Hortor Memorial Hospital . . . I say no more on that one, Mr. Speaker.

*[Members' laughter]*

**Mr. V. Arden McLean:** Remember, I was a little piece of that too because I ran in 1992. I got a proper thrashing and it was as a result of that same thing. So I am not saying anything that has not affected me also. Mr. Speaker, we should have learnt our lessons.

This morning as I walked to this Honourable House there were hundreds of people in the street opposing what is being done. Mr. Speaker, I wonder what time the Honourable Minister for Tourism got here this morning, because he does not seem to believe that. Maybe he was in the Chamber before they gathered. Mr. Speaker, this move proves to this coun-

try that our Constitution needs to be changed. The current Constitution is lacking; it is lacking structure, Mr. Speaker. For many years former politicians have been afraid to operate under a structured system because they are afraid of the discipline it brings.

Mr. Speaker, I believe that the current Honourable Members of this House have the resolve to change our Constitution—I knew that before this weekend. I have not spoken to them all weekend, but I am sure that they have the resolve. Mr. Speaker, I beg the pardon of the Third Elected Member from George Town, because he did speak to me. He spoke to me on Monday night—that is not the weekend Mr. Speaker.

*[Members' laughter]*

**Mr. V. Arden McLean:** He did not call me at the eleventh hour; he called me daylight the next morning! But, Mr. Speaker, I must give him credit for that. And the Honourable Minister for Tourism also called. That was at twelve o'clock on Sunday night and he left a message.

Mr. Speaker, the people standing in the street this morning with placards, shouting, have a say; let us not disrespect that say. Prior to this, I had heard grumblings. I have heard people saying that the leadership was not what they expected, Mr. Speaker. Those same people who said that weeks and months ago were among those out there this morning. I, too, had my concerns and I made those concerns known to the Leader of Government Business and to the Deputy also. And he did nothing about it; neither one of them did anything about it; not one of them did anything about it, Mr. Speaker!

*[Members' laughter]*

**Mr. V. Arden McLean:** But it is obvious that this country wants that combination to remain in place and if it stays in place I am sure the Leader and Deputy Leader will have learnt their lessons, Mr. Speaker, unless their heads are very hard.

Mr. Speaker, when I walked here this morning I felt hurt to know that the democratic process will prevail and there is nothing the people of this country can do about—it is the fifteen Members in this Honourable Chamber. That is what bothers me, Mr. Speaker. I believe in the democratic process, but I believe that the people of this country, their appeal to the better conscience of their elected representatives should prevail. It should, Mr. Speaker, if they respect the democratic process at the polls.

You know, Mr. Speaker, I talked about having my say and I talked about the respect that I have gained from all Honourable Members of this House. And I just thought, Mr. Speaker, how come nobody is stopping me? I wonder. It has to be the respect.

Mr. Speaker, no matter what transpires here today or tomorrow—I suspect it will be tomorrow be-

cause there is so much to be said. I know, Mr. Speaker, the Second Elected Member from Cayman Brac is not going to allow this opportunity to pass. And that is his democratic right the same as it is mine.

Mr. Speaker, looking at *Caypolitics*: if anyone believes that *Caypolitics* is not sending some news over the Internet to Japan, or wherever you are . . . Mr. Speaker, that news should be good news for us. All fifteen of us Members in this Honourable House should be conducting ourselves in such a way that there is good, good news. We have talked about wanting our country to succeed. Now as you know, headlines such as, "Rebellion Has Come to the Cayman Islands", is not good for our country. Mr. Speaker, certainly nobody in this country can tell the writers what to say, but I have always believed that if you conduct yourself in a good manner they can write nothing but good. And if you conduct yourself in the manner that our political process is going through today, it will be bad. I cannot blame the people at *Caypolitics* for this because, Mr. Speaker, they are disseminating the facts of the matter and I believe that is what the press should do.

Mr. Speaker, I stand before my country that I so dearly love, and I am saddened. I am saddened because these things should not happen in my country. This is a dark day when we are debating and making decisions that the public does not support.

Mr. Speaker, I understand the people of this country placed their X on November 8 last year and said go and lead the country on our behalf on our behalf! It did not say that you have absolute power. Mr. Speaker, fifteen people should not—and I trust everybody is noticing that I am including myself and excluding the Official Members. Fifteen people in this country should not dictate what this country wants without first consulting them. The only reason I did not have a meeting in East End was because Wednesday night (last night) the Pirates Week/Heritage Day festivities were being held in East End.

Mr. Speaker, I am sad. This morning when I read my maiden speech, it hurt me to know that I read that here one year ago and I am back in this Honourable Chamber with a situation that is similar to that which obtained one year prior. Mr. Speaker, I cannot say that the Government was 'the best thing since sliced bread'; there is no such thing! In anything there is going to be conflict. There will be conflicts and I cannot say that Kurt Tibbetts did not have his faults.

**The Speaker:** May I interrupt you just a moment? I am asking you to please refer to him as the Honourable Minister for Planning, Communications and Works.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker, I do apologise. Sometimes my emotions get the better of me. Mr. Speaker, as I was saying, I cannot say that the Honourable Member for Communications is anyone who should be worshipped. We are all human

beings, Mr. Speaker. That Honourable Member knows, like any other Honourable Member in these Chambers, that when I have something to say, I will say it to his face.

Mr. Speaker, I cannot, in fairness to my country and in fairness to my principles, support without reason the removal of a government. And yes, Mr. Speaker, when we say it is going to cause dissension in the country, it is going to cause dissension in this Honourable House also—a dissension that is not needed. We promised our people to work together.

**Dr. Frank S. McField:** Mr. Speaker, I would like to rise on a point of order.

#### POINT OF ORDER

**The Speaker:** Let me hear your point of order, Third Elected Member for George Town.

**Dr. Frank S. McField:** The point of order is that the Member is really beginning to be tedious and repetitious.

**The Speaker:** I am following the debate very closely and I thank you for calling that to my attention. I assure you that I am aware. Please continue, Elected Member for East End.

**Mr. V. Arden McLean:** Thank you. Mr. Speaker, I will turn to another subject that I would also like to address.

When I arrived at this Honourable House this morning, I received a letter from you informing the Legislature and its Members of your resignation which will be effective Wednesday, 14 November. Mr. Speaker, this is another thing that has plagued this country over the last year and should have been resolved a long time ago. Whether it is leadership or the lack thereof, it should have been resolved a long time ago. Mr. Speaker —

**The Speaker:** May I call to your attention, I am thinking of relevance. I do not see where this fits into this debate. We would address that at a later time.

**Mr. V. Arden McLean:** I bow to your ruling, Mr. Speaker, I was just trying to show the leadership that we are talking of. Thank you, Mr. Speaker.

Mr. Speaker, turning back to the Constitution: I believe that it is time for our Constitution to be amended to ensure that it requires party systems. In a structured system this would have been handled differently. It would not have been handled in the public; it would have been handled within a party. Mr. Speaker, I know that we speak of a previous government that affected this same change where the leadership was changed. Mr. Speaker, it is my understanding that that was done through agreement prior to taking office. I urge Caymanians to go out and en-

sure our Constitution is modernised to prevent this kind of political crisis in our country.

Mr. Speaker, the Constitution does not and is not keeping with modern democracies. It is time to stop this kind of political manoeuvring. What is to stop this happening in another year? There cannot be any confidence in this country when the Government is changed—at least two Members of the Government changed within one year. The fault is the Constitution and the people who operate the Constitution: that's us—and we have to address it.

Mr. Speaker, I trust that this thing stays together, assuming the Motion is passed. I am sure there are Members in this Honourable House who have thought about this and have seen the public outcry. Mr. Speaker, who can assure me that this is going to stay together now? The fact that a party has been formed does not give us any assurance. Mr. Speaker, politics should not be based on personalities; it is politics.

Now, Mr. Speaker, I trust that the UDP (United Democratic Party) has different policies than the current Government has, because if not we are going down the same road that they are complaining about right now. And, Mr. Speaker, you cannot come to the people, as I heard one of the Members saying, at quarter of your tenure and change the policies of the country. Therefore, there has to be a continuation of the policies.

A party is formed for one four-year term and I have not (and I do not think the country has) seen a constitution of that party by laws. That is not how this works, Mr. Speaker. I suspect as a result of the modernisation of the Constitution that we will see party systems by the next election and I support party systems. But when you do it for the convenience of keeping ten scattered opinions and policies together, that is not the way to do it. That is not the way to form a party. Ten people, only four of which ran on the same platform.

Now I can understand that if those four had formed a party. I would have understood that. Yes, Mr. Speaker, they formed a government because that is the situation that obtains in this country. Because there is no party system that is why I can stand on my feet and deliver. Until that time the leader of the party will do that. But it will be carrying across a position of that party. Mr. Speaker, regardless of what anyone says it is impossible to form a party between Friday and Monday. If the people are going to be ruled by a party they should know what policies of that party obtain, they should know the disciplines—

**The Speaker:** If I may interrupt you for just a moment, I think I have to call to your attention Standing Order 41 (1) which says “**the Presiding Officer after having called the attention of the House, or of a Committee, to the conduct of a Member who persists in irrelevance or tedious repetition . . .**” You have repeated this a couple of times well and I ask

you to please move your debate on. Elected Member for East End please continue.

**Mr. V. Arden McLean:** Thank you. Mr. Speaker, as we take this vote on this Private Member's Motion, I appeal to the better conscience of my colleagues to think about what they are doing. Think about the consequences that could result from this: think about what is going to happen to our country. Mr. Speaker, I do not want to be the prophet of doom. If it works it is good. My opinion is like what the Second Elected Member from George Town said, "**economic miracles are going to have to happen.**"

Mr. Speaker, the Motion was brought on the basis that the Backbench supporters have lost their [confidence] in the leadership of the Minister for Planning; it is based on the economic downturn. That is the basis that I have heard explained all weekend and all week since the weekend. Therefore, the people of this country must see an economic upturn; the new UDP must prove to the people of this country that the economy of this country is going to be turned around in a very short time.

Mr. Speaker, the whole world is in an economic downturn. America, again trying to revive the economy, has just lowered the interest rates once more. Mr. Speaker, I trust if the UDP takes control today of the Government that they have much plans forthcoming and I trust that those plans will work in the interest of our country. Mr. Speaker, again I look forward to working with every Honourable Member of this Legislature in the interest of our country. Remember this is our country; let us not push it to the brink of destruction.

Thank you, Mr. Speaker.

**The Speaker:** Honourable Members it is customary that we take the luncheon break at 12.45. It means that we would be segmenting before the next speaker. Is it the wish of the House that we take the break at this time and return at 2.p.m?

**Dr. Frank S. McField:** Mr. Speaker, I think that we would just like to continue briefly for a few more—

**The Speaker:** If that is the wish of the House, certainly, Third Elected Member of George Town, please continue.

**Dr. Frank S. McField:** Thank you, Mr. Speaker.

I do not suspect that anyone here today would believe that any person privately or politically should be guilty of anything until proven to be so. Mr. Speaker, I do not suspect that those persons who are included in the Motion here today are entitled to any less than I, or any other Member supporting this motion. I believe, Mr. Speaker, that our side has not been heard and if there are those who will disagree in spite of the reasonableness of our actions, Mr. Speaker,

then there is nothing in this world that I can do about that.

Mr. Speaker, unless we can accept the principles of the rule of law, we cannot maintain a civilised, civic society which is the basis of all prosperity. Mr. Speaker, we must make sure that our instincts do not take over and that we do not go back to the situation where Pontius Pilot called to ask if Jesus should be crucified and Barabbas saved—taking the reaction of the crowds to mean that the voices and the will of the people were speaking.

Mr. Speaker, in all of my experiences I have only found one reasonable way for the people to express their will and that is through the democratic process that takes place in this country each four years. I know that we are to take the considerations of the people into consideration, Mr. Speaker. But when we began on our actions, I think that people need to know how it developed. They must not just attribute the failings of the coalition Government that was established in November of 2000 to the actions of certain individuals.

Mr. Speaker, I do believe that we need to look at the way in which that coalition government was put together on 15 November 2000. Mr. Speaker, it was a hastily done situation because there had been no prior preparation to put a government in place. Part of the reason why there had been no prior preparation to put a government in place, although many of us existed here on the Backbench prior to that, determined to move the previous government—

**Hon. Linford A. Pierson:** Mr. Speaker, on a point of order, Sir.

#### POINT OF ORDER

**The Speaker:** Honourable Member for Health.

**Hon. Linford A. Pierson:** Mr. Speaker, there is no way that this Honourable House can continue with the amount of noise in here, Sir. I wonder if you could ask the Serjeant to check on the noise outside.

**The Speaker:** We have had a mass exodus in the last few minutes and I am asking you to try to be as quiet as possible.

Third Elected Member for George Town, please continue.

**Dr. Frank S. McField:** Mr. Speaker, I do believe somehow that the Honourable Members who are insisting upon the due process to go completely through, are in fact perhaps a little bit more responsible for the instability than the actions which we took in terms of deciding to bring this Motion. It must be made clear to people that if they insist upon politicising these events that the consequences are not just the results of the actions of one particular group of individuals; it is the result of all the individuals involved.



Now, Mr. Speaker, I said that the way in which the Government was put together in November 2000 was hastily. It was referred to as horse-trading to be exact and it was a difficult process. It actually signified that the people needed to become a little bit more involved in their political process before going out to vote at general elections. And that candidates and politicians needed to be a little bit more involved in assisting the people to understand better the way in which democracy truly works. For if democracy is to work, you must have the participation of the people. You must not have the participation of crowds and mobs. You must have the participation of people's opinions that will then create consensus.

It is a difference, Mr. Speaker. Politicians in this country have historically been responsible for entertaining a situation that does not allow for the education and participation, simply because by doing so, by not educating them, they can use fear and superstition to move them in directions to stagnate the changes which are necessary to come to this country.

We had it happen before, when the now Leader of Government Business was here on the Backbench as a Member of the Opposition with myself and other colleagues who now sit in the Government and the attacks were against the then Leader of Government Business, Mr. Truman Boddin. And, Mr. Speaker, debates in here took place in such a way and people seemed to take sides according to who they thought was beating up on whom, or who they thought was arguing best, rather than who was making some sense. And, Mr. Speaker, although we understood that the past Government would be removed—

**The Speaker:** I will interrupt you for just a moment. You are expressing your own opinion, right?

**Dr. Frank S. McField:** Yes, Mr. Speaker.

**The Speaker:** Third Elected Member for George Town, please continue.

**Dr. Frank S. McField:** Thank you.

Although we realised that the past Government would be removed long before the November Elections, nobody did anything to organise so that we could make sure that there would be a cohesive group of individuals that could form the Executive and be supported by their Backbenchers. The now present Leader of Government Business ran with one additional Member in the district of George Town; they together collected two of the four seats. The Deputy Leader of Government Business ran in West Bay with four people and collected four of the seats there.

**The Speaker:** Three people.

**Dr. Frank S. McField:** Three, three people including himself. Now -

**The Speaker:** Four including himself.

**Dr. Frank S. McField:** Yes Sir.

[laughter]

**Dr. Frank S. McField:** Mr. Speaker, I am not going to question your mathematics, because I have seen that your strength is much more improved than mine. You have sat in that Chair so many hours already and listened so intensely and I do not believe that I could do that at all. So I believe that your mathematics must be as well as your strength at this time.

But I would like to say in terms of explaining to the country that if you have West Bay coming with four; George Town coming with two—because that is what George Town came with as a group; I ran as an independent; the Minister responsible for Health ran as an independent . . .

I, Mr. Speaker, entered into the negotiations which took place with the turtle stew and the breadfruit and the pen and we formed the Government with the pen—this pen! I have tried to recall, Mr. Speaker, exactly how that fell apart. But it did fall apart and I was upset that it fell apart and I felt somehow betrayed, and all of that, but at the end of the day I had to come and accept what others told me was the democratic process. Now what is good for the goose must be good for the gander.

Now, without any kind of attempt here to say anything negative about the Leader of Government Business—I do not have anything negative to say about him—even after all of that we came in here as gentlemen (and ladies) and I was made Deputy Speaker.

So, Mr. Speaker, what I am saying is that the public has to understand that politicians might get up here and they might say certain things to one another, but when they go into that Common Room (and elsewhere) they have a different attitude.

Now, the Second Elected Member from George Town and I probably started on one note this morning and by the time we get half way through the Sitting, Mr. Speaker, as you know which normally happens, we go to another note. But the poor people outside do not know the kind of music we play here, so they tend to take this thing seriously and that is what we must be careful about.

So, I am saying to those persons who are getting up and understanding the significance of this political moment, where they can make political careers for themselves because they can convince people that what is happening is to the disadvantage of this nation and to the disadvantage of the persons involved . . . But that is not necessarily the case, Mr. Speaker, because just like our coalition fell apart before 15 November, 2000 even after signatures, our coalition fell apart and the new coalition was built with the West Bay, Better Balance Team who pulled some of our Members out and eventually were able to form the

Government with Backbench support. The Backbench support at that time being the three Members from West Bay and the Second Elected Member from George Town.

So, persons like me, who declared more or less an independent position—an opposition position—a position just like what was being explained somehow by the Member from East End, wanted from the very beginning to form Government. And we existed as a kind of opposition to what they had put together. That is part of the political process.

So when their coalition fell apart, which we had nothing to do with, Mr. Speaker, because they had their meeting up at the Glass House at 4 o'clock on Friday and I was not there; I can attest to that. I was not called, I was not consulted, and I had never been for one year. As the Third Elected Member from George Town, I have sat here and the most I have been involved has been with the Commission of Inquiries into social breakdown and youth violence. I have had no say whatsoever in the appointment of people to boards or committees or any of those things; I have been isolated from the power which comes from the Executive and so if you are not a Backbench supporter for the Government, you are isolated from that. The West Bay Members, Mr. Speaker, have enjoyed the association with the power which the Executive has. And the Government (the Executive), could only enjoy their power with the approval of their Backbench. That is the way the system works.

So we have to become politically mature enough to know that those over there cannot exist, without those here supporting their policy. But when they went to West Bay before the 15<sup>th</sup> November, 2000 to decide on how they would share up the leadership, share up the portfolio, I had nothing to do with that.

Mr. Speaker, all I am saying is that when the system breaks down I understand that there is a need for Government to continue and that we have sufficient authority to continue Government by rearranging the coalitions. So the coalition partners are who we are talking about here.

The Motion to revoke, Mr. Speaker, is not one to cast doubt on the character of the Leader of Government Business, nor of the Member responsible for Community Affairs. If it were so, Mr. Speaker, I would not be a part of it. But the Motion to revoke is a Motion to change the coalition relationships.

Now as much as people might say that this is not appropriate; this is dangerous; this is like Haiti; this is like Jamaica; this is the most terrible thing . . . I just heard the United States Senate not too long ago, when one Republican Senator became an independent Senator and the leadership in their Senate in the United States changed—

**The Speaker:** May I interrupt you for just a moment?

I do not anticipate that you will be finishing within fifteen minutes or so. When you reach a convenient point in your speech we will take the break for lunch. Is this convenient? We shall suspend proceedings until 2 o'clock.

#### PROCEEDINGS SUSPENDED AT 12.47 PM

#### PROCEEDINGS RESUMED AT 2.15 PM

**The Speaker:** Proceedings are resumed.

Debate continuing on Private Member's Motion No. 24/01. The Third Elected Member for George Town continuing his debate.

**Dr. Frank S. McField:** Mr. Speaker, before we took the break for lunch I tried to give this Honourable House reasons why the Motion which is before it came about. Not as the result of any defects in characters or personalities, but because of a shift in the alignments of persons and policies in this Honourable House.

Mr. Speaker, it is the most civilised way of understanding the present situation and I beg that this Honourable House take heed of our ability to master our vents and to calm the situation by understanding in fact that the Constitution being our main Law, provides for the due process to take place.

Mr. Speaker, this particular section in the Constitution, Section 6(2)(f) says that a Minister would cease to be a Member of Executive Council **“if his election to the Executive Council is revoked by a resolution of the Assembly in favour of which there are cast the votes of not less than nine of the Elected Members of the Assembly:**

**“Provided that a motion for the revocation of the election of an elected member under this paragraph on the ground that he has contravened the provisions of section 9(2) of this Constitution shall not be introduced except by a member of the Executive Council.”** We are not dealing with Section 9 (2) we are dealing with Section 6(2)(f) which is the rights entitled to ordinary Members and not Executive Council Members. And we understand why Section 9 (2) of the Constitution applies to the Executive Members because of the concept of collective responsibility. I think, Mr. Speaker, it is important that we make those issues clear.

This particular section in the Constitution was brought in during the last revision of the Constitution and my understanding is that it was there in order to allow for a possible reshuffling within the Legislative Assembly. It could be said that if we have five elected members of Council, and we have three official members, that would give the Executive eight members and it would put them in a position to obviously pass legislation with very little support from the Backbench. That has occasionally caused the Executive branch of Government to not be as vigilant with regards to

communication and support for the Backbench as it sometimes needs to be.

So, Mr. Speaker, it is because this Motion is founded on that particular clause of the Constitution that I have not tried to give any other justifications for my actions, in that I have sought to see the policies of Government changed. I believe that I can effectively accomplish this by changing the alignment of individuals and policies within this Honourable House.

When I was elected in November, I made it quite clear that I was running for a ministerial position and I encouraged people to vote for persons that would vote for me as Minister. Some persons thought that this was a strange attitude towards politics.

Now as we came in here and we decided who would be Government, I would ask myself how many Members went and consulted their constituents as to who they should vote for, for the Executive Council that we presently have? How many Members in this Honourable House consulted their constituents in making the choice of creating Ministers out of Members?

I happen to have a different position in this society, in that I have never been supported on my platform by persons who consider themselves to be well-to-do established persons. I know that there are other Members here who have had a wide cross-section of persons on their committees and on their platforms and in making political decisions they might find it necessary or even useful to consult them. But, Mr. Speaker, in my dealings with politics I have had to do most of this type of work myself. I have had very few telephone calls even with regards to this particular situation. So I have had to make decisions on my own.

In November when I came here, my decision was not to vote for the present coalition. In terms of my action now, it is just a continuation of what it was in November, previously; it is the same attempt to do the same thing. So I do not feel that I have to base my action upon any other reasons than that I feel that leadership at this particular time does not mean one individual's abilities. It means a vision. It means the ability to have cohesive policies for the country. It means the ability for people to agree on policies and not on personalities. Mr. Speaker, it means that we have to get away from this *'friend, friend'* thing and *I like this thing* because we have the very serious job of running a country.

Now the fact that some people have said in this Honourable House that this is a dark day in this country, we have seen more people interested than we have before. Perhaps some of these people will even get involved now with the constitutional review process and take the opportunity to really not wait until a problem occurs and react, but be proactive.

Mr. Speaker, there are others who want to speak and I do not want to take up the whole time making the case. I came here not necessarily to persuade the House to act, as the majority of persons

have already been persuaded by the reasons discussed previously. I have only attempted, Mr. Speaker, to give perhaps you and the general public an explanation as to my actions.

And, Mr. Speaker, for those who think that because I was elected in the district of George Town, I owe allegiance to any individual, then I think that they should have made that clear to me before. I owe allegiance, Mr. Speaker, to the platform on which I ran as a person who was talking about a new vision for this country. I believe that what I am seeking in terms of policies for this country will become even more possible as a result of what is to take place here today. And of course time will tell whether or not that is going to be the case, Mr. Speaker.

But from the point of there being a new political party and persons saying that that is somehow not how you organise, I think what has to be understood here right away is that the United Democratic Party that was formed was basically people getting together and saying, *'Look we are willing to at least begin to set the foundations for a policy direction for this country that is more consistent and more transparent and more visible to the general public'*. Something where we understand, Mr. Speaker, that politics will involve consensus and consensus will involve communication and for this to happen we have to have a structure of politics in this country that extends beyond Executive Council, beyond the Legislative Assembly and into the hearts of the communities themselves.

This has been long coming. I hope, Mr. Speaker, that in the end, regardless of which side we are on today with regards to this question, we realise that the political faith of all of us in here is similar with regards to party politics in this country. We all know, Mr. Speaker, that those of us who are honest have realised and have accepted and have suggested that the Constitution of this country be amended so as to give us more internal authority. We know that the United Kingdom is pushing and encouraging this. Those of us who consider ourselves to be advanced and enlightened are accepting this. So although they might not be the first to use the word *'party'*, or to introduce it, they will not certainly, Mr. Speaker, be the last.

I think if we are going to have politics we have to have a more dependable way of being able to rely upon the consensus of other members in the Legislative Assembly and it cannot simply be based upon whether or not you like me today and hate me tomorrow. It has to become more consistent. The problem the present coalition faced, Mr. Speaker, is that policy was not their primary priority when they put their coalition together. If it had been, I believe at the end of the day it might have lasted for much longer.

So let us not just bring this issue down to one for power between individuals, because I am not into whether or not this one is the Leader of Government Business or the other one is the Leader of Government Business. That is not what I am here to discuss

and defend today: I am here to discuss and defend the need for this country to understand that we are looking terrible. We are looking like grown people in school boys' uniforms.

Mr. Speaker, that means that we have to have a Constitution; we have to have a way or an attitude towards politics; we have to have collective behaviour politically in this country that will express our maturity as a financial country and the social maturity and difficulties also which we have outside in our community.

Today, I am saddened, Mr. Speaker. I have met many sorrowful situations in my life but it is always said that when one door closes another opens. I believe it is how men use events, rather than how events use men and women. I think it is up to us to determine what good can become of today. It is up to us to make that decision. It is up to us as the political leaders who know very well the affections which certain people have in this country for certain individuals, to let those persons know that a country cannot be run by pure affection. Rationality must come into play and the people must now be exposed to the full scope of the complexity of the political institutions governing their country. For ultimately, Mr. Speaker, we are the law-makers and not the lawbreakers here. We want to encourage all persons in positions in the Legislative Assembly to go out there and explain clearly to the people as they need to understand what has happened.

I would like, Mr. Speaker, to just finish up by commending you in the way in which you have so far dealt with these proceedings. Thank you.

**The Speaker:** The Motion is open to debate. Does any Honourable Member wish to speak? The Motion is open to debate. Does any Member wish to speak?

As I said this morning, we are not going to prolong. If it is the intention of Members to speak, please indicate it. The Motion is open to debate. Does any other Member wish to speak?

This is my last call. Does any other Member wish to speak?

The Honourable Minister for Community Development, Women's Affairs, Sports and Youth.

**Hon. Edna M. Moyle:** Mr. Speaker, my comments on this Motion will be very brief, extremely brief, seeing that I am an innocent lamb being brought to the slaughter without an explanation in the Motion as to why.

I have heard the argument that the Motion being brought under Section 6(2)(f)—and, Mr. Speaker, I am not here judging your decision to accept this Motion but I must speak my opinion and my feeling on it.

Under Section 6(2)(f) where it says **“if his election to the Executive Council is revoked by a resolution of the Assembly in favour of which there are cast the votes of not less than nine of the elected members of the Assembly:”** With a proviso (and I need an interpretation from a constitutional lawyer on

this as I am not a lawyer): **“Provided that a motion for the revocation of the election of an elected member under this paragraph,”** 6(2)(f) **“on the ground that he has contravened the provisions of section 9 (2) of this Constitution shall not be introduced except by a member of the Executive Council.”**

That says clearly to me that I am entitled to a ground for the bringing of this Motion under Section 6(2)(f). Section 6 (2) reads **“the seat of an elected member of the Executive Council shall become vacant—**

**“(a) if he resigns his seat in the Council by writing under his hand addressed to and received by the Governor; [That is a ground.]**

**“(b) when the Assembly first meets after a dissolution thereof; [That is a ground.]**

**“(c) if he ceases to be a member of the Assembly for any reason other than a dissolution thereof [That is a ground.]**

**“(d) if he is absent from the Islands without written permission of the Governor; [That is a ground.]**

**“(e) if, without the written permission of the Governor, he is absent from three consecutive meetings of the Executive Council.”** That is a ground.

Mr. Speaker, my question to my fellow colleagues who are bringing this Motion against me—I need to know and this country needs to know—what is the ground? I could understand if there was a ground for embezzlement of Government funds. I could understand if there was a ground of abuse of power. I am not guilty of any of these. Am I guilty under this, and a ground for my election to Executive Council to be revoked because I support Mr. Kurt Tibbetts and I do not feel that Mr. Tibbetts has not been a good leader? Is that a ground to remove me from Executive Council? If it is, the mover of the Motion should have told me what the grounds were, Sir, and if there were legitimate grounds to remove me I would have walked across the floor, but I do not intend to go down without fighting. If I am guilty of something, I will not wait for my colleagues to remove me.

Mr. Speaker, I do not believe that the reason for this Motion is lack of leadership on behalf of Mr. Kurt Tibbetts. If all five Ministers on Executive Council had worked as hard as Mr. Tibbetts did with certain issues, maybe we would not have been in this position today because we would have been more united and more together.

There is no reason for any Minister to not have arranged a meeting with the Backbench—which is the concern, or I was told was the concern—and tell the Leader of Government Business we have a meeting set with our colleagues from the Backbench on such and such a date at such and such a time. It does not have to be the Leader that sets the meeting.

Mr. Speaker, for clarity I must tell this country the exact happenings with this Motion. And I tell you,

Mr. Speaker, I am concerned because I thought all of the people in this Chamber were my friends. If there was a problem, why not come to me and talk to me? Why not go to Mr. Kurt and talk to Mr. Kurt? Why not all five of us get together and discuss the problems? We were put here together as a group; discuss the problems to see if there is a solution. If there is not a solution then let us go from there. Not to call a meeting and to drop on the Honourable Minister for Communications and Works and myself at that time, that unless he resigns as the Leader of Government Business, they cannot support the Government in the Legislative Assembly.

Maybe that is the reason for this Motion, Mr. Speaker, but it is my humble opinion that the Leader of Government Business is not a Constitutional appointment. And in my opinion and my opinion only, Sir, the Governor has that right if three Members of Executive Council have lost faith in Mr. Kurt, to have him removed and make him step back and then he could have taken his decision, whether he wanted to stay on board or whether he wanted to leave.

Mr. Speaker, it is not my personality to spring surprises on anyone that I consider my colleague in this Legislative Assembly—and not only my colleagues on Executive Council, but also my colleagues on the other side. And I think it was totally unfair to him, to bring him to this point today when it could have been solved otherwise: not with a meeting that was just sprung on all of us.

Mr. Speaker, I would like to say to the Members of this Legislative Assembly—and I thank Mr. Frank very much for his words a while ago, that there should be no character bashing, because sitting in this Gallery today with me are five of the most precious children in this world. I know everybody loves their children, which is right, but I will not lower my principles in this country to bring them in disrepute for my children to suffer at the end of the day.

My principle is, Mr. Kurt did an excellent job. He spent more time in that Glass House than any of us. The budget for last year, until one and two o'clock in the morning I must say—the Honourable Minister for Health was away ill—Mr. Kurt and I were at the Glass House trying to get the budget for 2001.

So, Mr. Speaker, I do not have a clue why I am being brought to the slaughter. I need someone to give me an explanation of this Constitution. If it is necessary I will take my recourse to the Courts of the Cayman Islands. I will not take my principles that I have lived with all my life and destroy them today.

Why am I here? Is it because I do not support seven storey buildings? Is it because I did not agree with another licence for aggregate importation? Is it because I did not agree with the cruise ships opening up their gambling casinos? Is it because I did not agree with shops being opened on Good Friday and Christmas Day? If those are the reasons, tell me, Sir, and if I am guilty of an offence I will take my punishment. This is all I am asking: tell me why I am in this

Motion to be moved as an Elected Member of Executive Council. That is all I want.

Mr. Speaker, I have conducted myself in a professional manner. I have been with my colleagues as strong as I could be, defending them on the outside, defending them on the inside. I have worked to make my Ministry work and, Mr. Speaker, I have been in the Ministry not even one year yet and I would just like to say there are several things that have been achieved. I heard questions at the meeting like, there was no Sports Policy of what the Government was doing. I went into the Ministry, I did not find a Sports Policy, Mr. Speaker. There is a committee set up at the very present time bringing about a National Sports Policy. There is a committee to be set up with funds in this year's budget to bring about a National Social Policy. There are funds in this budget, to do a country poverty assessment. The Gender Policy that the lady Member from Cayman Brac started before the General Election is continuing and will be completed in June. The implementation of the National Youth Policy will continue, we have now set up a National Youth Commission and funds are in the budget to set it up as an autonomous body. What more could I have done, Mr. Speaker, in less than one year?

So, this has to be based on my not accepting things I felt I would not lower my principles to do. And I can only say this, Mr. Speaker: I throw no aspersions at anyone. If that is the case, Sir, you could call the vote right now because I could no longer associate myself with persons who do not want to be associated with me. Having had the opportunity of going to this meeting when Mr. Kurt was going to be removed and my three colleagues knew all about it, I knew nothing. So it meant I was not trusted and that is what I told the Honourable Minister for Tourism when he called me on Saturday—I could not work with persons that did not trust me.

So, Mr. Speaker, if I am guilty of anything I plead my case, but I could not continue even if the Governor asked me to.

Dark days for the country, be that as it may, my responsibility in this Chamber . . . I was put here by the people of North Side and no one will allow me to leave the seat as the representative for the District of North Side until they decide to remove me. I will work for the betterment of this country because I have children, I have grandchildren, and I am a responsible person. Mr. Speaker, I am certain there are others that will speak after I have spoken and I will listen with good care as to what they are going to say. Thank you.

**The Speaker:** The Motion is open to debate, does any Member wish to speak? The Motion is open to debate does any Member wish to speak?

Once again I would ask Honourable Members if they intend to speak to please let us move the debate along. Does any other Member wish to speak?

The Honourable Minister for Planning Communications and Works.

**Hon. D. Kurt Tibbetts:** Thank You, Mr. Speaker. We have had a bit of 'venting' today. An occasion such as this would naturally cause some of that. While we have to debate the Motion on its merits, I think perhaps given all that I have listened to, maybe a few other things need to be said.

First of all let me give you a little joke, Sir. I saw someone not too long ago as . . . I see the former Leader of Government Business sitting in the Gallery—and this is with good intentions have no fear. When this thing started to unfold on the weekend, someone said to me that he had seen Mr. Truman somewhere recently and he was telling him that he felt such a great relief in recent times, because he could get to go fishing very often now. And that every time he would be pulling in a fish he would be saying, thank you Kurt, thank you Kurt, thank you Kurt.

*[Laughter from audience and Members]*

**Hon. D. Kurt Tibbetts:** So perhaps when this is all over I will have to find somebody, when I get to go fishing a little bit more, who I can say 'thank you' to—whichever that is.

Mr. Speaker, I want to feel bad because it has been shocking those who are very close to me. I have even tried to force it on so that they would stop worrying but I don't and I can't. Perhaps the way I would speak to this today, would be to only ask that people never lose sight of the fact that I take this very seriously. But the way I think I have to view it at this point in time is that for whatever reasons, regardless of whether in mind they are justified or not, the facts that are before us are that whenever the vote is taken on this Motion that has been brought, once nine or more Members have been duly elected in this Honourable Legislative Assembly vote in support of the Motion, then the Honourable Lady Minister to my left, and myself, will simply have to pack our little belongings and go right back over to the Backbench and at that point and time we become *the Lady Member from North Side* and *the First Elected Member from George Town*.

And, by the way, I have to say now to the Second Elected Member from George Town that I am pretty confident from the indications that have been given, that the vote will be 'yes' and I will have to vacate where I am standing now. So please get your stuff ready to shift because I would want back my seat, please, if you do not mind. You have done a sterling job holding it there for me.

Mr. Speaker, I have had to come to the view that regardless of the likes, the dislikes, the beliefs, the *don't* beliefs, if at this point in time that is the desire of nine or more Members of this Legislature Assembly then if they proceed with a vote in that fashion the Constitutional framework that we have allows for

it. And because I am duty-bound as a citizen of this country to respect that Constitutional framework that exists at present, I have no choice but to accept that. Those are the plain facts.

I want to try to get the situation in a light where maybe what is expected that I will do, might not happen. You see, Mr. Speaker, over the years in this Honourable Legislative Assembly, I have been able to get to understand clearly that even when my feelings and emotions instinctively wish for me to either react or say things in a certain manner, I try my best to refrain from that. I believe that my responsibility as a representative in this Legislative Assembly transcends that.

Some may ask, *Well, how can you deal with it like that?* Well, the truth is, as time goes on you do get older and hopefully a little bit wiser and perhaps a little bit more understanding. But there are times you have to go by yourself, bite your lip and say those few things that you do not want everybody to hear you saying all the time, get it off your chest and move on.

Mr. Speaker, I have spent the last year on a, perhaps, roller-coaster ride which was a great learning experience for me. I have to stand here today to say that not all the time did I have up front a full grasp of everything that I was participating in as a Member of Executive Council, because with the best of intentions and even good understanding that is physically impossible. I am certain that lots of times others who are on Council, or who have been on Council—lots of times they too realise that some of the things that came at you, you had no idea that they were coming, or what they were all about, and you would have to try to gain a clear understanding of what was happening.

What happened in the past few days has perhaps taught all of us that we are very, very insecure politically in this country. There is merit to what the Third Elected Member from George Town said, when I speak to certain things that he did say, in my view. And I think what perhaps frightens the nation more than anything else right now is, *Is this going to happen again next week? Is it going to happen again next year?* I think that is where a big part of the problem is with the understanding and that is a very understandable fear.

So in essence it really does not matter who the players are in the game. Those players can change but the structure still allows for this to happen. I do not know if we would ever get a system which would totally prevent this being able to happen. But, obviously, we need to get a system which allows for a bit more structure so that this does not happen on a 'whim and fancy'.

When I walked in this morning, Mr. Speaker, I saw a good size crowd of people out there cheering and it made me feel good. It makes you feel that what you have been is appreciated, but it does not end there, Mr. Speaker, because regardless of the disagreements which we may have politically as elected representatives, the country has to run.

I am going to take this opportunity today to speak to some of the deficiencies that exist, Mr. Speaker. It is time that every single person in this country has a clear understanding of them. We must not fear anymore about talking about certain things. It has been said before, but the fear still exists: I know that. And all of us who choose to seek to represent the people of the country, by and large over the years, have either endorsed some of those fears, or found fear in realising those fears and not been able to find it in ourselves, for fear of not being accepted politically to talk about these things. We have a system, Mr. Speaker, that is built for disasters like this to happen.

Let me just use some little instances to talk about. When the West Bay contingent delivered their verdict on Friday afternoon and I tried to gather myself—because for a few seconds I could not believe what I was hearing but then I was trying to understand why I was hearing it. When we started to speak to the reasons for it, we heard about certain things like the Civil Service and that the public is crying for us to find ways to curb Government's expenditure. Valid, very valid! I am not questioning the validity or the veracity of the statement. But, Mr. Speaker, the elected Government . . . And let us take it a bit further and say, *Me*. For that to be mentioned as a part of a build up of reasons why they could not support the upcoming budget for the Government, meant that rightly or wrongly so, they must have felt that their elected Government could do something about that directly.

Mr. Speaker, I am here to tell you that the Honourable Chief Secretary is right here and the other ministers are right here. We have been battling that from the day we walked inside that Glass House. Everybody might have different views as to how to do it. But the battle is not one that you can simply say you did not do anything about; the battle is because of how the system operates. And of course you would not know if you had made any measurable success until you saw a budget and you were able to go through whether expenditure was able to be contained; whether new services included a long list of new posts to be created; whether posts were made redundant; whether they were not filled, whether they were not funded or whatever. Because the majority of Government's recurrent expenditure is personal emoluments, basic salaries and other statutory obligations.

So Mr. Speaker, it is one of those situations where you find yourself actually agreeing with the sentiments that are expressed. But only having to part company because you live close to it and where the sentiments are coming from might not have exactly the feel for it.

Then we speak to communication and the lack thereof. Mr. Speaker, if we are objective in our thoughts, which I am certain we can be, those of us who are part and parcel of that group (my colleagues on Council included), will remember that on several occasions we wished to have a meeting. Somebody was either leaving the Island, or would not be here on

the day, or there was some meeting. And I am sorry the Honourable Financial Secretary is not here—not meaning to be funny, but at least once and perhaps twice a day, especially from him, they were sprung on you. That does not mean there is anything wrong—that is just *the nature of the beast* and how it works. They just keep coming at you. I am not making any excuses, I must be honest; it really was not that much fun, but one hell of a learning experience! I can tell you that! I did not mean to be unparliamentary, Sir.

Mr. Speaker, Sir, perhaps others have mentioned that it is a sad day. After the first few days of trying to grapple and grasp and understand why something like this would have happened, and searching my soul to find out why is it that I, personally, thought that I gave it more than I thought I had - and it could not be seen that way - I realise that there is a bit more to it than that.

I almost want to believe that perhaps today might not have been intended to be exactly like this. I guess we all find out in this business that things have a way of taking on their own lives and just breeding fast, fast, fast. But even if that is the case, Mr. Speaker, and one wants to continue to participate in the process and one wants to remain as intact as possible in the process, the very serious consideration that someone like myself has to make at this point in time is, *where do I really think we should go from here?*

I do not know if what I am going to be talking about now will be agreed upon, but I have to say it the way I see it. The public of the country, in my view from everything that I have heard, do not agree with what is being proposed at present. I think a part of all of that is the process that we have, and how it allows for it to happen. And the mere fact that they are not prepared for something like this to happen it is only natural, Mr. Speaker—and those of us who have been around for long enough will have a good feel for that. It is only natural, Mr. Speaker, that one can almost certainly anticipate certain reactions once one thinks the process through—when a decision is being made as to what the public is going to say or do when they hear what that decision is.

The question is: If the majority of the Legislative Assembly, in their minds are satisfied (the majority being at least nine), are satisfied that it is the right thing to do at this point in time and you have a public opinion which seems to think it is not the right thing to do, then what do you do? The public elected them and in the process they become the trustees of the representation that is made up in this Legislative Assembly for the public and they believe it is the right thing to do. Perhaps this is one of those occasions, Mr. Speaker, when only time will tell.

I think the Member for East End spoke about not being able to give definitions of certain characteristics of an individual and the point he was making is that you have to live through it to be able to prove it; honesty, integrity and such the like. This, too, is a



situation where those who believe it is not the right thing to do have their reasons. Those who believe it is the right thing to do have their reasons and the way the Constitutional framework is, only time will tell whether it was the right thing to do or not.

Mr. Speaker, I want to talk a bit, about the way Government (not the bodies) works. Regardless of any policies that the Executive Branch of Government creates as a framework to move forward with, the way the system operates now, it will not materialise to anyone's satisfaction either from within or without. It just cannot happen. There are policy-makers which is the Executive Branch and with the best intentions of the world, the official arm and the various Ministry staff and the Departments that implement those policies under the various Ministries and Portfolios are simply not attached well enough to the process to allow for it to happen. Theoretically, it sounds textbook style and it should work fine. I am telling the whole world that it is not worth you know what; it does not work! Not because of individuals, Sir, but all of the attachments simply are not there. So anyone, or any group, who wants to move forward—as is obvious there is a group now—needs to understand clearly that there are certain things that must be done.

You know I shall never forget six months ago—when I have finished the statement, people will understand where I am coming from. And I am not taking tales out of school. Six months ago, I prepared a paper to Executive Council which made a very serious attempt to address the deficiency that I am speaking to between the policy-makers and having the ability for not only advice to come to policy-makers, but for implementation to become a reality. The paper was pulled and it never went to Council. It was not pulled by me and I do not have to say anymore and I am not accusing anyone. I only make the statement because I want my colleagues to understand that I hear where they are coming from, from their side of the fence, with perhaps some things they cannot see. But I want them to understand and I want everybody to understand that I understand. I do. Now when you pull a paper and it does not get on an agenda, you are supposed to talk about it. I guess obviously with what is going to happen here today, I will never get the opportunity to talk about it six months later. Maybe someone else might.

Mr. Speaker, the country has some basic problems. We have a problem with our expenditure and our revenue on the recurrent side. We have a problem with, continually at this point, having to borrow for our capital expenditure. If we trace it, at one time the balance was fine. But when I used to stand up on the Backbench and preach and say that this is not going to last forever, the answer given to me was that *'it will stay like this for the foreseeable future'*. Well we cannot say that anymore; *'foreseeable'* has gone. That is not a problem we are going to cure in a day.

I do believe that the most important players in that game, which are the employees that make up the

Civil Service, now have a clear understanding of the new culture that has to be developed and I am praying to God that that momentum is not lost, because if we do not get that momentum to continue, and even to refine itself, then believe me all is lost.

But you see, here am I, Mr. Speaker, standing up and talking about that—and I want everybody to clearly understand that even in the last few minutes or hours that I may be the Leader of Government Business in this country, it was not my responsibility but I am held responsible for it.

I am not complaining, Mr. Speaker: I say all of the things that I am saying now, to be truthful, even in what others might see as these dark moments. I say this for the benefit of my colleagues and I mean that sincerely. So what we ended up with is a situation where some people tried to practise before the real thing. That is exactly what we ended up with. The difficulty with that is that if everybody is not practising at the same time, then it is very difficult to get it synchronised.

There are some people who obviously for some time have had a desire for it to be like that because they see the merits of the system moving in that direction. But nevertheless, I speak to these difficulties not to seek admonition, Mr. Speaker, I speak to them because I want the people of this country to understand very clearly today what has transpired and what is transpiring.

Some of us in the Legislature might have other views about other matters; I might have views about other matters; but the bottom line is, those other matters really do not matter right now because those other matters are a totally separate issue. If we try to marry the two of them, emotions take over, logic goes through the window and we do not have an understanding of what we have to do to correct the situation.

If I react because of what I feel, then I speak to the personal issues that a lot of people would like. And maybe some people might get disappointed if I do not do that. However, we need to understand that this is very serious because we cannot have a continuation of the way things are going. We were able thus far, after everybody fired off his shots, to end up saying *'now it is nothing personal'*. But then the next one says, *'do not think now that I am not going to answer you'*. And when I finish with it I am going to tell you the same thing. So we try to say that it is *nothing personal* but the truth is, Mr. Speaker, it is very difficult for it not to get to that.

All of us in here, regardless of what has happened, have enough understanding among us to try to make sure that we are still within a reasonable acquaintance of each other. Sometimes you have to leave it for a few days to make it cool off; the Third Elected Member for George Town and the rest of us know that. Eventually we will kind of get back to normal.



But, Mr. Speaker, the way this system is working for us now, and when we find the things that do not happen that we think should happen and it reflects on one's ability, sometimes that is correct but not all the time and that is why a lot of the times you get the 'personal' business. I mean I could look you straight in the eye, Sir, and say to you, I simply know you are a bad person, I could do that. . Just so that you will feel at ease, I do not believe that, so I would not say that.

But, Mr. Speaker, here is my colleague sitting next to me in his usual style, the way he listens. And not by his volition, not by my volition, by coincidence we have not said hello today. See? And we are all battling in our minds about what we are doing: *Are we doing it right? What is in it for me? How do we put the combinations together?*

Mr. Speaker, many have been here longer than I have, some have had more than one stint, some have arrived the same time and some have come later. However, I have been here long enough to understand that as long as we keep it the way it is, it will be no better for us. Trust me. You know what is happening here today? It is just my turn; that is what is happening here today. Regardless of how safe any of us in this political arena feel now, if we think for two seconds we will understand that we do not know when it is going to be us.

And you see perspectives are gained for different reasons, but the end results do not change. We have a problem. We could look at the scenario and say it differently. Perhaps it might not have emanated from a certain angle for which another angle was created, for which the bodies had to fit, because that is what you know. Nobody has to tell me anything; it does not take me long to figure out; I understand what happened and it will happen again. You know, Mr. Speaker, the first time you cook something a certain way and it tastes good you are going to cook it again because it tasted good. Somebody just said to me, 'Please don't make it turtle'.

[Laughter]

**Hon. D. Kurt Tibbetts:** This much I know, Mr. Speaker, with all of that if I cook a good pot of turtle, those same people will eat it again, I know that, they do not have to admit that. I know that.

Mr. Speaker, I am going to ask this country to do something: it is a bit risky and perhaps—no, that is not the case, no—no, that is not the case—I was going to say, perhaps I grow weary—no it is not that. But, Mr. Speaker, the truth is I am a part of the system. I understood before last Friday how it works. I just never thought that it could happen like that and that I would be involved in it.

You see, the logic behind all of that is, you do everything you can; you try to anticipate things; you try to see forward; you try to have what the Third Elected Member for George Town refers to as the vision, and you try to move forward with it. And every

day of your life you have to ask God, *'Please give me some more strength because the day does not have enough hours in it'*. When all of that is finished it is still not good enough. However, that does not just befall me; it befalls everyone at different points and times.

So, as I was saying, Mr. Speaker, I am going to ask this country to do something. This process under the Constitutional arrangement is a legal process. My colleague argues with logic about the 'grounds' but, Mr. Speaker, if we wish to get technical it might take us a year-and-a-day and a bunch of lawyers who may give different opinions or who may find out that what she is saying, the way it reads is right, or the way some other person interprets it is right and she is not right.

As you well know, Sir, in this arena many things are left to interpretation and one could argue for a whole day about something that is agreed upon. The Second Elected Member for Bodden Town knows very well that you can do that and bring logic to that argument. But somebody else can say the opposite about the same kind of argument and you can listen to both sides of the coin.

So the bottom line is this, Mr. Speaker: my view is, whether I like it or whether I do not, here is what I am faced with and here is what the Lady Minister is faced with. We are satisfied that we have been the best representatives that we could be. Also, we are firmly of the belief that wherever we sit we will continue to do that job to the best of our abilities. But the Constitutional framework allows this to happen. We have the side of the people; we have the side of the Legislators. The fact is, as many words of encouragement can be given, as many tears can be shed. I walked out awhile ago and a lady hugged me and started to cry, I mean really, literally. But, Mr. Speaker, let us step back for a minute and I am going to ask this country—because we have no other recourse at this point in time—that if nine or more Elected Members of this Legislature want to move forward with this Motion, the way they have expressed through the Motion, then we should accept it. Might not agree with it, but the reason I should accept it is because I will never be a part of testing the integrity of our Constitution. If we see by experiences what is wrong with what we see happening, then let us use the process to change the Constitution. The wrong that I speak to means that if people believe it should not be like this and there should be some other way that they might have participation in a process such as this, then let us use due process to change it so that we will not have this problem to deal with again.

We cannot stop this process now, Mr. Speaker, and say *'wait until we get that changed and then we can make it happen'*. It does not work like that, it does not work like that. If my water bill is \$100 this month but is only going to be \$50 next month, I still have to pay the \$100 this month, I cannot pay \$50 this month I have to wait until next month. I know that is a bit risky but, Mr. Speaker, let us think about the country. Some

people might say *'if we do this'*—and they have their personal preferences for their own reasons—*'if we do this, this is what is going to happen that is not good'*.

Mr. Speaker, we have a process still, and I do not believe that the process is that fragmented or cracked up that we cannot survive until we get this thing fixed. I believe we can. If I do not believe we can, I go home—I got forty-odd new trees to plant. But, Mr. Speaker, regardless of how we feel (about myself or anyone else), we have to take the system that exists: the Constitutional framework. If we want to change that, we cannot change it for individuals. The individuals have to fit into that. That does not fit into the individuals.

I am doing pretty good. I feel all right. I thought I was not going to make it, but I am okay now, Mr. Speaker, I will be okay. I have said what I have said in the manner that I have said it, because I recognise, Mr. Speaker, that there are many, many people in this country who for whatever reason today, felt the right thing for them to do was to show an expression of dissatisfaction for what is happening now and voicing their opinions. They have the right to do that. They most certainly do.

But, Mr. Speaker, it would be wrong of me, no one else, just 'I'. It would be wrong of me, Sir, understanding full well where this country is at today, to egg the people of this country on to try to stop this if the process allows for it. The reason why that would be wrong, Mr. Speaker, is because if we think about it for a minute—stop and think about it for a minute.

I did a good grandstand job here today and I had fifteen or twenty pages of notes prepared and real good points like how I used to deal with my good friend sometimes when he was here and I was there. I know I had him beat sometimes; sometimes he could not answer me, I know that. Sometimes he had me kind of funny too, but that is alright.

And, Mr. Speaker, if I did all of that, let us just stop and think for one minute; let us stop and think about what is still precious in this land. Mr. Speaker, if I did that, no one but God knows what might happen. And no one in the Gallery, no one who is outside and no one who will hear this broadcast tonight can truly be sure that the risk will have been worth it. Because that is something else that takes on its own life and two seconds before it starts, everyone still says it is fine. And something goes wrong just in one little corner then you do not know what you have on your hands. And it could be good people involved in that, with good intentions. Mr. Speaker, at every risk that I personally may face for saying it like that, if it is a risk, I love this place too much to attempt that, or rather to risk it. I am not going to do that. I am not going to do that, Mr. Speaker.

The vote will carry today, it seems. If that is what happens, I am going to close. I did not bring much today, so I will not have much to walk with. Another time: when we get to Budget we will deal with that. But I will do that and I perhaps will wait until the

next time around before I ask my colleague back for the same seat, because it really was comfortable and, Mr. Speaker, I will still be the best representative that I can be. I will be a little bit wiser, a year older, but with no shame or no disgrace—in fact a little bit better off because there are certain things which I will be able to manage a lot better sitting from the chair over there. Because, regardless of what may be said now, there is a knowledge base that is a little bit deeper than it was before. So let the process go on, let our system continue to work. The ill feelings will pass after a while as they usually do. In the meantime we shall just have to nurse them along.

Mr. Speaker, my recommendation at this point in time is, let the Elected Members decide and let us get on with it; let the country get on with its business; let us get on with our lives. And that is not a *'give-upper'*—that is accepting a process. Some might have said, Mr. Speaker, if that is the position then why resign? Mr. Speaker, I was not elected to resign and I know that and the people know that and I could not do that. For me to do that, I would go home permanently and plant *dem* trees and I am not ready to do that yet. I am not ready to do that yet!

I believe that I can still make the people of the district and the country proud with the representation from the Backbench if that is how it has to be. I think that in saying that, I can speak for my colleague the Lady Minister in the same vein because she has her own strengths too. I think you know that, I think you probably have some vivid memories of her in action. Yeah. I wish, Mr. Speaker, that things like this we perhaps may not have to go through at times.

I want to especially say to the civil servants in this country, you have taken some licks recently and some of them came from me kind of pressing hard with certain things, but I know that they understand why certain things had to be done differently. I believe they have a full grasp of it. I am going to plead with them not to let their morale go down again, I could sense it beginning to come up. Let it continue to rise. We shall all be the better off with that. Do not let this get you down; this will pass.

That is ultimately important in the process, Mr. Speaker, regardless of the political agendas and policy-making decisions from within this forum or in Executive Council and its activities. It is absolutely important to get the Civil Service finely tuned and working like clockwork and the people in the Service are not only with the ability to, but they have the will to do so if it is set up properly to do so. That has not happened before and it must happen now. It must!

Mr. Speaker, I do not know how anyone else wishes to deal with this matter. I have said it the way that I believe is the best way possible to say it. I could have taken a different role with it, but I do not believe it was in the best interest of the whole situation and the country to have taken it, or dealt with it, in a different manner.

Let time prove itself one way or the other. Let us move forward even if it is with reluctance let us accept what we have in front of us; however way we do it, whether we like it or we do not, let us accept it. Let us understand that we must do everything possible to shore up the arrangements that we have to ensure that things like this do not happen lightly in the future. Let the country not have to worry whether this is just the beginning of worse to come; we do not want people to be thinking that.

I want to say to the Government—and I am working on some assumptions here. I am not trying to goad anyone on to try to tell them to do what they do not want to do, but as I said, *that is the way it goes*. I want to tell the Government this—and I am not going to even try to point fingers because we will all understand. There needs to be (if it has not started yet, I actually hope it has) a very serious PR campaign to not allow this to be read internationally, differently from what it actually is. I understand that things have already happened, but we cannot leave that alone, Mr. Speaker, because that is bad news for us. So I just hope that note is being taken and it is being dealt with in the right way. Let us forget about the politics for now. If the political process makes for this to happen, let it happen and then let us move on. Let us not keep talking about this; there is too much to do now.

Mr. Speaker, I read your letter this morning and I just want to let you know that I have had a most enjoyable journey with you. I remember once looking at you and forgetting who you were and saying, “Don’t look at me like that.” Do you remember that time? I felt so ashamed. I had just forgotten where I was, but I apologised and then you said to me afterwards, “*before you said it I had already forgiven you.*” I thank you for your kind spirits.

I trust that you will really retire now. You need to do that now. I do not mean it like that; you need some rest and relaxation. You deserve it. You have spent your time well, Sir, and I think that I speak for everyone here with the highest regard for you.

I do not know whether there is any reconsideration on the timing that I saw in the letter, but whenever it is, Sir, I did this just in case that letter holds true. We have had so many different situations with that. I am not one hundred percent sure—just going by the latest one I have heard.

Mr. Speaker, in closing let me say that I think we should simply look at whatever has happened as a lesson in the learning. What we need to do as quickly as we can is to mend the fences internally and externally. I am not one to live with grudges, but I do learn my lessons. Sometimes they take me very long, but I learn them well. Let us get on with this process, wherever it needs to go and let the country move forward, Mr. Speaker.

I thank you.

**The Speaker:** On a matter of procedure, we normally take an afternoon break. Is it the desire of Members that we continue and waive the break? Continue?

The floor is open to debate. Does any other Member wish to speak? The Motion is open for debate. Does any other Member wish to speak?

The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. After listening to the last speaker (which was very touching), I must say that up until now, Mr. Speaker, the debate on this very serious Motion has been as we have experienced, at a very high level. I trust that toward the end it will continue to be like that. Mr. Speaker, I will not be long, as my job here this afternoon is more as a messenger—that message I will reveal shortly. As the saying goes, I hope they do not ‘*shoot the messenger*’.

Josh Billings has said, “the less we know, the more we suspect.” This can be applied to some of the areas which have transpired over the past few days. Earlier, my good friend ‘the preacher’ alluded to the Motion—most unlike him—but I do know as a parliamentarian that he has the right on winding up to expound and expand on that Motion. However, it would have been nice for the public to have a better understanding on what basis the two Ministers of Government are being removed.

I need to tell the public, Mr. Speaker, that in the last selection of Executive Council I did not vote for the Minister of Planning, I did not vote for the Minister of Community Development, nor did I vote for the Minister of Tourism. Just so that they will understand that my position of objection at this time is not partial to one side or the other.

What has transpired here today (as has been said by a number of speakers) is legal because it is within the provisions of the Constitution. But the question that I have is: Is it the right thing to do at this time? I will gradually ease into my brief part of the message. The question I wish to ask is, Have we gone back to the people who elected us, to get their feelings and feedback? As to my knowledge, none of us campaigned on forming an organised party system between elections where there will be a new Leader of Government Business—come Chief Minister. I think it is most unfair to the electorate to take this step without their consideration and input.

I would like to take this opportunity to thank the members of the public that is sitting in the Gallery and the hundreds who took time off from work this morning to express their democratic right and feeling to come and let us Legislators know that they are here, they are aware of what is going on and they have a deep and keen interest in it.

I, personally feel, Mr. Speaker, that it would have been more prudent to have delayed these actions for at least one week and talk to the people who put us here in the first place because we are, and should only be, their mouthpiece in major changes as

these: especially considering, Mr. Speaker, the human suffering and distress caused by hurricane Michelle on the South and Western part of Grand Cayman. Owners of condominiums and businesses indicated they had heard literally nothing from the Government about their serious plight.

Mr. Speaker, after receiving numerous phone calls and visits from people who were very concerned about the power-play taking place in the Government, I felt it was my duty to go to the people of Bodden Town, who elected me to this Parliament to seek their feedback—which I did last night. There were well over two hundred people from all walks of life present at that meeting—from every district literally in these Cayman Islands. They voiced overwhelmingly their objection to what was taking place. The message I was asked to bring here today was that they are most upset because their elected representatives did not come back to them on this most important issue. I was also asked to caution all MLAs that this might last for the next three years but they will never forget in November 2004 what has transpired.

Mr. Speaker, as we have observed while gathered here this afternoon, the die has been cast and listening to the not yet former Leader of Government Business, he has accepted this graciously.

There was an illustration drawn in regards to the last administration where there was a change in Leader of Government Business. I do recall that, Mr. Speaker, but to the best of my knowledge that change in the Leader of Government Business was pre-arranged before we actually went into Parliament where the Honourable Thomas Jefferson would act as Leader for two years and after that Honourable Truman Bodden would take over. There was no animosity that I detected at that time and I think many of us here know what transpired.

But, Mr. Speaker, Democracy speaks. What is being done is allowed under the Constitution and I would ask that we as Legislators be open, go back to the people, explain to them what is going on; let this be a time for healing to bring these Islands back together. There are some very difficult times out there and I do not have to tell anyone that. Mr. Speaker, I feel that what has happened in the great United States has yet to trickle down here.

We have to remember our Heavenly Father who has put us here and the kindness and mercies He has shown us, especially in most recent times. Without Him there is not a lot we can do. I would urge our new Government that they would seek His guidance and precepts as they go forward, because Caymanians, we are in some very difficult times, economically, morally and spiritually. This is the time, Mr. Speaker, for all of us to stick together and put the past behind us.

I do not know who will become the new Speaker. At certain times I was approached, but that is history. I have no hard feelings against anyone. My job as a representative of the people is to support

whomever the majority say here. I am just passing through. My colleagues and the public, my focus now is on getting ready for a better place.

I wish you all, the new Government, the best of everything and that we can work together in harmony.

Mr. Speaker, you have done an admirable and commendable job here today under difficult times; you were outstanding. I am very proud of you as a Caymanian. May God bless us all!

**The Speaker:** The Motion is open to debate; does any other Member wish to speak? The Motion is open to debate; does any other Member wish to speak? Again I ask. Please let us not delay. If you intend to speak, let me recognise you. The Motion is open to debate; does any other Member wish to speak? This is my last call. The Motion is open to debate; does any other Member wish to speak?

If no other Member wishes to speak, does the Honourable Minister wish to exercise his right of reply? The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you.

Mr. Speaker, let me begin by thanking everyone here today. Whether or not you believe that this, at this point in time, is the best move for us as a people or not, we are all Caymanians and I am proud to be a Caymanian. I am certainly at this point in time reflecting, as is my duty as the mover of the Motion, but all that has been said.

Mr. Speaker, certainly for all of us who sit in these Chambers as Elected Representatives there comes the time when we have to make what would be difficult decisions, what will be sometimes unpopular decisions. That is what the people of these Islands elect us to do. I am not here to villainise anyone. I am not here to castigate anyone. We have a political process that is conducted every four years, when we as Caymanians elect fifteen people who are constitutionally bound to act.

I have heard much said about consultation of the public. The one thing, as the youngest Member in this House that is so sad as a twenty-nine year old young man, with a five-month old daughter, to have people say that we should have consulted the public now. What about last year when we formed the Government? Does anyone think that I did not get pressured for supporting some of the people I voted for? I did not hold any public meeting then, but I was not criticised, because for the most part the people here today liked the choice I made. What about the thousands who are not here? They were probably the ones who did not like the choice and like what I am doing now; therefore they did not feel moved to show up today.

So I did not hold a public meeting last year: nothing was said. And that was a very important decision last year when I was forming a government. That was a very, very important time in all of our lives, just as today is a very important day. However, I fail to see

how it can be said that this is a dark day in Caymanian politics. To me, those who would suggest that this is a dark day may very well be blind to political maturity and political reality. We formed a coalition government. Mr. Speaker, I would like to read into the record the definition of "coalition": "an alliance, especially a temporary one."

Mr. Speaker, this certainly speaks volumes to where we are socially and politically. We are in the year 2001 and we brag about a lot of things that God has given us. "He hath founded it upon the seas." "He [and that "He" is the Almighty God] hath Founded it upon the seas." It is He who allows us the life, the material things, yet we expect to govern ourselves with loose relationships where loyalties can shift with the tide, winds and fancy of the public popularity. So if somebody is popular in West Bay now, you align with that person, but then when they are not popular, you then jump on with who comes behind them. If somebody is popular in Bodden Town now you band with them and then when they cease to be popular we jump on with them.

**The Speaker:** Let me interrupt you for a moment.

May I ask the strangers in the Gallery to please respect that the debaters are here to be heard? Please try to be as silent as possible. I know the temptation is to talk but that is not what we are here for. Please observe the rules.

The Second Elected Member for West Bay, please continue and I apologise for the interruption.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

As I was saying, over the last few years we have never had, and have never seen a reason to have, clear-cut philosophies and to have people run together on clear-cut philosophies so that there is transparency in the political process. So that when the person in East End goes to vote for a candidate he knows who that candidate is going to support for Executive Council or Cabinet; when the person goes in North Side, he knows who his candidate is going to support; when you go in Bodden Town you know who your candidate is going to support; George Town; West Bay; Cayman Brac and Little Cayman.

Mr. Speaker, I, like all of us, know no other home. This is our home and I would ensure that I think very carefully about every action that I take in life especially as an elected representative of the people. I would not take an action unless I believe in my heart of hearts it is for the good of this country and it is for moving this country forward.

You see . . . not to brag, Mr. Speaker, but God blessed me as a young man. He blessed me with a good family. He blessed me with people who prayed for me and I managed to get a secondary education. I also managed to get myself a professional qualification. So nobody is going to tell me what to do as an MLA. I do what I believe is in the best interest of these people and the people of these Islands, my people.

Because, Mr. Speaker, you see I have the advantage that if there were to have been a distinct majority in this Legislature that wanted to do something that was not in the best interest of this country, I could easily step aside irrespective of what the political ramifications would be, because I know where I would go afterwards if God spared my life: I would go back to Accounting.

Mr. Speaker, I realise that when you seek election the responsibility that goes with that is tremendous. The people select fifteen people to come here to carry out business. I ran on a manifesto. I ran on a basis of what we as a group coming out of West Bay were going to try to achieve for the people. Mr. Speaker, this business of destabilising—you know I find it so sad that our Constitution would have clauses in it that are destabilising and yet we could not point those things out before now? It would take us to evoke that to then realise it is destabilising.

Mr. Speaker, I find it very difficult to believe and very difficult to imagine that with all the talent we have in this country Caymanians and expatriates—but especially Caymanians, especially Caymanian lawyers. I find it very difficult to believe that we would have provisions in our Constitution that would destabilise the country and it not be pointed out before.

Mr. Speaker, just a short time ago there was an attempt to impeach President Clinton. There were people on one side who really liked that and they wanted that to happen, and there were people on the other side who did not like that; they did not want it to happen. The country moved forward.

Mr. Speaker, Margaret Thatcher was the leader in the United Kingdom and her party came to her as a group and said to her, '*You do not attract the support of the majority of the people that put you in power, therefore you will no longer be the Prime Minister. You will no longer be the chief among equals.*'

But, Mr. Speaker, much has been said about last Friday and certainly a lot of the country would have seen and heard the statement that the Backbench Members from the district of West Bay issued, which I read.

Mr. Speaker, as I recall it, I clearly said in the meeting that within the group that formed the Government last year November, of which I was a part, I did not feel as though there was any direction. I did not feel as though the people in this country saw something that they could grab on to and latch on to and be active participants in the process in the progress forward. Mr. Speaker, if you are not progressing by default you are regressing. We must continue to progress with all the competition that we have in this world.

Do any of us think that our neighbours will not gladly take and accommodate the tourists that we might otherwise not have? Do any of us believe that our neighbours would not gladly take up the international business that we currently have, or future business that might come our way? Do any of our people

believe that when we get back to the domestic level that we are not in trouble?

When we look at drug use, teenage pregnancy, all the social ills that are crippling this country; we must have a clear purpose and direction; we must progress as a people; we must march forward in faith; we must be prayerful; we must ensure that we are active participants in the good for all of us. But the most important thing, Mr. Speaker, is for our children and grandchildren. As I said, Mr. Speaker, I only have a five-month old daughter so obviously I do not have any grandchildren. Mr. Speaker, I am young but I realise that everything that happens today must be a part of the foundation of what, God willing, any unborn grandchildren that I have will come to inherit and build upon. I am not so blind, or so pompous, or so self-centred as to think that I must be looking out for me.

Mr. Speaker, life is but a vapour. Life is but a vapour. Mr. Speaker, if I happen to derive some benefit in this life and whatever benefit you might want to imagine, then that is good. But Mr. Speaker, the most important thing for me is to provide spiritually for my family and second to that to ensure that as an elected MLA we build a foundation that is not on sand; that we build a foundation that is on solid rock.

And, Mr. Speaker, I say it again: I do not remember any of us who formed the current Government going back to our people and asking them what they thought. One thing that we have sought to do as a team from West Bay was to go and ensure that the electorate there are kept informed on public policy. But you see, Mr. Speaker, we are so politically immature in Cayman that we can get MLAs who themselves may or may not know any better, but will tell the people that public policy is the same thing as Legislative democracy.

Mr. Speaker, the Legislative democracy is governed by the Constitution and it is governed by the Standing Orders that we have to obey in this Legislature. Mr. Speaker, no one from my constituency cried out to me and said I should have a meeting last year when I formed the Government. So why in the world would I have said to myself that I would have to have a meeting now? This is an internal matter in the precincts. The people entrusted us to be responsible and, Mr. Speaker, in my humble opinion a part of that responsibility is not to have let 2004 come and come up with all sorts of excuses and come up with all sorts of stories then. This is the here and now. Mr. Speaker, a power issue.

Mr. Speaker, two years ago almost to a day, I made a conscious decision to leave the tranquil waters of Price Waterhouse Coopers, the largest accounting firm in the world to get involved with politics, because, Mr. Speaker, I thought I had something to offer my country. I knew I could do a lot of good there because I was the most senior Caymanian there at the time. I was within eight weeks of my promotion to manager, when I left and in fact I was still made that

offer in the event that I was not elected, but thank God I was elected.

When I weighed up my personal options I said, "Okay should I stay where I can make more money and have a really quiet, personal life with my wife and any future children and the rest of my family, or do I get into politics?"

And one of the things that my father said to me was in my considerations—If I was willing to have a bad name for the rest of my life then go into politics. And then he also added one thing "In fact if you were to ever get into Executive Council you are going to be bound by collective responsibility." Mr. Speaker, I slowed him down and I said, "Daddy, remember I am just a 28 year-old young man. I am not going to be on Executive Council so let us not talk about that." But it is a very real thing, Mr. Speaker. We get out into the public domain and it is amazing. Once people do not like you or whom you are associated with, boy you are an awful person!

**The Speaker:** Please talk a little more into the microphone because you are not sounding loud enough.

**Mr. Rolston M. Anglin:** I was trying not to come through too loudly, Mr. Speaker, but I will speak a bit more into the microphone.

As I was saying, Mr. Speaker, once you are not aligned with a particular person, based on that individual's preference at the time, you are just one awful person. Mr. Speaker, just as a reminder: we all in this Chamber put on our garments one leg at a time, we are all human beings, we all have families, we all have friends. I look into the galleries and I see some people who are disappointed in the stance that I have taken. I look and I see smiles and nods and I see people who have called me and agreed with the stance that I have taken.

One of the things that we have not managed to develop—and this has to serve as the launch pad for that—is that ability for husband and wife, father and son, mother and daughter, sister and brother to recognise that politics is but a subset of life. Politics is but a subset of life. Mr. Speaker, you run for election; you want to do good for your country; persons who used to speak to you do not speak to you anymore because of who you are running with.

Mr. Speaker, we are in a position in this country, where the majority of the duly elected representatives in our Parliament have come to agreement on a specific position. The position is: *Who will make up that side of the Parliament? Who will comprise the elected membership on the Government Bench?*

Well, Mr. Speaker, let me speak to Party philosophy versus Government policy for a minute, because I think that issue was somewhat confused a bit earlier. Mr. Speaker, the broad philosophy of a party is what the group stands for. Democrats are liberal; Republicans are conservative. Within that the parties set down specific policies and, Mr. Speaker, those poli-

cies change with the times. The United States' policies changed drastically on September 11<sup>th</sup> when they bailed out the airline industry and came up with emergency funding where they have gone to war.

Mr. Speaker, we agreed as a group that we were not willing to sit back any longer and let this nomadic nature that politics in Cayman play—one day you are with politician A, tomorrow you are with politician B irrespective of what they believe in. It is just that they are popular; they have the masses behind them; that is a good person. Nothing could be further from the truth, Mr. Speaker.

So we decided that we were going to try to institute some lacking disciplines into these Halls, so that when the people of this country look at an individual they know clearly what that individual stands for and with whom he is associated.

Mr. Speaker, for us to sit back and think that horse-trading and bartering went on after the last General Election! Man, as a candidate you had to see the horse-trading that went on before the Election! People 'washing up' into districts and talking about *I support you*. And then you are the first cousin who's a good friend of yours of your opponent, saying *no, no they support him and he's your opponent and we're going—well if you win we're good and if you win we're going to be together*. . . . At the same time going to Mr. Kenross Conolly and saying *'well if you win we're going to be good too'*.

Mr. Speaker that is not honesty! That is not honesty to the people of this country. If that is what we want to continue, if that is the kind of political model that we want to continue in Cayman, woe be to us!

Mr. Speaker, I make no bones about where my political strength lies. My mother just retired from cleaning condominiums on the Seven Mile Beach in May. My father butchers turtles at the Turtle Farm—thank God they have a few left for him to butcher—so, Mr. Speaker, I know where I have come from. I have come from the grassroots. My father had to drop out of school at age twelve and go to sea. My mother could not even go that long; she had to go to work in homes of the more well to do people. You know that 'thing' that Caymanians do not want to do now that we go to get Jamaicans to do? Helpers? That is what my mama was. My mama was a *helper*. So the day that anybody wants to talk about Rolston Anglin, oh Rolston Anglin does not support X person anymore so now he is an awful person, I cannot speak to him anymore because he is bad.

Mr. Speaker, last year when I voted to put people on Executive Council I was good, but to some people how sad it is that I am now bad. What makes this situation destabilising is the political immaturity within these ranks when we get up and tell the people that it is destabilising.

Mr. Speaker —

**The Speaker:** May I interrupt you for a moment?  
Take your seat for a moment please.

In accordance with Standing Order 10(2), we have reached the hour of 4.30 which is an hour of interruption. It is my understanding that it is the desire of Members to finish the business on the Order Paper today. So I would appreciate a motion for the suspension of Standing Order 10(2) in order that the proceedings can continue. The Honourable Minister for Tourism, Environment and Transport.

### SUSPENSION OF STANDING ORDER 10(2)

**Hon. W. McKeeva Bush:** Mr. Speaker, I move the suspension of the relevant Standing Order in order to continue the business on the Order Paper until we complete it.

**The Speaker:** The question is, that we, in accordance with Standing Order 86, suspend Standing Order 10 (2) in order that the proceedings can continue beyond the hour of 4.30. Those in favour please say Aye, those against, No.

**AYES.**

### AGREED: STANDING ORDER 10(2) SUSPENDED

**The Speaker:** The Ayes have it. Proceedings continue.

The Second Elected Member for West Bay please continue, and I apologise for the interruption.

**Mr. Rolston M. Anglin:** Thank you.

Mr. Speaker, I raised a point on my background because it is significant. It is significant to note that in the last few days either on my home phone, or my cellular phone, I have received a number of calls about today. Mr. Speaker, the majority of the calls said to me, "Rolston we trust you and we believe that you are doing what you believe is right and that is all we can ask of you as an MLA."

Now, Mr. Speaker, as I was saying, this issue of throwing fear out there I find it amazing that we are still at that level of politics. Mr. Speaker, this *Financial Times* article says, "Rebellion has come to the Cayman Islands, but it has little to do with the Islands' six hundred banks" and I go on a little further and I get a quote from a local banker, who said, "the political developments should have no adverse impact on the territories business sector, local bankers said."

Mr. Speaker, what happens is this whole situation has really caught a lot of Caymanians off guard because they expect that the MLAs, are going to come together and we are going to get this little loose association with no real commitment to each other. We could not even agree to sign the covenant that the Minister of Education came up with at the very outset of this coalition. So that tells you how tight a group we really are. A basic covenant that basically said how we would govern could not be signed—could not get agreement on it.

Mr. Speaker, I certainly did not bring it with me, but I can remember another article in the *Financial Times* a few years ago and it was called "Trouble in Paradise, Rough Waters in the Cayman Islands." It was in their special international reports section. It was about four or five pages. It said a lot more awful things about the Cayman Islands than this does and that did not destabilise us: we forged ahead, Mr. Speaker, because democracy does rule in Cayman. Democracy is the people electing representatives and those elected representatives carrying out actions that are legal; actions that are founded within the Standing Orders and the laws of this land; actions that are founded in the Constitution of this Island. Mr. Speaker, I am politically mature enough to realise that this whole thing should not have come to this.

The Third Elected Member from George Town clearly outlined what it is that we have. We have fifteen Members a majority of those Members form a Government. Mr. Speaker, last Friday I did not ask for any change in Government. That is very important, that is extremely important. Mr. Speaker, I asked for a change in direction; I asked for a change in leadership. The response I got was that the current leader could not function and Mr. Speaker, I certainly cannot judge what that meant. It just meant that he could not function on Executive Council unless he was Leader of Government Business and that is not for me to judge. If that is the position, I appreciate him saying it. It is nothing worse than someone not saying what the position really is.

So, Mr. Speaker, I thought that I made it quite clear at the meeting last Friday that there would be no change in Executive Council, that the five Members would remain the same, we would simply have a change in leadership.

Mr. Speaker, I also think it is very important to note that I personally did not specify who would be the new leader. As I said in my release, the Second Elected Member from George Town asked me if I was suggesting that the Minister of Tourism be the leader and I said that would be a consideration that I would support. I certainly expected the meeting to go on until we came to a resolution that the whole group would live with as to whether it would have been one of the other three Ministers . . .

Mr. Speaker, I certainly hope that this whole issue will have gained more clarity over the last couple of days. I certainly hope that we would have gained clarity from what transpired in here today. And I certainly hope that the people, all of us, would now recognise how important it is to have Government civics as an integral part of our education system so that our young people, as they come through school, will know what they have as a country. What is surprising to me is how there is just a vacuum; there is a distinct lack of understanding of what it is that we actually have here in the Cayman Islands.

Mr. Speaker, I have heard remarks made to a party system. I have also heard remarks made to the

fact that what is being done here today is allowed for in the Constitution and follow on comments of "we need to change the Constitution." Now certainly, Mr. Speaker, I do not believe that any of those Members were insinuating that when we get constitutional modernisation that they would seek somehow to not allow for this process because, Mr. Speaker, this is the process by which the persons on this side can hold the persons on that side accountable.

What happens—and this can happen in any country, not just Cayman—what happens when ten, fifteen years from now we have a government in place that goes against their philosophies and their wishes of their Backbench supporters. Right now if the ten of us so desired, we could come together and bring all five of them here and put five of us there. That is an integral part of democracy; that is a safeguard that must be enshrined in our Constitution.

Mr. Speaker, in regards to the disciplines and virtues that go along with having Caymanians organised politically, I could speak all day and night about that. Mr. Speaker, every Caymanian here in these Chambers and in the precincts would agree that one of the biggest problems that we have is that we cannot work together. How many Caymanians are going to deny that? How many Caymanians have not said that to me? The biggest problem is, we cannot work together.

Mr. Speaker, this is a start of people working together; this is a start of people putting philosophical strategies together and coming up with a very distinct, transparent, philosophical mission statement and organisation that everyone in this Chamber, everyone in the Gallery, every voting person in this country can look at, and can identify with, and can make an informed decision. It must happen.

I would hate, Mr. Speaker, eighteen short years from now for my daughter to have to vote in the real mess of a system that we currently have. I would hate for her to have to go to the polls and support someone not knowing who is going to be on that side—that is the policy-making side, Mr. Speaker. That is where the policy direction stems from, that is where it emanates. The people must know.

As I said earlier, Mr. Speaker, I recognise one thing as they say down South, "*I come from the bottoms, and I am proud to come from the bottoms.*" That is where my family is—nothing to be ashamed about. Hard working and honesty: that is what life should be about.

And so, Mr. Speaker, I recognise that for persons in that situation to get the best possible representation, what I am advocating, is the only way—it is the best way. Otherwise, you get certain other segments of society who can put influence and put pressures on these Chambers that can go against the wishes of the majority of the people and that is not fair for people that I identify with.

The masses, the great majority, the clear majority, Mr. Speaker, must have a voice and the easiest



The masses, the great majority, the clear majority, Mr. Speaker, must have a voice and the easiest way for them to have a voice is to clearly be able to see for all and sundry who they are putting their hopes and their aspirations in the hands of. Who will be the Executive Council, who will serve as the Backbench, people must know that before they go to the polls. Certainly that is how I am forced to think because that is the way I have been socialised.

Mr. Speaker, in the district of West Bay no independent has won a seat in these Chambers in well over twenty years. Then we have split teams but no independent has won, why? Because we recognise that you put people together who will work together. When you put people together who can work together, that is when you can achieve things that are positive—that are tangible for your country. That is how you progress and not stagnate. And as I said earlier, by definition if you are stagnating you are regressing because you can believe your competition out there will be moving forward.

So, Mr. Speaker, from November 99 when my colleagues and I from West Bay, launched our political campaign, no funny business; every person in West Bay knew who we were running with. I did not sit down in North West Point and say *'Well I am going to run by myself'* and *'Fellow colleague what I'll do is I'll campaign for you and you campaign for me'*. No, no, we came out to the public and we said, *'Here is the ticket, here are the members, this is what you are voting for'*. We even went through the pains of developing a forty-page manifesto in conjunction with extremely hard-working committee members and I thank all of them because they put so much work into that.

We recognise in West Bay that you do not send one person to the Legislative Assembly. One person cannot move and second a motion. You need a second for a motion so how is it that we expect that to then transform into results?

Mr. Speaker, I would like to say that much has been said about my colleague the Minister of Tourism. As far as I am concerned, a majority formed the Government in November 2000 and it is within that majority that I will wash my dirty laundry. I am not getting on this floor and lowering this House to that level. I have too much respect for the institution; I have too much respect for my fellow Members; I have too much respect for the public; I have too much respect for those who have preceded me in being here; I have too much respect for our ancestors who saw that this was needed and who laboured and built this institution. And I am here to continue building this institution. Any future meeting that any member may wish to have with me is where I will discuss my particular gripes. Because a lot of them are personal matters that I am not going to entertain sensationalising here. This is not about personalities, Mr. Speaker; this is about the majority members in the Legislative Assembly performing their democratic right.

But getting back to much being said about the Honourable Minister of Tourism, unless I have not been awake for the last 4+ years, to the best of my knowledge, the Honourable Minister of Tourism has never been accused of anything. Just like this process, he was asked by a majority to step down and that is what he did. What gauntlet did he have to run? He was asked to step down and he did. That is what political maturity is all about.

If you do not command the respect among the majority, then you do not have power; you do not have basis for the power. We must recognise as I say that this is the policy-making arm of all of us. And it is only with support here that there is strength there. As soon as the support here ceases to exist, Mr. Speaker, then the power there also ceases to exist.

Mr. Speaker, I can recall being in New York at the time when my mother called me and told me about the rally that was organised for the Honourable Minister of Tourism, in West Bay. And she also told me how the Honourable Minister told his people, told his supporters; a crowd of some 700+ people *'no marches, no disturbances—this is politics, this is a political process, you may not like it, I may not like it but I do not command the majority anymore so I have to now step aside.'* Same thing Margaret Thatcher had to do, she did not command the respect of the majority any longer so she had to step aside. That is what political unity will bring to this country. It will bring stability and it will bring certainty.

Mr. Speaker, certainly he as a Member at that time, with the popularity that he had, and with the outrage that was expressed in the district of West Bay, could easily have created a circus-like atmosphere here. He could easily have had this place enthralled with supporters, but he was a long-standing Member of this House; he knew what the political process is all about; he stepped aside. He knew the desires of the Government's Backbench at the time. I think at the time he simply said that time would vindicate him and time has vindicated him.

Mr. Speaker, a lot of us during the campaign last year, because every district operated almost in cocoon fashion—that is there was no group party come forward on a national level. You did not have as much intermixing of Caymanians as you would normally have—as was normally the case in the prior two elections of people from West Bay going to George Town to support the meetings that their candidates in West Bay would support. And so a lot of people, you see, did not realise the level of dirt that went on in the district of West Bay.

Many times as a team we were tempted to reply in kind, but Mr. Speaker, we maintained the high road and I certainly believe in my heart that that contributed greatly to our success as a team. When the public saw that we were sticking to issues, we were sticking to our manifestos, we were sticking to what it was we were hoping to achieve and not getting down into the personal attacks, they appreciated it greatly. But Mr.

the first meeting for every team or candidate in West Bay things were clean, but boy as soon as they saw the crowds at our meetings things turned nasty in a hurry—things turned real nasty.

Mr. Speaker, this whole issue of the letter to Mario Ebanks is an unfortunate incident. But, Mr. Speaker, this man got up on platforms and attacked the Minister of Tourism's family—talked about his daughter and all sorts of things and certainly it did not stop after the Election. All of us handle these situations differently, Mr. Speaker, and all of us can react in different ways when we reach that point—that boiling point. But, Mr. Speaker, certainly when I am in my MLA office and when I travel the roads in my constituency, I have not heard any great fall out over it.

However, Mr. Speaker, there is going to be a new discipline called a party system. And going forward, there are going to be checks and balances that will seek to prevent frustrations of any particular Member reaching that level. Mr. Speaker, a party system is only as strong as its code of conduct. It is only as strong as the whips in the party and literally the whips whip the Members in line and keep the Members in line. And, Mr. Speaker, I can tell any person who is a member of this party or who may be a future member of this party that I carry a big belt. And, Mr. Speaker, if you are on that side I am going to hold you accountable because it is not only my Island it is all our Island—it is the Island for our children and grandchildren.

Mr. Speaker, as I said earlier, my dirty laundry is not going to be laundered. I am not going to stain the Legislative Assembly of the Cayman Islands with that because, Mr. Speaker, I hold this Legislative Assembly in too high regard. This should be the place where irrespective of who sits in here—irrespective of whether you like them personally or not, or you think this one should be on that side or on this side—this should be the place Caymanians can drive past and feel proud of. It is yet another thing that we lack, because of the unchecked growth materially that we have had for small things, that our significant things do not matter anymore. This should be the place that all of us look at. It should give us goose bumps to drive pass our Legislative Assembly. This is the place that we can carry out the autonomy that has been given to us in our Constitution by the United Kingdom. This is the place that all of us should always seek to uphold in the highest regard and let no one but no one throw aspersions or disrespect at the office.

Mr. Speaker, if as a people we cannot do that then I would like someone to explain to me how it is that we expect to survive in the long term. I thank you, Mr. Speaker.

**The Speaker:** I shall now put the question on Private Member's Motion Number 24/01. Those in favour please say Aye. Those against, No.

**AYES and NOES.**

**Hon. Edna M. Moyle:** Could we have a division please, Sir?

**Hon. D. Kurt Tibbetts:** Do not test it yourself, Sir. Let us have a division please.

**The Speaker:** Certainly.

Madam Clerk would you call a division please?

**The Clerk:**

#### DIVISION NO. 17/01

**AYES: 9**

Hon. W. McKeever Bush  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr.  
Dr. Frank S. McField  
Mr. Lyndon L. Martin  
Mr. Gilbert A. McLean

**NOES: 5**

Hon. D. Kurt Tibbetts  
Hon. Edna M. Moyle  
Mr. Alden M McLaughlin, Jr.  
Mr. Anthony S. Eden  
Mr. V. Arden McLean

**ABSTENTION: 1**

Mrs. Julianna Y. O'Connor-Connolly

**The Speaker:** While we are tabulating the division, I would like to say to all Honourable Members, this is the Legislative Assembly and when I do announce the vote I ask that you do remain silent. At the end of the election or nomination, if that is called for, there will be time for your applause. But at this particular time I ask that you remain silent.

The result of the division: Ayes 9, Noes 5, Abstentions 1. The Motion has passed.

**AGREED: PRIVATE MEMBER'S MOTION 24/01 PASSED.**

*[Hon. D. Kurt Tibbetts and Hon. Edna M. Moyle took their seats on the Backbench]*

**The Speaker:** Moving on to item No. 4 on today's Order Paper.

#### NOMINATIONS AND ELECTION OF HONOURABLE MINISTERS TO EXECUTIVE COUNCIL

**The Speaker:** Item No. 4 on today's Order Paper calls for the nomination and the election of two Members to Executive Council. The procedure for this item is laid down under Section 5 of the Constitution Order 1972 and 1993 and under Standing Order 5 of the Orders of this Honourable House, which govern the proceedings.

Executive Council. The procedure for this item is laid down under Section 5 of the Constitution Order 1972 and 1993 and under Standing Order 5 of the Orders of this Honourable House, which govern the proceedings.

### SCRUTINEERS

**The Speaker:** The Chair now proposes, subject to there being no objections from Members, to appoint the Honourable First and Third Official Members to act as scrutineers. If there are no objections, will the Honourable First and Third Official Members take their places at the Clerk's table please? Maybe as a matter of caution I had better put a motion.

The motion is that the Honourable First and Honourable Third Official Members be appointed scrutineers. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Honourable First and Third Official Members have been appointed scrutineers.

Before I call for nominations to the executive Council, I crave the indulgence of members of the Public Gallery. I am aware that there has been much concern in the community within recent days and the results of the election are eagerly awaited. But I must ask that all persons refrain from making any comments, sounds, or other expressions of jubilation or disappointment at this time. This is a very serious matter and the process can be more fluid if members of the general public desist from any manner of audible expressions. I can assure you that at the appropriate time an opportunity will be given to you to manifest your agreement or dissent.

I shall now call for nominations to the Executive Council by voice. Each nomination will require a mover and a seconder. At this time we are electing two members. Nominations will be open and the number that you wish to nominate is your decision.

I should also say that the names of Honourable Members be used in this election. It is normal practice within the Legislative Assembly to refer to Members by the districts they represent, or as Honourable Ministers and their Ministeries, but in order that the general public would better understand this procedure we shall use the names of the nominees.

### NOMINATIONS

**The Speaker:** Nominations are now open for two seats on Executive Council. The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker. It gives me pleasure to rise to nominate Mr. Gilbert McLean for Executive Council seat.

**The Speaker:** Do we have a seconder? The Second Elected Member from West Bay.

**Mr. Rolston M. Anglin:** Mr. Speaker, I second the nomination.

**The Speaker:** Mr. Gilbert McLean has been nominated and seconded as a Member for Executive Council. Nominations are open. Are there any other nominations? The Honourable Minister for Health and Information Technology.

**Hon. Linford A. Pierson:** Mr. Speaker, it is my pleasure to nominate Dr. Frank McField as a Member of Executive Council.

**The Speaker:** Do we have a seconder? Third Elected Member.

**Hon. Linford a. Pierson:** Mr Speaker, as a Member of Executive Council, you really do not need a seconder for that.

**The Speaker:** Under Standing Order 5 we do, so for precautions, Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Mr. Speaker, I beg to second the nomination.

**The Speaker:** The Third Elected Member for George Town, Dr. Frank McField, has been nominated and seconded. The Floor is open to nominations. The Floor is open to nominations. Are there any further nominations? Do I hear a motion to close the nominations? The Honourable Minister for Tourism.

### MOTION TO CLOSE NOMINATIONS

**Hon. W. McKeeva Bush:** Mr. Speaker, I move that nominations be closed.

**The Speaker:** The question is that nominations be closed. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Nominations are closed. The Motion for the close of nominations was made by the Honourable Minister for Tourism and seconded by the Third Elected Member for West Bay.

**AGREED: THAT NOMINATIONS BE CLOSED.**

**The Speaker:** Under the present Constitution there are five Members in Executive Council but today we are only replacing two Members. So you have two nominees and we will be voting for two. There are two vacant seats on Executive Council. There shall be no

**Mr. Anthony S. Eden:** Mr. Speaker, I wonder since there are only two posts and two people nominated if there is a need to continue. I would be bound by the House but—

**The Speaker:** Under our Standing Order a secret ballot is required, so I would prefer doing it that way.

**Hon. Linford A. Pierson:** Mr. Speaker, I believe that out of an abundance of caution, it might be proper for us to take the secret ballot.

**The Speaker:** I am suggesting that perhaps you fold your ballot small enough that it can go into the beautiful silver box which we have for this purpose. I think it may be appropriate that we suspend at this time in order that the ballot papers can be prepared. But to the persons in the Gallery, the time would be rather short and I would suggest that we remain in our seats in order not to prolong the procedure.

#### PROCEEDINGS SUSPENDED AT 5.10 PM

#### PROCEEDINGS RESUMED AT 5.20 PM

#### SECRET BALLOT

**The Speaker:** On a procedural matter I would like to ask the people in the Gallery to please sit back in your seats in order to preserve the secrecy of the ballot. Again I ask strangers in the Gallery to keep their silence during this very solemn election.

I would like to say to all Honourable Members that this is a secret ballot. Please fold your ballot small enough that it can go into the ballot box without any problem.

I now ask the Serjeant-at-Arms to pass around this beautiful sterling silver box we have for the election, so that each Member can see that it is totally empty. Will the Serjeant-at-Arms pass the ballot box to each Elected Member of the Legislature? *(Pause)*

Here are a few words about the procedure. I think I am right in saying that there are two persons who have been duly nominated. The procedure for this election is—and this I am saying for the benefit of the public and the radio audience—that the Standing Order decides and declares that we shall have a secret ballot. Members will vote by secret ballot. The Clerk is now having the Serjeant-at-Arms hand out the names of those persons who have been nominated and seconded.

Under the present Constitution there are five Members to be of the elected Executive Council. Today we are replacing two Members so you have two candidates. You should not sign your paper. There should be no mark or any other X on your paper. Your paper should not, and I emphasise not be identifiable. I am suggesting that perhaps you may fold the ballot very small. Serjeant-at-Arms, will you now pass the silver box around and collect the ballots.

Will the Honourable First and Third Official Members reposition themselves at the Clerk's table? I again remind all Honourable Members that there are two Members that can be elected to the Executive Council this afternoon. After the box has been passed around and the ballots have been collected, the Serjeant-at-Arms will return the box to the Clerk in front of the two scrutineers.

*[Talking and laughing]*

**The Speaker:** The Clerk and the two scrutineers will count the number of votes and they will then pass the list to the Chair for the reading out of the results of the election. This is the way I hope to carry out the proceedings and I ask that persons in the Gallery remain as quiet as possible. Your time of applause will be provided.

**Hon. James M Ryan:** Mr. Speaker, I will now read the results of the ballot.

#### RESULT OF THE BALLOT

| Member                | No. of Votes |
|-----------------------|--------------|
| Mr. Gilbert A. McLean | 11           |
| Dr. Frank S. McField  | 11           |

1 Blank ballot pronounced spoiled.

#### DECLARATION OF EXECUTIVE COUNCIL MINISTERS

**The Speaker:** I wish to express, on behalf of all Honourable Members our extreme great thanks to the Honourable First Official Member and the Second Official Member, who acted as scrutineers. You may take your seats. Thank you very much.

The vote has been duly completed and therefore I declare the following Members elected: Mr. Gilbert A. McLean, and Dr. Frank S. McField.

Will you take your seats on the Government Bench please?

*[Applause]*

**The Speaker:** I, therefore, declare Mr. Gilbert A. McLean and Dr. Frank S. McField duly elected to the Executive Council. The official results are 11 votes for Mr. Gilbert A. McLean and 11 votes for Dr. Frank S. McField.

I would like to say to all Honourable Members assembled here this afternoon that I have called these names as receiving the total number of votes, but that in no way indicates the position they will take in Executive Council. It is the prerogative of Honourable Members of Executive Council to decide how they will be positioned.

ecutive Council. It is the prerogative of Honourable Members of Executive Council to decide how they will be positioned.

I would like to congratulate the Hon. Gilbert A. McLean and the Hon. Dr. Frank S. McField as Members of the Executive Council.

That concludes business on the Order Paper for today.

### **RESIGNATION OF THE HONOURABLE SPEAKER**

**The Speaker:** Before entertaining the motion for adjournment, I rise, Honourable Members, in accordance with Section 31 A(2)(b) of the Cayman Islands Constitution Order 1993. I wish to inform the Legislative Assembly and those present, of my intention to relinquish the office as Speaker following the commencement of the Budget Meeting of the 2001 Session, on Wednesday the 14<sup>th</sup> November 2001. I believe that there is a clear advantage of a new Speaker being elected during the course of our Parliament.

My retirement will give me an opportunity to be better able to visit with friends and pursue another adventure. The date of my retirement, November 14, 2001, has been mutually agreed by Members of Government and the Honourable Members of this Legislative Assembly after very cordial discussions. I am thankful for the smooth way we believe this transition will be. The formal procedures will be on November 14 immediately after Prayers. May God continue to bless the Members of the Legislative Assembly and the people of the Cayman Islands!

I thank you.

### **ADJOURNMENT**

**The Speaker:** I now entertain a motion for the adjournment.

The Honourable Minister for Tourism, Environment and Transport.

**Hon. W. McKeever Bush:** Mr. Speaker, I move the adjournment of this Honourable House until Wednesday, 14 November at 10 am. Mr. Speaker, the United Democratic Party (UDP) is proud to do so.

**The Speaker:** I shall now put the question that this Honourable House do now adjourn until 14 November, 10 am. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10 am Wednesday 14 November 2001.

**AT 5.34 PM THE HOUSE ADJOURNED UNTIL 10 AM WEDNESDAY, 14 NOVEMBER 2001.**

**OFFICIAL HANSARD REPORT  
SPECIAL MEETING  
WEDNESDAY  
14 NOVEMBER 2001**

**The Speaker:** I will now ask the Honourable Third Official Member responsible for Finance and Economic Development to say Prayers.

**PRAYERS**

**Hon. George A. McCarthy:** Let us pray.

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

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

Let us say the Lord's prayer together:

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

*The Lord bless and keep us. The Lord make His face shine upon us and be gracious unto us. The Lord lift up the light of His countenance upon us and give us peace now and always. In the name of Christ Jesus who reigns with God the Father, in the presence of God the Holy Spirit. Amen.*

**Proceedings resumed at 11.20 am**

**The Speaker:** Please be seated. The Legislative Assembly is in Session.

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

**APOLOGIES FOR LATE START OF SITTING**

**The Speaker:** I wish at this time to offer apologies for the late start as there were procedural matters which had to be taken care of.

**RETIREMENT STATEMENT  
BY THE HONOURABLE SPEAKER**

**The Speaker:** Honourable Members of the Legislative Assembly, Officers of the Legislative Department, my fellow Caymanians, I rise this morning to make my final statement as the Presiding Officer, the Speaker.

Five years ago I mounted these steps and took the Oath of Allegiance to Her Majesty the Queen as your newly Elected Speaker. I stated then that I was fully aware of my own limitations and had no intention of competing with any of my predecessors in Office—Presidents and Speakers. I expressed complete confidence that my term as Speaker 1996-2000, then commencing and now ending after being extended in November 2000 as your interim Speaker, would fully measure up to those high standards.

I based that confidence upon the assistance I was certain would come from former Presiding Officers, the Clerk and her entire officers, and from Commonwealth Presiding Officers and Clerks and from all Honourable Members. My confidence has been fully justified. For this I thank you all.

Now today, 14 November 2001, I come to the end of my term. The friendly cooperation and the warm comradeship of all of you have dispelled the difficulties. The path proved pleasant and the five years have been memorable and most of the time happy I may add. They have heartened me with their enriched experiences. They have brought me new and wonderful friendships through our Commonwealth Parliamentary Association of which I have had the privilege of being President of our local Branch. My heartfelt thanks to all who have assisted me.

I could not stand here today at the end of my public life and not express my deepest appreciation to those who have made it possible. Firstly, my heavenly Father, my earthly family, my committees over the years and the beloved registered voters of the electoral district of Cayman Brac and Little Cayman for the confidence they placed in me.

The Elections of 1980, 1984, 1988, 1992 and 1996 covered a consecutive period of twenty years. The last four years of that period 1996-2000, thanks to the fifteen Elected Members serving at that time who elected me, in the elevated position of Speaker of this Honourable House.

My decision to accept this high Office has brought much criticism from Members and other walks of life. It has been a sacrifice of my ability to hold po-

litical meetings and to express my political opinions. If my successor is an Elected Member, the same can be expected.

I contend today that I made the right decision and have continued to show my concern for all districts of the Cayman Islands. My action was rewarded when Members forming the Government after the 2000 General Election asked me to return and be elected as your interim Speaker. Again I thank you all.

I have stated many times, both publicly and privately, my high regard for the members and officers of the department. I have learned to admire them for their personal qualities and have appreciated the splendid fashion in which they co-operated with me in the performance of my responsibilities. My decisions from the Chair have not always been with your agreement, but I thank you for accepting my rulings at almost all times.

In closing, may I again thank you all and leave you with words which in many languages, in many forms, in many religions have brought comfort and strength "may the peace of God, which passeth all understanding, be with us and remain with us always."

Finally, may I offer congratulations in advance to my successor. May Almighty God give you strength and wisdom to fulfil your responsibilities during your term as Speaker.

God bless the Cayman Islands and all its people. I thank you.

#### TRIBUTES TO THE HONOURABLE SPEAKER

**The Speaker:** The Honourable Minister responsible for Health.

**Hon. Gilbert A. McLean:** Thank you.

Mr. Speaker, I count it an honour and a privilege this morning on the day of your departure from the high office of Speaker of the Legislative Assembly to offer a few words.

Mr. Speaker, over the years I think you have done a commendable job in the office as Speaker. As you have noted, there have been occasions when the going has been tough; but with your gentle disposition and your tough stance on issues, the business of the House has been conducted to the satisfaction of all and within the Standing Orders and the Constitutional requirements.

Mr. Speaker, you have had a long and outstanding career, much longer than most Members of this Legislative Assembly, in representing your district, Cayman Brac and Little Cayman. I personally have had the honour and the privilege of serving with you two terms representing those two Islands, and I wish to thank you for the respect shown me in my capacity as your fellow legislator. I must say I tried in every way that I knew possible to show you the respect which you showed me. If there were ever any

times it was otherwise, I assure you it was done unconsciously and I certainly ask your understanding and forgiveness if such is necessary.

Mr. Speaker, time moves on and certainly persons do, but I think that your career will be one that is outstanding both as a Legislator and as a Speaker of this House. I wish you the very best in health and prosperity and may God, whom I know you greatly acknowledge and work to serve, protect you in the years ahead. It is a pleasure Mr. Speaker to have worked with you and the very best in the future. Thank you.

**The Speaker:** Thank you.

The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Mr. Speaker, this is a time when men should not be parsimonious with their words because such a distinguished career deserves all of the accolades that we may offer. And so, Mr. Speaker, I rise to add my words to that of my colleague who has gone before and to those others who will follow.

We shall miss you, Mr. Speaker: I shall miss you. And perhaps it was fortuitous that you came to us from a maritime background because, Mr. Speaker, you had to take command of the ship through many storms and turbulence and you proved a good master. I shall miss your knock (because it was a kind of peculiar and inimitable knock) as you invited yourself into the Common Room to socialise with us, however briefly. The Leader of Government Business has for years, Mr. Speaker, called you 'uncle' and while I did not call you uncle I felt at ease in your presence and you sometimes behaved like an avuncular uncle, although you could be stern and reprimanding when the necessity arose.

Mr. Speaker, I wish you all the best as you embark on a new venture and a new career. And I suppose you well know that old master mariners never retire they just move on to another ship.

The Spanish, Mr. Speaker, have an expression, "Via con Dios" which, when translated into English, means "God go with you." Thank you, Mr. Speaker, and may you have a long, happy and prosperous sojourn; and whatever you embark upon, may it be successful and to God's glory.

**The Speaker:** Thank you and I call upon the Honourable First Official Member.

**Hon. James M. Ryan:** Thank you. Mr. Speaker, I rise this morning to join other speakers in extending thanks and appreciation and good wishes to you on the eve of your departure from the office of Speaker of the Legislative Assembly.

As a fellow Cayman Bracker, I have probably known you and have been a bit more closely associated with you than some of the other Members of this Honourable House. I often reflect on what Cayman

Brackers have said many times since you went into politics and were elected – that is, that long before you became an elected representative you were indeed an unofficial representative and an ambassador to the people of Cayman Brac and Little Cayman.

I think back on the time in the history of the Sister Islands when the people decided to build a hospital and Government was not in the position to fund it and you took the reins of the Committee to carry out that almost impossible task. You did so in a masterful way and we all know the end of the story: the Faith Hospital was built. That is in fact but one of the many accomplishments that you succeeded in even before becoming an elected representative.

So, it was only natural when you were elected in 1980 that you just simply continued, perhaps in a little higher gear, as the representative and in that capacity as an official representative (that is an MLA) for the Sister Islands. I believe the people of the Sister Islands in particular and the people of the Cayman Islands in general were pleased when this Honourable House saw fit to elect you to the high office of Speaker. And I have to say, in my short time here in the Legislative Assembly, that it has been a pleasure serving with you as Speaker. You will certainly go down in history as one of the great Speakers of this Honourable House. As my good friend the Honourable Minister for Education commented earlier, you are a Master Mariner by profession and you took command here leading the Legislative Assembly through many difficult times—treacherous waters—but you always saw us to safe harbour.

Today as you leave office I want to say personally and on behalf of my family and of course on behalf of the people of Cayman Brac and Little Cayman, a great big thank-you for all that you have done and our deep appreciation for the very hard work that you have carried out here in the House.

In paying tribute to you I must not forget to recognise your good wife, Mrs. Marilyn, who is here with us today. I know that behind your successes she has been there to give you the support that you have needed over the years.

I wish you God's richest blessings as you leave. And as someone said earlier, you are not likely to retire—Cayman Brackers have the habit of working very late in life and I do not believe you will be any exception to that. We wish for you and Marilyn all that is good and again our heartfelt thanks for all that you have done as the Speaker of this House. I thank you.

**The Speaker:** The Third Elected Member for Bodden Town.

**Mr. Anthony S. Eden:** Thank you, Mr. Speaker. It is certainly a momentous day in these Islands with you leaving the Chair. I remember nine short years ago, when I was elected for the first time to sit in this Parliament. Coming here and finding you, having been here eleven years prior, it was certainly a very great

learning experience for me to talk to you. There were sometimes in the past when I had certain reservations about certain things. But in talking with you, Mr. Speaker, you laid my concerns to rest and I have through that, gained much more respect for you.

Sunday morning a week ago, I spoke to you and I certainly would like to say to this House and to the Caymanian people that the dignity I have found in you, Mr. Speaker—the way of life that when you had a certain belief you carried that through to the end. There were times of frustration in this House for whatever reason and that happens—as people call it, *a house of politics*. But you were able to carry through your job with dignity and honour. For that, we as Caymanians will always remember you. I know there is much that you will contribute to our society and may God bless you in your retirement.

**The Speaker:** Thank you.

The Second Elected Member from George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Mr. Speaker.

Mr. Speaker, this certainly is a poignant moment as you demit the high office to which you were elected for the second time in November of last year. Mr. Speaker, as a freshman, exuberant, keen, filled with conviction, I know that I have been something of a challenge to you, Sir. I also know, Sir, because I have grown to know and to love you, that you forgive those youthful indiscretions of mine.

I know that there was one occasion in particular in which I did incur your displeasure and again Mr. Speaker, I ask, as you leave office, that you do forgive that indiscretion as well. Because, Mr. Speaker, I know that you understand fully that with my background and experience, in what I now call *'my other life'*, when it comes to the issue of the interpretation of a Regulation or a Standing Order, it is somewhat difficult for me not to hold a strong view about what that 'Order' might mean. I have grown, Sir, to understand that one does not argue with the Speaker—even though I have been very fond of arguing with judges!

Mr. Speaker, I have become very fond of you, Sir: I have great respect for your impartiality, for your sense of decorum, for your sense of propriety and your love for all Members of this Honourable House. I remember your acknowledgement, Mr. Speaker, some short time ago of how lonely an existence was the life of a Speaker, and on those occasions when that loneliness 'whipped' you most, as the Honourable Minister for Education alluded to, we would hear the knock on the Common Room door as you sought the company of the Honourable Members. We are grateful to you, Sir, for that.

Mr. Speaker, I have been troubled for some time with the uncertainty that has surrounded this term of duty. I believe that we should learn something from that. The office of Speaker commands and de-



mands more respect than it has been accorded over the course of this past year. This issue of rumours everywhere—at least three individuals being proposed to succeed you; announcements here, announcements there; it is simply not in keeping with the dignity of your high office. It is something that I deprecate.

Even now, Sir, as you are about to rise from your chair for the last time, Members of this Honourable House and the country at large are still waiting to know who your successor might be. That, Mr. Speaker, in my view is just not the way that we do these things. But Mr. Speaker, these are your last moments here and I will not dwell on that.

I wish, Sir, to commend you for the way you have conducted the business of this Honourable House. I wish to commend you for the stalwart service you have given to the people of Cayman Brac and Little Cayman over two decades. Mr. Speaker, having served in this Honourable House for only one year, I must say that I am over-awed at the realisation that you, Sir, have now spent twenty-one years in the service of your people.

Mr. Speaker, as you now retire, I hope to an easier, less taxing, existence, I wish you the very best of health and strength and a long, enjoyable and greatly deserved retirement with your dear wife. I thank you, Sir.

**The Speaker:** The Elected Member from East End.

**Mr. V. Arden McLean:** Thank you, Mr. Speaker.

Mr. Speaker, I too rise to thank you for a long and distinguished service in the public life. Mr. Speaker, I would like to thank you on behalf of the people of the District of East End and this country at large. I would also like to thank you on behalf of my eight-year-old son who enjoyed sitting in your Chambers with you. He called you *'The Mr. Speaker'*.

Mr. Speaker, my early recollection of you, Sir, was during the 1989 fiasco. The Cayman Airways fiasco when the caption across the front page of the *Caymanian Compass* was a quote from yourself saying, "Country before Self" I will never forget that. You have conducted yourself and your public life exactly the same way throughout.

Mr. Speaker, I think Caymanians can take a page out of your book showing how we should conduct ourselves in public life. And as you take your retirement I think that having been elevated to the high office of Speaker was a most fitting way to have served at the end of your public life.

Mr. Speaker, over the last year, having served here with you, I know there were times that I, too, as a young *'Turk'* (I believe we were referred to) tested your resolve. Mr. Speaker, for that I apologise. I have always respected your ruling, even though I may have had questions in my mind. But I learned much from you, Mr. Speaker, and I am thankful for that. Your Chambers were always open to come in to

ask you questions on procedures. I, too, will miss that, Mr. Speaker.

It has been a real pleasure and an honour to serve in the same institution as you. And as you get early retirement, well that may be wishful thinking, I nevertheless wish to personally thank you and trust that you will enjoy yourself and spend some time with your family because I understand what it means to be in public life and not spend as much time as you would like with your family. You have held that torch for the last twenty one years and you are now passing it on. I trust that I can carry some of that on into the future.

Mr. Speaker, the people of Cayman Brac and Little Cayman and this country generally can be proud of your political life. I trust that the rest of us and all others who are elected to this Honourable House will be able to say that at the end of our tenure also.

May God go with you, may His blessings be bestowed upon you for a long retirement. History no doubt, Mr. Speaker, will treat you well and again I thank you for your tenure in the political life of this country. Thank you.

**The Speaker:** Thank you.

The Honourable Third Official Member.

**Hon. George A. McCarthy:** Mr. Speaker, I would like to take this as an opportunity to join with other Honourable Members in saying thanks to you for your dedicated service to the people of the Cayman Islands for the twenty-one years that you have spent as a parliamentarian and the five years that you have spent as the Speaker of this Honourable House.

Mr. Speaker, I would venture to say – I may be wrong, but not totally wrong – that each Member of this Honourable House has taxed your patience: I know I am no exception. But I have always admired your calm disposition when dealing with such matters when you were presented with them.

Mr. Speaker, I believe today will be another transition in your life. What you are going on to I do not know; you, yourself may not know. But we know that the great God that we all serve, and I know you serve, has got a plan in store for each and every one of us.

As the Honourable Member from East End has said, you are a person who has always put country above self. Others have also alluded to your statesmanship and this you have ably demonstrated. I have taken note of your patience and your humility and I think you have been an excellent exemplar for Honourable Members of this House and people of the Cayman Islands community. Therefore, Mr. Speaker, I wish you a very happy retirement and happy transition and trust that this will be a very fruitful time for you and your very dear wife.

Thank you very much.

**The Speaker:** Thank you. The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Mr. Speaker.

Mr. Speaker, this is a very emotional moment for me for, like the First Official Member (a fellow Cayman Bracker), I have known you and I have been close to you all of my life. You have been my representative from the time I can remember.

Mr. Speaker, I entered the political arena in 1988 as a young 18-year old, who you allowed to stand on your platform at the Creek dock in Cayman Brac Port Authority and deliver my first contribution to my district. And I came full circle and found myself as an elected representative for our district in November of last year with you in the Chair. It gave me great pride to address you as Mr. Speaker.

Throughout the year I used your wisdom and your knowledge and drew on you as a counsellor, asked your advice, asked your input in issues that faced the nation as well as those that faced our district. I assure you that your absence from these Chambers will not mean that I will not be coming to you because I certainly know where your office is located in Cayman Brac.

Mr. Speaker, the people of Cayman Brac have benefited from having you as their electoral representative for two decades and I certainly realise and acknowledge the great footprints in the sand that you have left behind for those who come behind to represent the sixth electoral district of Cayman Brac and Little Cayman.

Mr. Speaker, even during your period where you served as a representative of the people of Cayman Brac and as a Speaker of the Legislative Assembly, the people of Cayman Brac were assured that you were there representing them. Even during this period, this past year where you were the Speaker of the House and not a representative, it was like having a third representative in the Legislative Assembly. For those days in the Common Room you made sure that you represented the people of Cayman Brac as we held dialogue with other elected representatives. You have always been an ambassador for the sixth electoral district and I am sure that will continue beyond today.

Your logo of "*Country before Self*" I encourage you during the remaining years – as we hope will be long years – that you now take the opportunity to place self and family at the forefront. It is time you enjoy and reap the benefits of your hard work; reap the benefits of the Island of Cayman Brac that you have contributed to and helped to build up.

I thank you wholeheartedly on behalf of my family, my father, in particular, who has campaigned strongly with you from 1980 and has been close to your side throughout your political career. I also thank you on behalf of the entire district – the Islands of Cayman Brac and Little Cayman – and I look forward

to your continued contribution to the development of the Sister Islands. Thank you, Mr. Speaker.

**The Speaker:** Thank you.

The Honourable Minister for Community Development. Do you wish to speak?

**Dr. the Hon. Frank S. McField:** Mr. Speaker, much has already been said to you and I would concur that you deserve all the praise that has been given to you. But I would like to remind you, Mr. Speaker, that between 1996 and 2000 when you were appointed as Speaker and served also as the Member for Cayman Brac, that you accomplished tremendous things for those Islands and perhaps you should be kinder to yourself in remembering those four years.

I think, Mr. Speaker, that we are at a point, and you have assisted, where there is a need for us in this country to understand the usefulness of that Honourable Chair. That the country does not sacrifice, but the country gains in having someone in the Chair to bring the kind of calm, dignity and respect that you brought it. And I believe, Mr. Speaker, that although you were an Elected Member of the Legislative Assembly, that the people of Cayman Brac and the people of the Cayman Islands benefited tremendously by having you and not someone else in the Chair.

I believe, Mr. Speaker, that perhaps I am best in the position to make those statements since I did have some issues with you and you handled those issues; you resolved those issues. You convinced me that experience was a good teacher and that you were not just talking about the precedence from books; you were not just talking about some legalistic interpretation of Standing Orders; you were talking also about experience.

Mr. Speaker, I have admitted to you privately and publicly that I learned much from you, and that I was able to confess (in fact privately, now publicly) that your knowledge of Standing Orders and your knowledge of precedents and procedures in other parliaments across the world is wider than most of us have really stopped to give you credit for.

Mr. Speaker, when history is written, I hope that I at least have the opportunity to participate a bit in the writing of this history. I hope that your day in maintaining stability, in maintaining the dignity, in maintaining the seriousness of this Parliament and its position with regard to the rule of Law will be singled out as exceptional.

That day, Mr. Speaker, that you sat in this Chair to witness and to preside over a transition in this country that persons had never witnessed before will go down in history. Mr. Speaker, I think, believe it or not, when future generations look at that moment and the way you conducted yourself and the way you preserved order and tranquillity in these beautiful Cayman Islands, that people would remember that you were born and that you were trained and that you

were preserved for that day. For that was one of the days when we really needed a Speaker, and Mr. Speaker, you were there.

Mr. Speaker, I thank you sincerely from the bottom of my heart for all that you have allowed me to learn without retributions and I hope that God will continue to bless you and your wife and that He will allow you to forgive us as you have done in the past; and that you will find it possible to answer the telephone from the next Speaker seeking assistance with difficult decisions that person must make in this House.

Mr. Speaker, God bless you and these Cayman Islands.

**The Speaker:** Thank you. The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Mr. Speaker.

Mr. Speaker, I would first like to give thanks to Almighty God for blessing these Islands with a distinguished gentleman like you, who has presided over the highest office that we Caymanians have: our Legislative Assembly. Mr. Speaker, much thanks must go to our Heavenly Father for bringing all of us here, but Mr. Speaker, in particular for bringing you here for an additional year, when as an outsider looking in at times, not too long ago, we were not sure how much longer you would have been around to be the Speaker. I remember the first time shaking your hand, Sir, at the George Town Hospital. I remember that day quite clearly and never forget it.

Mr. Speaker, I thank you for being such a calming influence and such a good teacher. We have been blessed, Sir, to have had someone like you who took great honour in insuring that you imparted good advice, sound decision-making to all of us. In my brief time here it has certainly been a pleasure to have you call me and show me different issues, how to eliminate them and make them clear. I thank you for all the guidance that you have offered to me as the Chairman of the Public Accounts Committee for you have certainly been a calming influence to youthful exuberance.

Mr. Speaker, much has already been said, but I would like to remind you that even though you are officially retiring, you still owe me one explanation which you promised me yesterday and I will hold you to that. Mr. Speaker, we have had so many conversations in your office and you have taught me so much about the Standing Orders and so much more than that: you have taught me how I should go about achieving what I want to do. You have taught me that coming and getting advice is very often so much more valuable than simply reading a book and discussing it with others because, Mr. Speaker, you have a wealth of knowledge that you are taking with you.

I would like to say to whoever your successor is, Mr. Speaker, that he/she too would recognise that this is an integral part of that office of Speaker which is to show, to direct, to teach and indeed to learn as

we all go along: for, Mr. Speaker, time continues to tick.

Mr. Speaker, again on behalf of my family and myself, the district of West Bay, and indeed all citizens of these Islands that we know and love, I wish to thank you. It certainly is going to be a valuable addition to the private citizenry to have persons like you.

I certainly hope that God will continue to bless you and your family and that you will have the opportunity to enjoy the fruits of your labour. I will certainly miss your humble and meek demeanour and how calm you were whenever you had to show me the correct way. I thank God for you, Mr. Speaker. You have been a great man for these Islands, and for the people and for the Legislative Assembly.

**The Speaker:** I thank you.

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Mr. Speaker, for the last time here you have recognised me and I would like to return the compliment. I would like to offer you a non-legalistic interpretation of your performance as Speaker under the Standing Orders. I am probably one of the least qualified here to speak to this, but I do not care.

It is almost three years since I have known you as Speaker and colleague in the Legislative Assembly and although you leave today from that position, it is my firm impression that you will have left your mark on the office of Speaker. To act impartially, to be tolerant of occasional tedious repetition and retain one's composure, in my opinion, requires both strength of character and an ability to moderate. These qualities which you brought to your position will hopefully be found in your successor.

We know that there have been trying times. Yet the standing of this House, in my opinion, has been maintained even when you may have felt that it was under siege.

*[Members' laughter]*

**Hon. David F. Ballantyne:** May I express to you, Mr. Speaker, that on handing over the helm of this House you take with you the satisfaction of a job well done, an institution upheld, and the encouragement of an atmosphere of mutual respect, which we hope will long continue.

I am pleased to be able to offer to you my appreciation for your contribution and to you and your wife may I extend my own best wishes for your future together. Thank you.

**The Speaker:** Thank you very much. Any other Member wishes to speak? The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you. Mr. Speaker, I would like to say that it has been an honour and a

pleasure to serve with you in this Honourable House for the past year. I have not had the pleasure of knowing you as long as some other Honourable Members of this house, Mr. Speaker. You have done a commendable job. I want to thank you for your guidance to us newcomers on many occasions in the House through difficult questions and times. You have been an inspiration to all of us. Mr. Speaker, I could not help but notice how you have treated all Honourable Members of this House with equal respect and you were firm in making decisions: there was no getting away from that. We appreciate that very much.

Mr. Speaker, I would take this opportunity to thank you again for a job well done. I wish for you a healthy, happy and long retirement. We will miss you, Mr. Speaker, I will miss you. God bless and thank you.

**The Speaker:** Thank you.

The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr:** Thank you.

Mr. Speaker, I, too, would like to take this opportunity on behalf of my family and myself, the people of West Bay and actually all the people of the Cayman Islands, to say thank you for your many years of distinguished and dedicated service to these our wonderful Islands.

Mr. Speaker, being a newcomer here and actually having just gone through a very turbulent one year in political life, I find it totally amazing as to how well you have kept up, having been exposed to this for some twenty-one years. I think that in itself is a testament of the good Lord's blessing on your life and I can only hope that after my term I can look as physically strong as you do.

Mr. Speaker, I guess it was a testament as well as an indication of your commitment to the people of these Islands when the request was made of you one year ago, even in what might have been considered to be failing health at the time. But, it became necessary for you to offer your services and you very willingly came forward and supported the country by coming here and presiding again until another Speaker could be appointed. Mr. Speaker, I guess that is a culmination of the life that you have lived where you have 'placed country before self'.

I would also like to say that during the short term I have been here – during a time that was very overwhelming to say the least – coming into totally new, untried and untested waters, it was good to have someone as capable as yourself to be able to lean on for leadership and direction.

When we needed to have some clarification as to protocol we knew that you were only a few walks away and that your door was always open for whatever advice you could give and I would like to say publicly, thanks for that guidance. And as other Members have said, since we have built up quite a good relationship, I look forward to having that same

type of understanding and ability to come forward and get advice because I imagine that the next three years that will become very, very necessary.

Mr. Speaker, as other Members have said before, your service has been a very dignified service to country and you have set quite an example for us, especially us younger Members to follow. I have every hope that whoever your successor might be he will follow along in those same footsteps that you have left.

Mr. Speaker, it would be remiss of me to not also mention on behalf of my family sincere thanks. There is a member of your staff who has been there for some five years who is a bit more closely associated to me than the other Members and on his behalf I would also like to say thank you for a job well done.

Mr. Speaker, if there is anything that I can ever do to help to make your retirement and the rest of your life any more enjoyable I would hope that you would not hesitate to do the same as I have often done to you and that is, come and disturb whenever necessary.

Thanks again, Mr. Speaker, and good luck and best wishes.

**The Speaker:** Thank you. Does any other Member wish to speak?

The First Elected Member for Cayman Brac and Little Cayman.

**Mrs. Julianna Y. O'Connor-Connolly:** Thank you, Mr. Speaker.

Mr. Speaker, I had hoped that perhaps I would have had the privilege of being the last person to speak this morning, merely to have the opportunity of thanking all preceding Members on behalf of my dearly beloved Cayman Brac and Little Cayman for your some twenty-one years of commendable service. Perhaps that will happen, I do not know because there are still a few remaining speakers but if you do not call the rule of anticipation on me I should wish to take that liberty at this time to thank you on behalf of those who have so gone and those perhaps who will follow thereafter.

Mr. Speaker, I was afforded the wonderful blessing and indeed the opportunity to have served with you for four consecutive years in Parliament. I shall miss the weekly Cayman Airways trips that meant so much to us and the many times of worrying that perhaps it would not have been there to take us back and forth to our high calling.

I would also like to say that from personal experience, and being a woman myself, that I should like to also greatly commend your beloved wife, Mrs. Marilyn. Only those of us who walk in these steps know the great sacrifice one makes when one makes the commitment from the initial stages of public life that 'country will be placed before self.'

There are oft times when that decision is put to the test. But when you, like many other Honourable

Members within these Honourable Precincts have Almighty God as the centre of your focus, tranquillity comes much easier. I thank you, Sir, for your representation of the Holy Spirit within your life and your ability not only to maintain and continue a humbled attitude, but also your willingness to forgive in many instances here and without these precincts.

I thank you also not only as a previous voter from Cayman Brac for yourself, but also for my family who have supported you for a very long time. We are quite fortunate that you are a Bracker and that you will return to the local community on the Brac. I know that you and your family already have significant plans for the further economical and indeed financial incentives to jump-start the economy on the Brac and I would wish at this particular juncture to wish you the very best in those endeavours. I also wish to publicly say that I will do whatever I can in my capacity as a Member of Parliament, as well as a member of the local community, to assist you therein.

Mr. Speaker, I do not know what it takes to be a Member for such a long time—although it would be remiss of me not to have those aspirations to serve my country for some twenty years. But I wish that you would keep your door open to me—and I am sure that a similar request would come from my colleague, the Second Elected Member for Cayman Brac and Little Cayman. The wealth of knowledge you possess not only as a Cayman Bracker, but as a Member of Parliament and indeed a Speaker, we would like to tap into, subject to your convenience of course. And the invitation is reciprocal, Mr. Speaker.

Mr. Speaker, I wish for one other thing: that as you go across that you afford me the opportunity to perhaps go back to the Brac with you as your final visit in this capacity. I think it is at that time we could perhaps cement even more the need and the desire for the continuation of Cayman Airways for the future development of Cayman Brac and Little Cayman. I am sure that if your wisdom and knowledge in that regard were sought, that you too, because of your love for those two Islands would be willing to continue publicly your support for that institution that we all have come to love: Cayman Airways.

Mr. Speaker, I am sure that we on the Brac will have another opportunity to properly thank you for your support and indeed your contribution over the past twenty- one years. I wish that you would take some time to get away with Mrs. Marilyn and perhaps your lovely daughter and have a Caribbean cruise and reflect on the contributions you have given. Perhaps that would give us time to do the necessary preparation to give you a proper Brac thank-you. May it please you and I thank you.

**The Speaker:** Thank you very much, and if I may inject with your permission, my doors will always be open to all. Does any other Member wish to speak?

The Honourable Minister for Planning, Communication, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you, Mr. Speaker.

Mr. Speaker, I wish to join the many Members in this Honourable House, my colleagues, who have expressed their very best wishes to you as you now leave the position of Speaker of this Honourable House.

Mr. Speaker, it was interesting to note that a number of the previous speakers referred to you as a dignified gentleman, one who has offered dignified service to these Islands. I was somewhat touched to hear other Members expressing the same sentiments that I had written on my notepad, *an Honourable and dignified gentleman*. That, Mr. Speaker, would be my description of you encapsulated in so few words.

Unlike a number of my younger colleagues (because I am one of the older Members of this House), I have had the privilege, the honour and the pleasure of knowing you on a personal, as well as an official level for many years. Mr. Speaker, I vividly remember your assistance to government during the period of 1988 to 1992. Many people have said that you are an embodiment of service to 'country above your own self and your own needs'. Mr. Speaker, that is not mere rhetoric, it is a fact.

During 1989 to 1992 you were on the top of the prayer list of the four Elected Members to Executive Council because had it not been for you, Mr. Speaker, we would not have been able to continue a government. But in your usual manner ensuring that these Islands did not at any time face a crisis, you were always there. Mr. Speaker, I will always remember that sort of dedication. You often brought about a balance between success and defeat. Many of us remember the era of the 3/90 Motion, Mr. Speaker. That is one time I will never forget the sterling service you paid to these Islands.

Also, Mr. Speaker, it was my pleasure as the then Minister/Member for Communication and Works to work with you as a representative for Cayman Brac and Little Cayman. I believe that during that period of 1988 to 1992 we were able together to accomplish much for the Sister Islands.

Mr. Speaker, shortly put, you have done an excellent job! So much so, Mr. Speaker, that you were pulled out of retirement to come back as Speaker of this Honourable House. You have set a standard that will be difficult for your successor to continue. Mr. Speaker, what strikes me as being most important in the service that you provided in your high position as Speaker of this Honourable House (which, in accordance to protocol is perhaps third in line to His Excellency the Governor) is the dignity and the humility with which you handled your position. Mr. Speaker, I trust that your example may serve as a guide to all of us in this Honourable House—that with high positions we should exert dignity and humility.

Mr. Speaker, as you go on your retirement, I trust that you will take time, which you deserve Mr. Speaker, to spend some time with your good family; spend some time on yourself; enjoy your life. I know

you will always be there for counselling, we know that. I enjoyed the times coming into your office, Mr. Speaker, and talking with you. Many times when you asked my advice on an issue you did not have to do that because as Speaker of the House your position rules. But there again is the clear example of your humility and your dignity. Respect and dignity will carry you where money cannot take you, Mr. Speaker, and you are a sterling example. You have set a stellar example for Members of this House.

Mr. Speaker, I know that there are a few other Members who may wish to speak and so I close wishing you God's richest blessing. May He be the centre of all your undertakings and as a former and qualified sea captain, may I end by saying, may the Supreme Commander of the Universe be your guide. I thank you, Mr. Speaker.

**The Speaker:** Thank you.

Does any other Member wish to speak? I will make three calls. Does any Member wish to speak? We are not going to prolong this. Does any other Member wish to speak? Final call.

Honourable Members, as I rise for the last time from this Chair, words fail to express the appreciation for what you all have said here this morning, and more importantly for what you all have performed in the past. I wish God's richest blessings on all of you. And now, as I take my departure, I wish for my successor everything that is good.

Thank you very much.

#### DEPARTURE OF THE HONOURABLE SPEAKER

*(The Mace was placed upon the lower brackets and the Honourable Speaker left the Chamber preceded by the Serjeant-at-Arms)*

#### NOMINATIONS FOR THE ELECTION OF THE SPEAKER

**Hon. W. McKeeva Bush:** Honourable Members, proceedings of this Honourable Legislature are now resumed. We come now to that point where we will call nominations for the Speaker of this Honourable House. That post has just been relinquished as the former Speaker was an interim Speaker.

This is my fifth term in this Honourable Assembly and for these many years the previous Speaker and I have worked together for the good of these Islands. Sometimes disagreeing, most times not, but I can say much was accomplished. It is easy fellow Members for some to complain about what has been done and what has not but when I look back on the past seventeen years, much has been gained for our islands.

Our Sister Islands Cayman Brac and Little Cayman have come a long way. The gains made cannot be sneered at and at all times the previous Speaker was supportive and was there for his district.

Today the Sister Islands can boast of a good infrastructure ready to do its part in nation building. I am committed today, as I have always been to the good people of Cayman Brac and Little Cayman. The United Democratic Party count it as part of the Cayman Islands as it is and will always be considered as an integral part of these Islands. I wish for him and his family all the very best and I do wish that Almighty God will grant him good health as he retires. May he always have fair winds and smooth waters with him.

I now call for nominations for Speaker of this Honourable Legislative Assembly.

**Hon. W. McKeeva Bush:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** It is my pleasure to nominate the First Elected Member from Cayman Brac, Mrs. Julianna O'Connor-Connolly as Speaker of the Legislative Assembly.

**Hon. W. McKeeva Bush:** The Honourable Dr. Frank McField.

**Dr. the Hon. Frank S. McField:** Mr. Chairman, I would like to second that nomination.

**Hon. W. McKeeva Bush:** Are there any other nominations? Are there any other nominations? Are there any other nominations? If not, can someone move that nominations be closed?

**Hon. Gilbert A. McLean:** Mr. Chairman, I beg to move that nominations be closed.

**Dr. the Hon. Frank S. McField:** Mr. Chairman, I second that motion.

**Hon. W. McKeeva Bush:** The motion that nominations be closed is now before you Honourable Members. What say ye?

**AYES**

**Hon. W. McKeeva Bush:** Noes? The Ayes have it.

**AGREED: NOMINATIONS CLOSED.**

**Hon. W. McKeeva Bush:** Will the First Member for the Sister Islands indicate whether she accepts the nomination?

**Mrs. Julianna Y. O'Connor-Connolly:** Mr. Chairman, on behalf of my constituents of Cayman Brac and Little Cayman I shall be honoured to so do.

#### DECLARATION OF SPEAKER

**Hon. W. McKeeva Bush:** Thank you. Honourable Members, there being no other nominations, and the

First Elected Member from the Sister Islands having accepted the nomination, I have the privilege to declare her the Speaker.

[applause]

**Hon. W. McKeeva Bush:** We will suspend this Honourable House for fifteen minutes.

#### PROCEEDINGS SUSPENDED AT 12.49 PM

#### PROCEEDINGS RESUMED AT 1.03 PM

*The Honourable Minister for Tourism, Environment, Development and Commerce suspended proceedings until 2.30 pm to await the arrival of His Excellency the Governor to administer the Oath Of Allegiance to the Lady Member (in the office of Speaker)*

#### PROCEEDINGS SUSPENDED AT 1.04 PM

#### PROCEEDINGS RESUMED AT 2.51 PM

[Hon. Julianna Y. O'Connor-Connolly, JP  
Speaker, in the Chair]

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

**The Speaker:** Honourable Members, before moving on to the next item of business, I wish to take this opportunity to say a few words of gratitude to each Honourable Member and indeed to the listening public.

Fellow Caymanians and residents, Honourable Members, I wish to commence today by adopting St. Patrick's Benediction entitled, '*Christ with me*' which reads:

*I arise today through God's strength to pilot me,  
God's might to uphold me,  
God's wisdom to guide me;  
God's eye to look before me,  
God's ear to hear me,  
God's word to speak for me;  
God's hand to guard me,  
God's shield to protect me.*

*Christ be with me,  
Christ before me;  
Christ behind me  
Christ in me;  
Christ beneath me.  
Christ on my right,  
Christ on my left;  
Christ when I lie down,  
Christ when I sit down.  
Christ when I arise,*

*Christ in the heart of everyone who thinks of me;  
Christ in the mouth of everyone who speaks of me,  
Christ in the eye of everyone who sees me;*

*Christ in the ear of everyone who hears me.  
Under His wings what a refuge.*

Honourable Members, in the midst of change. Often the earth has no balm for our healing but there we can find peace and comfort, there we are truly blessed.

Honourable Members I am indeed honoured and equally humbled by the degree of support and confidence you have shown in electing me to be your Honourable Speaker. Once again I am reminded by the turn of events that my timetable is not always God's timetable, because not even in my wildest dreams would I have ever imagined that I would be Speaker of this Honourable House at age forty, or at all, during my lifetime. This indeed is a colossal honour and on behalf of the people of Cayman Brac and Little Cayman in particular, as well as Grand Cayman, I most sincerely thank each of you Honourable Members for such confidence.

It is my wish therefore that we now embark on a process of reconciliation where we rise above the varied personality conflicts within and without these Honourable precincts. May we all bond together with the fervent commitment of doing what is best for our beloved Cayman Islands; may we all work diligently to instil confidence in the hope of democracy; may we all stand tall in the continuous belief of honesty and integrity; may we ensure that justice is not only done, but that it also appears to have been done; may we constantly strive to unite our Caymanian people and residents alike; may the improved well-being of our people be of paramount considerations; may we all live an infinite legacy of goodwill and godliness.

Honourable Members and the listening public, I am a strong advocate on the principle that performance rides on commitment and I therefore pledge to you that I will at all material times retain my honesty, morality and integrity and that I will be (to the best of my God-given ability) fair, actable, firm, yet friendly.

It is therefore my goal to be a conduit for God's will to be done; for His peace to permeate our minds and hearts; for each of us Honourable Members to unite in order to build day by day these little Islands we call home to become the next best thing to heaven.

I look forward to the continued support and kind assistance of all Honourable Members. Let us each remember that we are all created equally, that we are all God's creation, that we are all Caymanians and residents and in so doing may we abide by the neighbourly principle and let each of us see what good we can do each day to help someone else live a little better, laugh a little louder and smile a little wider and let us always remember to give thanks.

May the God of peace equip each of you Honourable Members to do everything that is good. May we each work to do what pleases Him. I thank you Honourable Members for your indulgence and patience and may this day—today—mark the begin-

ning of a better Cayman Islands. May God continue to bless these Cayman Islands.

I thank you Honourable Members.

### NOMINATIONS FOR THE ELECTION OF THE DEPUTY SPEAKER

**The Speaker:** We will now turn to the next order of business on today's Order Paper, that being the nominations for the election of the Deputy Speaker of the Legislative Assembly. The floor is now open for nominations.

**Dr. the Hon. Frank S. McField:** Madam Speaker, it gives me great pleasure to be the first Honourable Member in this Honourable House to rise after your sitting and to nominate the Fourth Elected Member from West Bay as the new Deputy Speaker.

**The Speaker:** Is there a seconder?

**Mr. Rolston M. Anglin:** Madam Speaker, I humbly wish to second the motion.

**The Speaker:** Are there any further nominations? Are there any further nominations? If there are no further nominations I would now ask the Fourth Elected Member from West Bay, whether or not he wishes to accept the nomination which was duly moved?

**Mr. Cline A. Glidden, Jr:** Thank you, Madam Speaker.

Madam Speaker, it is with great honour and humility that I accept the nomination.

**The Speaker:** Would you come to the Clerk's desk, so that the appropriate affirmation could be so done? Honourable Members, please stand.

*[The Fourth Elected Member for West Bay took the Oath of Allegiance at the Clerk's dais.]*

### DECLARATION OF DEPUTY SPEAKER

**The Speaker:** I now declare the Fourth Elected Member from the district of West Bay to be our newly elected Deputy Speaker. You may now return to your seat. Please be seated.

We will now turn to the next item on the Order Paper, number 6, Statements by Honourable Ministers and Official Members of Government. The Honourable Third Official Member.

### STATEMENTS BY MEMBERS OF THE GOVERNMENT

**Hon. George A. McCarthy:** Madam Speaker, thank you very much.

Before I deal with the specifics of the item, I would like to take this opportunity (if you will indulge me) to congratulate you on your appointment to being the Speaker of this Honourable House. I know you will do justice to the position.

### PRESENTATION OF PAPERS AND REPORTS

#### THE DRAFT ESTIMATES OF REVENUE AND EXPENDITURE OF THE CAYMAN ISLANDS' GOVERNMENT FOR THE YEAR 2002

*(Deferred)*

**Hon. George A. McCarthy:** Madam Speaker, Honourable Members will note that Item 7 on today's Order Paper calls for the presentation of the Draft Estimates of Revenue and Expenditure for the Cayman Islands' Government for the Year 2002.

As noted in today's issue of the *Compass*, the presentation of the Draft Estimates will, of necessity, be delayed until the end of the month. This, Madam Speaker, quite likely has taken no one by surprise due to the recent changes in Executive Council again which of necessity would require the realignment of departments in accordance with the new Ministries.

In addition, Madam Speaker, while we have been looking at the revenue and expenditure figures and departments were able to achieve targets that were set for them on the expenditure side (as the First Elected Member from George Town pointed out during the course of last week), that target was achieved to the difference of about \$11 million.

We also have to look on the revenue side. Having had the full run of the month of October, we have found that the projected revenue from especially Customs import duty, is projected or revised downward to about \$2 million by year-end.

So, Madam Speaker, we are looking at all items very carefully to bring the revenue in line with expenditure in subscribing to the principle of a balanced budget to ensure that there is alignment between revenue and expenditure when the Budget is being brought to this Honourable House.

Thank you very much, Madam Speaker.

**The Speaker:** The Question is, that the Draft Estimates now be deferred. All those in favour please say Aye. Those against, No.

**AYES**

**The Speaker:** The Ayes have it.

**AGREED: TABLING OF THE DRAFT ESTIMATES OF REVENUE AND EXPENDITURE OF THE CAYMAN ISLANDS' GOVERNMENT FOR THE YEAR 2002 DEFERRED.**



**The Speaker:** Moving on to the next item on the Order Paper: The Development and Planning (Amendment) (Temporary Provisions) Regulation 2001. I call upon the Honourable Minister responsible for Planning.

**THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) REGULATION 2001**

**Hon. Linford A. Pierson:** Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this Honourable House The Development and Planning (Amendment) (Temporary Provisions) Regulation, 2001.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Linford A. Pierson:** Madam Speaker, this Regulations amendment is consequential upon the Amendment to the Development and Planning Law 1999 Revision, and as I intend to speak shortly on that, I will reserve my comments until then.

**The Speaker:** Item number 8, Government Business, Bills. Does any Member wish to move the suspension of the relevant Standing Orders?

**GOVERNMENT BUSINESS**

**BILLS**

**FIRST READINGS**

**THE APPROPRIATION (2002) BILL 2001**  
*(Deferred)*

**Hon. George A. McCarthy:** Madam Speaker, before I move the suspension, I would like to move under the relevant Standing Orders that the first reading on the Appropriation (2002) Bill, 2001, be deferred.

**The Speaker:** The question is that under the relevant [Standing Orders the first reading of the Appropriation (2002) Bill, 2001, be deferred]. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE APPROPRIATION (2002) BILL 2001 DEFERRED.**

**SUSPENSION OF  
STANDING ORDERS 45, 46 (1), (2) AND (4)**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move Standing Orders 45 and 46 (1), (2) and (4) to allow for The Stamp Duty (Amendment) (Temporary Provisions) Bill, 2001; The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill, 2001; and The Development and Planning (Amendment) (Temporary Provisions) Bill, 2001, be taken.

**The Speaker:** Bills, First Readings.

**THE STAMP DUTY (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001**

**The Clerk:** The Stamp Duty (Amendment) (Temporary Provisions) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for a Second Reading.

**THE LAND HOLDING COMPANIES SHARE  
TRANSFER TAX (AMENDMENT) (TEMPORARY  
PROVISIONS) BILL, 2001**

**The Clerk:** The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

**THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001**

**The Clerk:** The Development and Planning (Amendment) (Temporary Provisions) Bill 2001

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.  
Second Readings.

**SECOND READINGS**

**THE APPROPRIATION (2002) BILL 2001**  
*Motion to Defer*

**Hon. George A. McCarthy:** Madam Speaker, before you allow the second readings of these Bills, I would like to move again that under the relevant Standing Orders that the Second Reading of The Appropriation (2002) Bill, 2001 be deferred.

**The Speaker:** The question is that under the relevant Standing Orders the Second Reading of the Appropriation (2002) Bill, 2001, be deferred.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: SECOND READING OF THE APPROPRIATION (2002) BILL 2001 DEFERRED.**

**The Speaker:** At this time we will ask for the House to go into a short suspension for ten minutes.

**PROCEEDINGS SUSPENDED AT 3.06 PM**

**PROCEEDINGS RESUMED AT 4.03 PM**

**The Speaker:** Please be seated. Bills, Second Readings.

**THE STAMP DUTY (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001**

*[Correction to statement made in connection with the deferral of the Draft Estimates]*

**The Clerk:** The Stamp Duty (Amendment) Temporary Provisions) Bill 2001.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, thank you.

Before I commence the second reading of the Stamp Duty (Amendment) amending Bill, I would be grateful for your indulgence if you would permit me to correct an error I made in my statement under item 6.

**The Speaker:** Please proceed.

**Hon. George A. McCarthy:** Madam Speaker, during this statement (which I made against item 6 as to the reasons why the estimates were being delayed) I erroneously stated that other import duties would be down to \$2 million by year-end. I should have said, "would be down by \$2 million by year-end."

The reason I said that was, when the meeting of Finance Committee was held in October, at that time we had the figures up through the end of September and the aggregate figures (based on what had been collected up through the end of September), the Customs Department had projected that collections through year-end would be \$59.1 million. Having had the run of the full month of October the Customs Department has since revised its figures down to \$56.4 million, which is a difference of \$2.7 or closer to \$3 million. So I thought it would be useful, Madam Speaker, to offer that explanation.

**The Speaker:** Thank you, please continue.

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

Madam Speaker, I beg to move the second reading of a Bill entitled, The Stamp Duty (Amendment) (Temporary Provisions) Bill 2001.

Madam Speaker, the worldwide economic growth in 2001 was already sluggish before the terrorist attacks on 11 September in the United States of America. That tragic event caused economies throughout the world to experience even greater difficulties and the Cayman Islands has been impacted accordingly. Madam Speaker, Government therefore had the difficult task of determining stimulative measures that could be implemented to help revive the local economy.

It is well known from experiences in past years that a buoyant real estate sector has been associated with a healthy and thriving local economy. With this in mind, the Government decided that one measure it could adopt would involve the reduction of stamp duty rates that apply to property transfers. This view was also supported and encouraged by the private sector—and I should mention, Madam Speaker (as you will note from the Order Paper today), this is one of four measures.

It is also true that brisk activity in the real estate sector is often accompanied by brisk activity in the construction industry. Thus, Madam Speaker, this Honourable House will also be asked to consider measures that are designed to have an impact upon our local construction industry. The preceding, Madam Speaker, are some of the thought processes that resulted in the Government taking a decision to reduce the stamp duty rate.

The Bill for a law entitled The Stamp Duty (Amendment) (Temporary Provisions) Law 2001 is now before Honourable Members. Its Memorandum of Objects and Reasons states that the purpose of the Bill is to temporarily reduce stamp duty on documents relating to conveyance or transfer of immovable property. It is proposed that the existing stamp duty rates of 7.5 percent and 9 percent both be reduced to 5 percent across the board. The proposed reduction will last one year and will expire one year from the date of the passing of this Bill by this Honourable House.

Clause 1 of the Bill provides a title of the intended Law. Clause 1(2) of the Bill provides that the Law shall come into operation immediately as it is passed by the Legislative Assembly and it should cease to have effect one year later.

Madam Speaker, it is usual for a Law to come into effect upon the date it is gazetted, rather than on the date it is passed by this Honourable House. The question or thought may therefore arise as to whether the approach outlined in Clause 1(2) would result in any erosion of adequate public notification. This measure, Madam Speaker, was announced in a press conference on 22 October. The Members of the Legislative Assembly and the public have already received notice that this Bill will be appearing this Honourable House through the press conference, Madam Speaker. It is for this reason that the Law can

be brought into effect immediately as it is passed by this Honourable House.

Clause 1(3) effectively states that upon the expiry of this Law (which will occur one year from the date on which it is passed) the current rates of stamp duty will come back into effect—that is, 7.5 percent and 9 percent.

Clause 2 of the Bill, Madam Speaker, is very lengthy but its effect is quite simple in broad terms to replace the existing stamp duty rates of 9 percent and 7.5 percent with 5 percent.

Apart from this substitution or replacement, the Bill does not alter the present Stamp Duty Law (2001 Revision) to any significant extent. This Bill and the existing Stamp Duty Law (2001 Revision) are also exactly the same apart from 9 percent and 7.5 percent rates versus 5 percent rate contained in the Bill. Madam Speaker, it is for this reason that this Bill is being submitted for consideration by Honourable Members.

I should briefly mention, Madam Speaker, what the projected impact is likely to be on the revenue for 2002. Based on the revised collection through the end of this year which is, \$17,250 million, the provisions that have been made in the budget by the Land Registry Department as revenue to be collected in the year 2002 against this item has been set at \$15.3 million, a reduction of approximately \$2 million.

Madam Speaker, as you and Honourable Members will appreciate, this is the best estimate, although we are estimating what the collection is going to be. But we are hoping that when we take the reduction, as a result of this and the other measures that will be moved by the Honourable Minister for Works—when everything is combined, we are looking at a value of \$4.6 million approximately as a result of these concessions. This is what will be sustained in terms of revenue being given up against these specific items. The Honourable Minister will go into details on that item that he will be speaking to.

But, Madam Speaker, I should mention, that it is anticipated (as pointed out in the notes) that this stimulus will cause activities to increase in the construction sector and as a consequence we should see an offsetting of the amounts being lost being gained through customs import duty.

Madam Speaker, thank you very much.

**The Speaker:** Does any other Member wish to speak? The Elected Member from East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

Madam Speaker, please allow me to congratulate you on your appointment as Speaker of this Honourable House before I make my short contribution—which will probably be in the form of a question to the Third Official Member.

Madam Speaker, from the time this initiative was publicly aired (I believe the Third Official Member said on the 26 or 22 October) I supported Govern-

ment moving in that direction to try stimulating the economy as it has been in the doldrums for quite some time. But Madam Speaker, one of my questions to the Honourable Third Official Member would have been, *What impact would it have on the services that Government currently provides?* I believe that he mentioned in his presentation of the Bill that it is hoped that the construction industry would be stimulated as a result of this and that we will see some worthwhile appreciation in the import duties. Madam Speaker, I trust that that is realised.

However, Madam Speaker, my immediate concern with regard to this Bill is that while I recognise Government has a responsibility to try to stimulate our economy, I also believe that the private sector has the same kind of responsibility in sharing in the stimulating of the economy. I trust that the Third Official Member will let this Honourable House know in his reply what provisions or what initiatives have been proposed by the private sector to assist with the stamp duties.

As I see it, this is on immovable property, the transfer of immovable property. And there certainly is a schedule of costs in the private sector for that also. That is the percentage to be paid to the realtor or to the legal fraternity and the like. It would be interesting to hear how the private sector is going to assist by reducing their commission. I think it ranges somewhere between 3 and 10 percent depending on the amounts, or maybe 5 and 10 percent, something to that effect.

So my question to the Third Official Member, and one to which I would like an answer, Madam Speaker, is: *What is the private sector doing?* I know I recall seeing a package from the Chamber of Commerce to the Government with suggestions on how Government can stimulate the economy in the short, medium, and long term. Now it would be in keeping with informing the general public, the people of these Islands on how the private sector is going to assist with stimulating the economy also.

Having said that Madam Speaker, I do not have a problem with supporting Government bringing this Bill to stimulate the economy providing the private sector has 'signed on the dotted line' as we so like saying, Madam Speaker.

Thank you.

**The Speaker:** Does any other Honourable Member wish to speak to this Bill? Does any other Member wish to speak to this Bill? Last call, does any other Member wish to speak to this Bill? If not does the Honourable Third Official Member wish to exercise his right to reply?

**Hon. George A. McCarthy:** Madam Speaker, thank you very much.

The Elected Member from East End raised the question in terms of what services would be affected. We know, Madam Speaker, the services that

will be affected will have to be looked at in terms of the value of the revenue that will be given up. But there are other intangibles that are associated with that. As I mentioned, from the concessions when everything is accumulated, we are looking at a total of approximately \$4.6 million.

I should mention, Madam Speaker, that from my observation I have seen a spirit of co-operation from the private sector. For example, representatives of the Real Estate Association, the Tourism sector and all groups coming together with a willingness to work with the Government. Madam Speaker, we have seen the Cayman Islands Real Estate Brokers Association (CIREBA), make the decision to take a reduction in the normal commission rate that they receive. They do recognise that there is a significant inventory that has been built up. I have been made to understand that it is close to about \$2 billion in real property and what we have before us, Madam Speaker, is an attempt to effect some good activity in that area by way of stimulating sales. And we know the knock-on effect will be in the construction sector as well.

So, Madam Speaker, the real estate industry together with the tourism sector and all areas, recognise that it is very important for all persons to work in unison with the Government to do their part in order to keep the economy going.

Madam Speaker, they have mentioned that they are alternating with employees within certain sectors, for example within Tourism, within the hotel industry, and rather than persons working the normal shift I have been made to understand that a practice has been implemented whereby individuals are working reduced hours in order to keep the employment level to the optimum. This, Madam Speaker, is very much welcomed.

What we have in front of us today is not a one-sided arrangement by the Government, as such, because we do recognise that everyone has some equity in these Islands and this country—it is where we are obtaining our meals at this time—it is more than that. In fact, it is home to us, Madam Speaker. We are seeing a willingness to co-operate. So while it is somewhat difficult to quantify, let us see what the impact will be on CIREBA on the hotel industry. And I should point out that the Honourable Minister for Tourism has been having meetings with the tourism sector. They are looking in terms of hotel rates and charges in that sector that are having an unfavourable adverse impact upon the tourism Industry with a view to introducing remedial actions in that area in order to stimulate the tourism sector.

Madam Speaker, we have before us all hands on deck with everyone showing a willingness to work together. This includes the measures that are being introduced by the Government and these, Madam Speaker, we trust will be equally matched. From all indications I have reason to believe that they will be matched by the various sectors within our community.

Thank you.

**The Speaker:** The question is that The Stamp Duty (Amendment) (Temporary Provisions) Bill, 2001, be read a second time. All those in favour please say Aye, those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE STAMP DUTY (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001, GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Reading.

**THE LAND HOLDING COMPANIES SHARE  
TRANSFER TAX (AMENDMENT) (TEMPORARY  
PROVISIONS) BILL, 2001**

**The Speaker:** The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill, 2001.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill 2001. I would like to explain why it is necessary to bring proposed changes in the form of this Bill to The existing Land Holding Companies Share Transfer Tax Law 1995 (Revision).

Madam Speaker, when there is a change in ownership of immovable property from one individual to another, such a change attracts a stamp duty charge which is normally borne by the purchaser of the property. Land holding companies are entities as opposed to individuals that are allowed to own property in the Cayman Islands. A change in the share capital of a land holding company means that the ownership of that entity has changed and, as a result, a change in the ownership of the property held by the company also occurs. When one individual transfers the ownership of a property to another, a stamp duty charge arises. A similar charge arises for the benefit of the Islands revenue when the ownership of the changes, as a result of a change in the share capital of land holding entity.

Madam Speaker, the Memorandum of Objects and Reasons state that the purpose of the Bill is to temporarily reduce the amount payable to the Islands' revenue in respect of any transfers of equity capital of a land-holding corporation. It is therefore proposed (similar to the early Amending Bill that I did the second reading on) that the existing rates of 9 percent and 7.5 percent be reduced across the board to a rate of 5 percent. The proposed reduction will last for one year and expire thereafter on terms similar to the provisions in the Stamp Duty Amending Bill.

Madam Speaker, I commend this Bill to Honourable Members.

**The Speaker:** Does any other Member wish to speak to this Bill? Does any other Member wish to speak to this Bill? Last call, does any other Member wish to speak to this Bill? If not I will ask the Honourable Third Official Member to exercise his right of reply, if he so wishes.

**Hon. George A. McCarthy:** Madam Speaker, I would like to say thanks to Honourable Members once again for their tacit support.

**The Speaker:** The question is that a Bill entitled, The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill 2001, be given a second reading. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001, GIVEN A SECOND READING.**

**The Speaker:** Bills, Second Reading.

Before I call on the Honourable Minister responsible for Planning, we have reached the hour of interruption.

#### **SUSPENSION OF STANDING ORDER 10(2)**

**Hon. W. McKeeva Bush:** Madam Speaker, the Government proposes to continue until we finish business, therefore, I ask for suspension of the relevant Standing Orders in order for us to complete the business on the agenda today.

**The Speaker:** I shall put the question that the relevant Standing Orders be hereby suspended in order for the Honourable House to complete the business as set out on the Order Paper today. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 10(2) SUSPENDED.**

#### **THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001**

**The Clerk:** The Development and Planning (Amendment) (Temporary Provisions) Bill 2001.

**The Speaker:** The Honourable Minister responsible for Planning.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. I beg to move the Second Reading of a Bill entitled, The Development and Planning (Amendment) (Temporary Provisions) Bill 2001.

**The Speaker:** The question is that the Bill be read the second time. Does the Honourable Minister wish to speak thereto?

**Hon. Linford A. Pierson:** Thank you, Madam Speaker.

Madam Speaker, this Bill results from a stimulus package that was announced on 22 October which followed the tragic events on 11 September in the United States of America. And, Madam Speaker, Government has been tasked with trying to develop appropriate measures that have a stimulative effect on our local economy. It is, Madam Speaker, considered by many informed sources that a boost to the construction industry is one possible means of providing that stimulative effect. And one way of encouraging a greater level of construction is to reduce the cost associated with building.

Madam Speaker, I would just like to refer to the current legislation so that Honourable Members and the listening public can have a better appreciation of what this amendment bill proposes to accomplish. It applies to part 6 of the Development and Planning Law (1999 Revision) and has to do with the infrastructure fund. This is under section 41 of the Law, which states that there is established an infrastructure fund for the purpose of providing funds for the developments of roads and other infrastructure in the Islands.

Madam Speaker, it continues in subsection (2) to say, "**The funds shall be administered in accordance with directions issued by the Financial Secretary from time to time and shall consist of monies received under subsection (4).**"

Madam Speaker, subsection (4) states the areas of developments and persons to whom planning permission for development may be granted. It starts with an industrial building, a commercial building, a hotel, an apartment, strata lot, a house over 4,000 sq ft (or an extension to a house which would make that house over 4,000 sq ft), where this is granted after the 15 September 1997, shall at the date such person applying for building permits contribute to the infrastructure fund as follows.

Madam Speaker, before this amendment the fund was priced in area A at \$2.50 per square foot, area B \$1.50, area C 50 cents. This is now effectively reduced Madam Speaker, by 50 percent which has the practical effect of reducing it to \$1.25 per square foot in area A; 75 cents in area B; 25 cents per square foot in area C.

Area A, Madam Speaker, just to elaborate on this sum, means the following registration sections,

blocks and parcel: Registration section West Bay, 5C, parcels with water frontage only, but including any parcel subsequently derived from other parcels with water frontage and it lists a number of those sections. These are also listed for the district of George Town. I would invite all members of the listening public who might require more detail, to obtain a copy of the Development and Planning Law (1999 Revision) where it is quite clearly set out under the appropriate sections.

In area B, Madam Speaker, this means the following registration sections, blocks and parcels, apply to North Side and East End. Specific reference is made between the sea and the Queen's Highway and the East End section. But here again, Madam Speaker, there are several blocks and parcels and I would invite Members to refer to the appropriate section of the Law.

Under area C this means that the registration sections, blocks and parcels in Grand Cayman and Little Cayman (not Cayman Brac) are not included in areas A or B.

Madam Speaker, the construction cost, in respect of a development, includes the cost of preparing land for development, mobilisation cost, professional fees relating to the construction (including the fees for architects, quantity surveyors, surveyors and attorneys-at-law), the cost of labour and materials to be used in the construction of a building with its fixtures, the cost of installing plumbing and electricity facilities and such other construction costs as shall be determined by the authority who may require an applicant for planning permission, to provide such evidence or information as the authority considers necessary to make that determination.

Madam Speaker, a definition is also given of infrastructure which basically means public services and utilities used in common by the residence of the Cayman Islands.

Madam Speaker, the Memorandum of Objects and Reasons of the Bill, states that the purpose of the Bill is to temporarily reduce the contributions payable under the Development and Planning Law (1999 Revision) by 50 percent as I stated earlier. But, Madam Speaker, I would like to make one very important note here and I would like this to be carefully noted: it is important to note that the 50 percent reduction in the contribution rates will only apply to those developments that received planning permission on a date that is on or after the date on which this Bill is passed by the Legislative Assembly. The developments that already have planning permission, that is, those that have received planning permission on a date prior to this Bill being passed, will not benefit from these proposed reductions.

There are two clauses to the Bill, Madam Speaker, it is a very short Bill, two clauses. Clause 1(2) provides that it shall come into operation immediately as it is passed by the Legislative Assembly and it shall cease to have effect one year after the passing of the Bill. Clause 1(3) effectively states that, upon the

expiry of this Law - that is after one year from the date on which it is passed, the rates of contribution to the infrastructure fund will revert to the existing rate. Madam Speaker, under Clause 2 of the Bill, it gives effects to points that I have mentioned previously.

Madam Speaker, I believe that this is necessary under the current situation in order to give a boost to the economy. It is not at all unprecedented, the similar, though not exact position is being followed in other, even more advanced countries such as the United States of America where stimulus packages are being introduced to boost their economy. Madam Speaker, I believe that this is timely. I believe that it is indeed needed and I certainly, Madam Speaker, commend this Bill to all Honourable Members of this House.

Thank you, Madam Speaker.

**The Speaker:** Does any other Member wish to speak to this Bill? The Elected Member from East End.

**Mr. V. Arden McLean:** Madam Speaker, just for a clarification from the Minister when he replies, he mentioned that these fees would come into effect, if or whenever this Bill gets passage, and I wonder if he could clarify that because under section 1(2) it reads, "**These regulations come into operation on the date of publication of the regulation in the Gazette, and shall cease to have effect upon the expiration of a period of 12 months from that date.**" Just to get a clarification on that.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak to this Bill? If not, I shall call upon the Honourable Minister responsible for Planning, if he wishes to exercise his right of reply.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker.

I believe that the Honourable Member for East End might have been referring to the regulations that come with the Motion that is coming after the Bill. But Madam Speaker, there is in fact one correction that I am going to be circulating for committee stage and it is to do with the Bill. It is under paragraph 2 on page 4 and it is in the line that starts "*is granted after the date on which the Development and Planning (Amendment) (Temporary Provisions) Law 2001 is passed.*" The amendment that I will seek to have passed in the Committee stage is an insertion of after - *is granted*, we should have *on or after the date on which the Development and Planning (Amendment) (Temporary Provisions) Law 2001 is passed.*

Madam Speaker, I wish to thank the Honourable Member for East End for his input and all other Members for their tacit support.

**The Speaker:** The Question is that the Development and Planning (Amendment) (Temporary Provisions)

Bill 2001, be read a second time. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Bill has accordingly been given a second reading.

**AGREED: THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001, READ A SECOND TIME.**

**The Speaker:** The House will now go into Committee.

**HOUSE IN COMMITTEE AT 4.45 PM**

### **COMMITTEE ON BILLS**

**The Chairman:** Please be seated. The House is now in Committee. With the leave of the House may I assume that as usual we should authorise the Honourable Second Official Member to correct minor printing errors and suchlike in these Bills? Will the Clerk read each Bill and read its clauses?

#### **THE STAMP DUTY (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001**

**The Deputy Clerk:** The Stamp Duty (Amendment) (Temporary Provisions) Bill, 2001.

- Clause 1. Short title. Commencement and expiry.
- Clause 2. Amendment to the Schedule of the Stamp Duty Law, 2001 (Revision) Rates of Duty.

**The Chairman:** The Question is that Clauses 1 and 2 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 1 and 2 do stand part of the Bill.

**CLAUSES 1 AND 2 PASSED.**

**The Deputy Clerk:** A Bill for a Law to amend the Stamp Duty Law (2001 Revision) to temporarily reduce the Stamp Duty on documents relating to the conveyance of transfer of immovable property and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

#### **THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001**

**The Deputy Clerk:** The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill 2001.

- Clause 1. Short title. Commencement and Expiry.
- Clause 2. Amendment of Section 3 of the Land Holding Companies Share Transfer Tax Law 1995 (Revision) Returns et cetera of Transfers to be Delivered and Taxed Payable.

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. All those in favour—

**Mrs. Edna M. Moyle:** Madam Chairman.

**The Chairman:** The Member from North Side.

**Mrs. Edna M. Moyle:** Thank you.

I wonder if the Honourable Minister could explain Clause 2 to me. *“This Law comes into operation on the date that it is passed by the Legislative Assembly”*, that part of it—in relation to section 16 of the Interpretation Law.

**The Chairman:** The Honourable Third Official Member. Would the Member from North Side please repeat for the sake of clarity?

**Mrs. Edna M. Moyle:** Thank you, Madam Chairman, (I apologise for saying the Honourable Minister.) The Honourable Third Official Member, in section 2: **“This law comes into operation on the date that it is passed by the Legislative Assembly and shall cease to have effect upon the expiration of a period of 12 months from that date.** My question relates to *“this law comes into operation on the date that it is passed”* as to how that relates to section 16 of the Interpretation Law.

**Hon. George A. McCarthy:** Madam Chairman, I am getting the help of the very able legal drafts lady, Legislative Counsel. If you will allow me a minute, Madam Chairman, I will have the answer for the Honourable Member from North Side.

**Mrs. Edna M. Moyle:** Madam Chairman, if it would help I would read section 16 of the Interpretation Law. It says, **“Where any Law, part of a Law or any regulations made thereunder came or comes into operation on a particular day, it shall be deemed to have come or shall come into operation imme-**

**dially on the expiration of the day next preceding such day.”** So am I to assume that this would come into operation on the next day or will it be today when the Law is passed?

**The Chairman:** Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Chairman, the Interpretation Law provides that a Law comes into force on the day that it is gazetted unless otherwise provided. What we have done is to provide otherwise.

**Mrs. Edna M. Moyle:** That is section 15, Sir. The clarification I would like is on 16.

**The Chairman:** Honourable Minister for Social Services.

**Dr. the Hon. Frank S. McField:** Madam [Chairman], section 17 says that the Law can determine the date on which the Law comes into effect, unless of course the Law does not determine when it comes into being, then it would come into being according to the way in which it has been established for Laws to come into being.

**The Chairman:** Does the Honourable Third Official Member wish to respond?

**Hon. George A. McCarthy:** I am being helped Madam Chairman.

**Mrs. Edna M. Moyle:** Madam Chairman, it is not my intention to stop this Law from coming into effect; I would just like some clarity so that at the end of the day it is not done incorrectly. It is not my intention to stop the Law.

**The Chairman:** Thank you, Elected Member from North Side.

**Hon. George A. McCarthy:** Madam Chairman, section 16 merely explains the time of the commencement. Our Law will come into force at the beginning of today's date.

**The Chairman:** Thank you Honourable Third Official Member. If that satisfies the Elected Member from North Side I shall now put the Question.

**Mrs. Edna M. Moyle:** Madam Chairman, I dare not question the expertise of the Legislative Counsel and if that is her ruling, I stand by that.

**Dr. the Hon. Frank S. McField:** Madam Chairman, just for—

**The Chairman:** Honourable Minister.

**Dr. the Hon. Frank S. McField:** Just for further clarity the Elected Member from North Side was referring to section 16 of the Interpretation Law, or the section dealing with the commencement, or the moment when a regulation comes into operation. Section 17 says that, “**Every law (which expression in this section does not include regulations), shall be a public Law and shall be judicially noticed as such, unless the contrary is expressly provided by the Law.**” Which in this case the law is providing when it comes into effect.

**Mrs. Edna M. Moyle:** Madam Chairman, I thank the Honourable Minister for that, but that is totally out of my question. The marginal note for that says, “**Laws to be Public Laws and judicially noticed.**” I am not arguing against the Legislative Counsel's ruling on it.

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. Those in favour please say, Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Deputy Clerk:** A Bill for a Law to amend the Land Holding Companies Share Transfer Tax Law (1995 Revision) to temporarily reduce the tax payable under Section 3 of the Law and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** At this stage we will move to the amendment (for the Committee stage). I will consider to grant leave if the Mover could move.

I, at this time, now waive the two days notice for the proposed amendment at committee stage for the Development and Planning (Amendment) (Temporary Provisions) Bill 2001. And I would ask for the Amendment to be duly circulated.

*[Pause]*

**THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001**

**The Deputy Clerk:** The Development and Planning (Amendment) (Temporary Provisions) Bill, 2001.



Clause 1. Short Title. Commencement and expiry.

**The Chairman:** The question is that Clause 1 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 1 PASSED.**

**AMENDMENT OF SECTION 41 OF THE DEVELOPMENT AND PLANNING LAW 1999 (REVISION) INFRASTRUCTURE FUND**

**The Deputy Clerk:** Clause 2: Amendment of Section 41 of the Development and Planning Law 1999 (Revision) Infrastructure Fund.

**The Chairman:** The question is that, Clause 2 do stand part of the Bill. I believe that there was an amendment proposed?

**Hon. Linford A. Pierson:** Madam Speaker, in accordance with the Standing Order 52 (1) and (2) I, the Honourable Minister for Planning, Communication, Works and Information Technology, give notice to move the following amendment to the Development and Planning (Amendment) (Temporary Provisions) Bill, 2001. That Clause 2 be amended in the new subsection (4) proposed for insertion in section 41 of the Principal Law by deleting the words "*is granted after*" and substituting the words "*is granted on or after*."

**The Chairman:** The question is that Clause 2 be amended in the new subsection (4) proposed for insertion in section 41 of the principal Law, by deleting the words "*is granted after*" and substituting the words "*is granted on or after*."

Does any Member wish to speak to the proposed amendment? If not, the question is that the amendment do stand part of Clause 2. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** The question is that Clause 2 as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2 AS AMENDED PASSED.**

**The Clerk:** A Bill for a Law to amend the Development and Planning Law 1999 (Revision) to temporarily reduce the amount of the contribution to the infrastructure fund and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The Title do stand part of the Bill.

**TITLE PASSED.**

**The Chairman:** The question is that the Bills be duly reported to this Honourable House. The Question is put. Those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**AGREED: BILLS TO BE REPORTED TO HOUSE.**

**The Chairman:** This concludes proceedings in Committee. The House will resume.

**HOUSE RESUMED**

**The Speaker:** Please be seated. Proceedings are resumed.

Reports on Bills. The Honourable Third Official Member.

**REPORTS ON BILLS**

**THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (amendment) (TEMPORARY PROVISIONS) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill, 2001, was considered by a Committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Reports, The Stamp Duty (Amendment) (Temporary Provisions) Bill, 2001. The Honourable Third Official Member.

**THE STAMP DUTY (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled the Stamp Duty (Amendment) (Temporary Provisions) Bill 2001 was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Stamp Duty (Amendment) (Temporary Provisions) Bill 2001. The Bill is accordingly set down for a Third Reading.

Reports, The Development and Planning (Amendment) (Temporary Provisions) Bill 2001. The Honourable Minister responsible for Planning.

**THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001**

**Hon. Linford A. Pierson:** Madam Speaker, I have to report that a Bill entitled, The Development and Planning (Amendment) (Temporary Provisions) Bill, 2001 was considered by a committee of the whole House and passed with one amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

Bills, Third Readings.

**The Speaker:** The Honourable Third Official Member. It is my understanding that there should be a suspension of Standing Order 47. Could that be done at this time?

**SUSPENSION OF STANDING ORDER 47**

**Hon. W. McKeever Bush:** Madam Speaker, I move the suspension of Standing Order 47 in order to deal with the Third Readings of these Bills.

**The Speaker:** Thank you. The question is that Standing Order 47 be duly suspended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Standing Order is duly suspended.

**AGREED: STANDING ORDER 47 SUSPENDED.**

**THIRD READINGS****THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001**

**The Deputy Clerk:** The Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill 2001.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled the Land Holding Companies Share Transfer Tax (Amendment) (Temporary Provisions) Bill 2001 be given a third reading and passed.

**The Speaker:** The question is that the Bill be given a third reading and passed. All in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE LAND HOLDING COMPANIES SHARE TRANSFER TAX (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE STAMP DUTY (AMENDMENT) (TEMPORARY PROVISIONS) BILL 2001**

**The Deputy Clerk:** The Stamp Duty (Amendment) (Temporary Provisions) Bill, 2001.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled The Stamp Duty (Amendment) (Temporary Provisions) Bill, 2001 be given a third reading and passed.

**The Speaker:** All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE STAMP DUTY (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001**

**The Deputy Clerk:** The Development and Planning (Amendment) (Temporary Provisions) Bill, 2001.

**The Speaker:** The Honourable Minister for Planning.

**Hon. Linford A. Pierson:** Madam Speaker, I beg to move that a Bill entitled, The Development and Planning (Amendment) (Temporary Provisions) Bill 2001 as amended, be given a third reading and passed.

**The Speaker:** The question is that a Bill entitled, The Development and Planning (Amendment) (Temporary Provisions) Bill, 2001 be given a third reading and

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** The suspension of Standing Order 24 (5).

#### **SUSPENSION OF STANDING ORDER 24(5)**

**Hon. W. McKeever Bush:** Madam Speaker, I move the suspension of Standing Order 24 (5) to enable the House to deal with the Motions 11, 12 and 13 on the Order Paper.

**The Speaker:** Honourable Minister for Tourism.

**Hon. W. McKeever Bush:** Madam Speaker, the suspension would be also to deal with Government Motion No. 10.

**The Speaker:** The Question is that Standing Order 24 (5) be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 24(5) SUSPENDED.**

**The Speaker:** Government Motion No. 10/01, The Development and Planning Law (1999 Revision), The Development and Planning (Amendment) (Temporary Provisions) Regulations 2001.

### **MOTIONS**

#### **GOVERNMENT MOTION NO. 10/01**

**THE DEVELOPMENT AND PLANNING LAW (1999 REVISION), THE DEVELOPMENT AND PLANNING (AMENDMENT) (TEMPORARY PROVISIONS) REGULATIONS 2001**

**Hon. Linford A. Pierson:** Madam Speaker, I beg to move Government Motion No. 10/01 on The Development and Planning (Amendment) (Temporary Provisions) Regulations 2001.

**The Speaker:** Does the Honourable Minister wish to speak to it?

**Hon. Linford A. Pierson:** Madam Speaker, the Motion reads:

**“WHEREAS Section 45 (1) of the Development and Planning Law (1999 Revision) provides to the Governor in Council, may make regulations and**

**“WHEREAS Section 45 (3) of the said Law provides that no regulations shall be made pursuant to the said Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the Legislative Assembly and**

**“WHEREAS the attached draft Development and Planning (Amendment) (Temporary Provisions) Regulation 2001 were laid on the table during a Sitting of this House.**

**“BE IT THEREFORE RESOLVED THAT the attached draft Development and Planning (Amendment) (Temporary Provisions) Regulations 2001 be approved by the Legislative Assembly in accordance with the provision of Section 45 (3) of the Development and Planning Law (1999 Revision).”**

Madam Speaker, the Regulations as mentioned earlier are consequential on the amendment to the Bill to the Development and Planning Law (1999 Revision).

Madam Speaker, the first Whereas section of the Motion states that regulations may be made by the Governor in Council under the Development and Planning Law and Madam Speaker, these regulations had to be laid on the Table of the House prior to the Motion being brought and that was done earlier.

The second Whereas section of the Motion outlines that proposed regulations be laid in the Legislative Assembly as mentioned and a resolution approving those regulations be passed by the Legislative Assembly.

The third Whereas section of the Motion pertains to the tabling of the proposed regulation in the Legislative Assembly. And Madam Speaker, the Resolve section of the Motion asks the Legislative Assembly to approve the Draft Development and Planning (Amendment) (Temporary Provisions) Regulations 2001. Madam Speaker, I commend these regulations to this Honourable House.

**The Speaker:** Thank you. Does any Member wish to speak to this Motion? Does any Member wish to speak to the Motion? If not would the Mover wish to exercise his right of reply?

**Hon. Linford A. Pierson:** Madam Speaker, only to thank all Honourable Members for their tacit support of the Regulations.

**The Speaker:** The question is that the Draft Development and Planning (Amendment) (Temporary Provisions) Regulations 2001 be approved by the Legislative Assembly in accordance with provisions of Sec-

tion 45 (3) of the Development and Planning Law (1999 Revision). All those in favour please say Aye. Those against, No.

**AYES**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 10/01 PASSED..**

**The Speaker:** Government Motion 11/01. Revocation and Appointment of Membership to the Standing Business Committee. The Honourable Minister for Community Services, Youth and Women's Affairs.

### **GOVERNMENT MOTION NO. 11/01**

#### **REVOCAION AND APPOINTMENT OF MEMBERSHIP TO THE STANDING BUSINESS COMMITTEE.**

**Dr. the Hon. Frank S. McField:** Madam Speaker, "BE IT RESOLVED THAT in accordance with the provisions of Standing Order 8(2) this Honourable House revokes the appointment of Mr. D. Kurt Tibbetts, JP, MLA to the Standing Business Committee and appoints the Honourable Linford A. Pierson, OBE, JP, Deputy Leader of Government Business as Deputy Chairman and the Honourable W. McKeeva Bush, OBE, JP, Leader of Government Business as Chairman."

**The Speaker:** The Motion has been duly moved. Does the Honourable Mover wish to speak thereto?

**Dr. the Hon. Frank S. McField:** No, Madam Speaker.

**The Speaker:** Does any other Member wish to speak thereto? If no other Member wishes to speak, does the Member wish to exercise his right of reply?

**Dr. the Hon. Frank S. McField:** Madam Speaker, just that I thank the Members for the understanding and support of this Motion.

**The Speaker:** The Question is, that in accordance with the provision of the Standing Order 8 (2), this Honourable House revokes the appointment of Mr. D. Kurt Tibbetts, JP, MLA, to the Business Standing Committee and appoints the Honourable Linford A. Pierson, OBE, JP, Deputy Leader of Government Business as the Deputy Chairman and the Honourable W. McKeeva Bush, OBE, JP, Leader of Government Business as Chairman. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**Hon. Linford A. Pierson:** Madam Speaker, may we have a division please?

**The Speaker:** Certainly, Madam Clerk, please call the Division.

**The Clerk:**

#### **DIVISION 18/01**

##### **AYES: 10**

Hon. James M. Ryan  
Hon. W. McKeeva Bush  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Gilbert A. McLean  
Hon. Frank S. McField  
Mr. Rolston M. Anglin  
Mr. Cline A. Glidden, Jr  
Capt. A. Eugene Ebanks  
Mr. Lyndon L. Martin

##### **NOES: 5**

Mr. D. Kurt Tibbetts  
Mr. A. M. McLaughlin, Jr.  
Mr. Anthony S. Eden  
Mrs. Edna M. Moyle  
Mr. V. Arden McLean

##### **ABSENT:**

Hon. David F. Ballantyne  
Hon. George A. McCarthy

**The Speaker:** Ayes 10. Noes 5. The Ayes have it.

**AGREED BY MAJORITY: GOVERNMENT MOTION NO. 11/01 PASSED.**

**The Speaker:** Government Motion No. 12/01. Revocation and appointment of Members to the Standing House Committee. The Honourable Minister for Health Services.

### **GOVERNMENT MOTION NO. 12/01**

#### **REVOCAION AND APPOINTMENT OF MEMBERS TO THE STANDING HOUSE COMMITTEE**

**Hon. Gilbert A. McLean:** Madam Speaker, I beg to move Government Motion No. 12/0,1 which reads,

"BE IT RESOLVED THAT, in accordance to the provision of Standing Order 8(2). This Honourable House revokes the appointment of the Honourable Mrs. Julianna O'Connor-Connolly, JP, MLA to the Standing House Committee and appoints Mr. Cline Glidden, Jr. MLA."

**The Speaker:** The Motion has been duly moved, does the Honourable Mover wish to speak thereto?

**Hon. Gilbert A. McLean:** No, Madam Speaker.

**The Speaker:** Does any other Member wish to speak? The Question is that in accordance with the provision of Standing Order 8 (2) this Honourable House revokes the appointment of Mrs. Julianna O'Connor-Connolly, JP, MLA, to the Standing House Committee and appoints Mr. Cline Glidden, Jr., MLA.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: MOTION 12/01 PASSED.**

**The Speaker:** Government Motion No. 13/01. Revocation and appointment of Membership to the Standing Public Accounts Committee. The Honourable Minister for Education.

## **GOVERNMENT MOTION NO. 13/01**

### **REVOCAION OF APPOINTMENT OF MEMBERSHIP TO THE STANDING PUBLIC ACCOUNTS COMMITTEE**

**Hon. Roy Boddan:** Madam Speaker, I would like to move Government Motion No. 13/01. Revocation of Appointment of Membership to the Standing Public Accounts Committee. Which reads as follows,

**“BE IT RESOLVED THAT in accordance with the provisions of Standing Order 8(2). This Honourable House revokes the appointment of Mr. Alden M. McLaughlin, Jr., MLA, from the Standing Public Accounts Committee and appoints Mr. Lyndon L. Martin, MLA.”**

**The Speaker:** The Motion has been duly moved. Does the Honourable Mover wish to speak to it?

**Hon. Roy Boddan:** No, Madam Speaker.

**The Speaker:** Does any other Member wish to speak to the Motion? If not, the question is that in accordance to the provision of, sorry - the Second Elected Member from George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. Before I offer my brief contribution to this significant Motion I wish to offer my warmest, personal congratulations on your elevation to the dais.

Madam Speaker, it appears that I now fall to suffer the same fate as my colleagues, the First Elected Member for George Town and the Elected Member for North Side. There is a Motion on the Floor of this Honourable House seeking the revocation of my appointment as a member of the Public Accounts Committee of this Honourable House. No reason has been proffered for such a Motion and I am therefore left to presume as was the Elected Member for North Side, that I, too, have been found guilty of association with the First Elected Member for George Town and former Leader of Government Business.

Madam Speaker, I do understand how the system works. I just wish to say this, Madam Speaker, (and I have said this to my friends the Honourable

Minister for Community Development and the new Honourable Minister for Health), that I was elected to represent the people of these Islands and in particular the people of the District of George Town. I do believe that I do have much to offer. It matters not from that perspective, Madam Speaker, which Government is in power, as they say, or which individuals occupy those seats across the floor. My duty remains the same. I have been, I believe, an effective Member of the Public Accounts Committee. I remain until now on a number of other committees: the negotiating team, the Immigration Review team – both matters which are dear to my heart – both matters which formed important planks in my election campaign platform, both matters in which I believe I have considerable expertise and knowledge.

As I said, Madam Speaker, it matters not who is in government. Important matters need to be resolved for the sake of all of us and for the sake of the future of this country. I stand ready, willing and able to continue to do my part to ensure that the right things happen over the course of the next three years.

I respect I am bound by the democratic process and if those who occupy the seats across the floor of this Honourable House deem it necessary to revoke my appointment to any of those committees, so be it. I just wish all Honourable Members and the country to understand that as long as I have the opportunity to do so, I intend to continue to do my very best to ensure that I provide the best possible representation that I can.

I hold that out, Madam Speaker, as something of an olive branch to those Members on the Government Bench who may bear some degree of ill-will in relation to what has transpired over the course of the past few weeks. But I believe that we all must be bigger men and bigger women than the personal circumstances. We must understand the tremendous commitment that we have made and the tremendous obligation we have. And, not withstanding all that has transpired, to do our very best to ensure that these important initiatives do not lose momentum and are carried through.

Again, Madam Speaker, I speak specifically to what is transpiring in relation to the international initiatives and to what has transpired thus far in relation to the work of the Immigration Review team. At this point we are in a position where we are almost ready to provide to the Government the first interim report of that committee. I would like to be able to contribute to that very important work.

Madam Speaker, I am simply saying to all Honourable Members on the Government Bench that my commitment is still there. Whatever the differences may be I do not believe on these two important matters that we share any philosophical differences. And I know I can say this with confidence, in relation to the Honourable Minister for Health and the Honourable Minister for Community Development. We have talked

often particularly about the Immigration matters and I know we share a common philosophy.

I say those words, Madam Speaker, accepting the inevitable that I will be removed as a member of the Public Accounts Committee. I derived some degree of confidence in the committee because my good friend, the Elected Member from East End is still there as scrutineer. I am grateful that his appointment has not been revoked and I believe, Madam Speaker, that under the able leadership of the Chairman, the Second Elected Member for West Bay, this committee will continue to do good work. And so, Madam Speaker, with those few words I offer my contribution to this Motion. Thank you.

**The Speaker:** Does any other Member wish to speak to this Motion? The Second Elected Member from West Bay.

**Mr. Rolston M. Anglin:** Madam Speaker, as Chairman of the Public Accounts Committee. I would feel it remiss, if I did not offer a few comments. Firstly, Madam Speaker, as has been stated in this House, many times since I have been here, the Public Accounts Committee has been comprised in a manner that offers what would be considered a balance. Certainly the committee is comprised of three persons that were considered Back Bench Members of the former government and that balance is thought to be maintained.

I am glad that the Member from East End will be on the committee as a scrutineer. I consider our working relationship as one that has always been productive because the Member from East End shares a lot of enthusiasm in regard to the work of that committee. I can honestly say that the Member from East End has never missed a meeting, other than once, without letting me know that he would be late, or off the Island. He has certainly been a very—in fact he just told me that he has never missed a meeting! And I would concur that he has been an extremely loyal and extremely fair Member of the Committee; indeed the whole committee has worked well together. However, Madam Speaker, over the last several weeks we have had times when the committee has been challenged to meet a quorum.

Madam Speaker, also on the Committee is the Third Elected Member from Bodden Town who was a member of the 1996 – 2000 government. Currently the Committee has before it a document that covered his term as a Member of Executive Council at that time. He and the other Members present (the Member from East End, the Fourth Elected Member from West Bay and I), concurred that he should withdraw from participating in the deliberations over that report because it was seen as a conflict. I think that is a very fair way to go about things.

I have certainly found that in the dealings on the Public Accounts Committee, the Third Elected Member from Bodden Town has been fair in his delib-

erations and in his contributions to the Committee. However, over the past few meetings only three members present have made up the quorum of the Committee. The Elected Member for East End, the Fourth Elected Member for West Bay, and I.

#### POINT OF CLARIFICATION

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker.

**The Speaker:** What is your point of order?

**Mr. Alden M. McLaughlin, Jr.:** Not a point of order, Madam Speaker, it is a point of clarification.

**The Speaker:** Would the Member give way then?

**Mr. Rolston M. Anglin:** No, Madam Speaker, I was about to clarify the point. If the Member is not satisfied with my clarification then he can deal with it however he sees fit.

**The Speaker:** Please continue.

**Mr. Rolston M. Anglin:** Madam Speaker, as the Second Elected Member from George Town has alluded to, he is passionate about the Immigration issue and the Immigration Review Team was meeting at the same time that the Public Accounts Committee had been meeting. I cannot prioritise for any Member in this House. However, I always prioritise the committees that are whole committees or standing committees and anything else that the Government would see fit to put me on, as secondary. For example, Madam Speaker, on occasions I have informed the Fourth Elected Member from West Bay that I could not make it to Telecom Advisory Committee meetings because I saw that spending time going over the Public Accounts Committee report had priority over that particular committee.

Madam Speaker, again I am simply trying to clarify the entire situation and I certainly hope that this lends the clarity that the Second Elected Member from George Town would have sought. I also sit on the Immigration Review team so I would have had obligations to that committee as well. However, as I said, I am the Chairman of the Public Accounts Committee and I saw where that was business that needed to be moved forward. So, as Chairman, I called those meetings and I believe that the Committee will maintain an adequate balance as it stands and as is now being proposed.

I believe that the Second Elected Member from Cayman Brac and Little Cayman does offer a peculiar insight that is going to be valuable on the committee as well. He is a person who has a background in economics and finance and naturally understanding Public Accounts Committee he will be able to assist greatly in matters of finance and matters of economics because certainly the majority of the work

that we do on the Public Accounts Committee is in those two areas.

Again, Madam Speaker, I thought I would offer a few comments that would seek to address the entire situation. I hope that my comments have been as fair to all as they should be, that is certainly what I have tried to achieve and I thank you Madam Speaker.

**The Speaker:** Does any other Member wish to speak to this Motion? If not, does the Honourable Mover wish to exercise his right of reply?

**Hon. Roy Bodden:** Madam Speaker, I had hoped that what was intended to be a mere cosmetic exercise could have been carried out without any misunderstanding. I, therefore, Madam Speaker, find it unfortunate and regrettable that one in the position of the Second Elected Member from George Town lacks the understanding to grasp the distinction between this as, Madam Speaker, an exercise imbalance and mistakenly or otherwise interprets it as some form of vendetta. Madam Speaker, I can assure that Honourable Member and any other Honourable Members labouring under such a delusion that there is no ill will on this side but it seems there are some ill winds blowing from the south east corner of these Hallowed Halls.

Madam Speaker, this is a common practice in the Westminster system when the kinds of changes that have been effected in recent days have been effected. Madam Speaker, it is merely an exercise to provide balance and ensure that the business of the Parliament, or in our case the Legislative Assembly, is in a position to continue without being handcuffed. Madam Speaker, I hope that the exercise which has been undertaken is now understood by all and I give thanks to those who support and will support this move.

**The Speaker:** The Question is that in accordance with the provision of Standing Order 8(2) the Honourable House revokes the appointment of Mr. Alden M. McLaughlin, Jr, MLA to the Standing Public Accounts Committee and appoints Mr. Lyndon L. Martin MLA. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Honourable Minister for Education did you –

**Hon. Roy Bodden:** Madam Speaker, I was about to ask for a division please.

**The Speaker:** Madam Clerk, can we please call a division?

**The Clerk:**

**DIVISION NO. 19/01**

**Ayes: 11**

Hon. James M. Ryan  
Hon. George A. McCarthy  
Hon. W. McKeeva Bush  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Gilbert A. McLean  
Dr. the Hon. Frank S. McField  
Mr. Rolston M. Anglin  
Mr. Cline A. Glidden, Jr  
Capt. A. Eugene Ebanks  
Mr. Lyndon L. Martin

**Noes: 4**

Mr. D. Kurt Tibbetts  
Mr. A. M. McLaughlin, Jr.  
Mrs. Edna M. Moyle  
Mr. V. Arden McLean

**ABSENT: 1**

Hon. David F. Ballantyne

**ABSTENTION: 1**

Mr. Anthony S. Eden

**The Speaker:** 11 Ayes. 4 Noes. 1 Abstention. The Ayes have it. Government Motion No. 13/01 is duly passed.

**AGREED BY MAJORITY: GOVERNMENT MOTION NO. 13/01 PASSED.**

**The Speaker:** May I now have a Motion for the adjournment?

**ADJOURNMENT**

**Hon. W. McKeeva Bush:** Madam Speaker, I move the adjournment of this Honourable House to a date to be announced.

**The Speaker:** The question is that the House be adjourned for a date to be announced. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**THE HOUSE STOOD ADJOURNED SINE DIE.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**5 DECEMBER 2001**  
**10.04 AM**  
*Second Sitting*

**The Speaker:** I call upon the Honourable Minister responsible for Planning, Communications, Works and Information Technology to grace us with Prayers.

**PRAYERS**

**Hon. Linford A. Pierson:** Let us pray.

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

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

Let us say the Lord's Prayer together:

*Our Father who art in Heaven, Hallowed be Thy Name. Thy Kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil: For Thine is the kingdom, the power and the glory, forever and ever. Amen.*

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

**Proceedings resumed at 10.07 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**Apologies**

**The Speaker:** There have been no apologies tendered.

**PRESENTATION OF  
PAPERS AND REPORTS**

**THE DRAFT ESTIMATES OF REVENUE AND EXPENDITURE OF THE CAYMAN ISLANDS GOVERNMENT FOR THE YEAR 2002**

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Madam Speaker, I beg to lay on the Table of this Honourable House the Draft Estimates of Revenue and Expenditure of the Cayman Islands' Government for the Year 2002.

**The Speaker:** So ordered.

Would the Honourable Member wish to speak thereto?

**Hon. George A. McCarthy:** I will be commenting through the Budget Address, Madam Speaker.

**The Clerk:** Item 4, Government Business, Bills, First Readings. The Appropriation (2002) Bill, 2001.

**GOVERNMENT BUSINESS**

**BILLS**

**FIRST READINGS**

**THE APPROPRIATION (2002) BILL, 2001**

**The Clerk:** The Appropriation (2002) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is now set down for second reading.  
Bills, first reading.

**SUSPENSION OF  
STANDING ORDERS 45, 46(1) AND (2)**

**The Speaker:** Would the Honourable Third Official Member move the suspension of Standing Order 45, 46(1) and (2)?

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the suspension of Standing Order 45, 46(1)



and (2) to allow a Bill entitled the Cayman Islands Development Bank Bill 2001 to be read a first time.

**The Speaker:** The question is that Standing Orders 45, 46(1) and (2) be suspended. Does any Member wish to speak?

The Second Elected Member for the District of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

It is with considerable surprise and much concern that I rise to speak to this Motion, to suspend Standing Orders 45, 46(1) and (2). The effect of which will permit this Bill to be dealt with other than in conformity with Standing Orders in relation to the reading of Bills.

Madam Speaker, the Standing Orders require that Bills be gazetted and circulated to reach each Member not less than 21 days before it is proposed to be read a first time. As I stand here this morning, no Member of this Honourable House (at least not on this side of the Floor) has received the Bill.

I received a white copy of the proposed Bill on Friday afternoon. The relevant Business Paper to which it was attached is dated 28 November. Madam Speaker, how are we to perform the function for which we have been elected, to scrutinise Bills, to offer constructive and enlightened debate upon them and in due course, Madam Speaker, to vote aye or nay? Madam Speaker, this proposed suspension of these Standing Orders makes a complete mockery of the exercise and the function which all Members of this Honourable House have been elected to carry out.

What is the rationale, Madam Speaker? What is the rush? Why are we throwing the Standing Orders of this Honourable House out of the window on this occasion? None of us on this side of this Honourable House have had the opportunity to hear why this Bill is being proposed. Why must it happen now? Why did we not have the opportunity to consult with the Government? Or indeed, with our constituents, as to whether or not the provisions of this Bill are in accordance with what we believe to be the right thing.

Madam Speaker, I have had the opportunity to look at the Memorandum of Objects and Reasons and I certainly have no difficulty with the Objects and Reasons as set out in the Memorandum. That is not the same thing as saying that I agree with all the provisions of the Bill. Madam Speaker, this White Paper runs to 34 pages. How can it be considered fair? How can it be considered right that Members come here this morning not knowing, not expecting that this matter would be railroaded through the House in this manner? Madam Speaker, my notice that this was likely to happen was what I heard on *Radio Cayman* yesterday. Madam Speaker, I really must protest the way things are proceeding.

Madam Speaker, I am a member of the standing Business Committee of this Honourable House. I received a phone call on Friday around 10 am, advising me of a meeting of the Business Committee to be held at 2.30 pm. I was unable to attend, but in any event I came to understand that the meeting never happened and a meeting was fixed for 3 pm on Monday. I arrived, Madam Speaker, and after waiting here for some twenty minutes, I was advised that the Government had decided that the meeting was not going to be held then for one reason or another, and it would be held sometime between 4.15 and 4.30. What is going on? Why is it that since the transition there has been such a tremendous change in attitude to the way the business of this Honourable House is conducted? I accept my role as a Member of the Opposition, but I do not equate opposition with being oppressed. I am not a member of the *Oppressed*, Madam Speaker. I am a Member of the *Opposition*.

As a Member of this Honourable House I am entitled to a reasonable notice of committee meetings. I am entitled to reasonable notice in relation to any Bills that are coming to this Honourable House. If I do not receive those things, Madam Speaker, if all Honourable Members of this House do not receive those things, we cannot carry out the very, very important function for which we have been elected.

Madam Speaker, what debate am I to offer on this very, very important Bill? What opportunity have I had to review it? I still do not have the Bill, Madam Speaker—no one does! Madam Speaker, since I am something of a freshman, perhaps in due course someone will advise me as to how we are going to pass a Bill which we do not have. What I have is a White Paper.

Madam Speaker, we are creating a Cayman Development Bank. Is that not of sufficient import that the Members on this side of the floor should have a reasonable opportunity to debate it? Have we reached the point where the only voices that are to be heard are those who form part of the Government and its Backbench supporters? Democracy at its best!

Madam Speaker, I am not going to belabour the point. I think I have made it plain that, whether or not I can support this Bill, I can say that I am going to vote "No" to the suspension of Standing Orders 45, 46(1) and (2) which will allow this Bill to be railroaded through this Honourable House in what must be unprecedented and record time.

Thank you, Madam Speaker.

**The Speaker:** The Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

The suspension of Standing Orders is being sought so as to expedite matters pertaining to the work of the Housing Development Corporation and the Agricultural and Industrial Development Board.

Everyone knows—including the Member who just sat down—that we have applied and got agreement for a line of credit for housing from the Caribbean Development Bank. Our line of credit for housing depends upon this Legislature moving expeditiously with this Bill in order to get it dealt with at the next Caribbean Development Bank Board Meeting, which is being held next week.

Madam Speaker, the Bill was sent out on the 28<sup>th</sup> and it will be no different when this Honourable House passes it. The Caribbean Development Bank requires the amalgamation of the Agricultural and Industrial Development Board and the Housing Development Corporation in order to deal with the line of credit for housing and other matters from here on in. As for the Business Committee, Madam Speaker, we did meet on Monday and members of the Committee were notified. We were just not able to have the meeting any sooner because of the Budget process. Madam Speaker, this Government is not setting any precedent in this regard, however, we are trying our endeavour best to expedite the business of this Honourable Legislature and of the country in a serious manner and one that befits democracy.

Thank you very much.

**The Speaker:** Does any other Member wish to speak to the suspension of the relevant Standing Orders?

If not, I shall put the question that Standing Orders 45, 46(1) and (2) be suspended. Those in favour, please say Aye. Those against, say No.

**AYES.**

**The Speaker:** The Ayes have it.

**Hon. W. McKeever Bush:** Please ask for the Noes again, Madam Speaker.

**The Speaker:** Are there any Noes? The Ayes have it.

**AGREED: STANDING ORDERS 45, 46(1) AND (2) SUSPENDED TO ALLOW THE CAYMAN ISLANDS DEVELOPMENT BANK BILL, 2001, TO BE READ A FIRST TIME.**

**The Speaker:** Bills, First Reading. The Cayman Islands Development Bank Bill, 2001.

### **THE CAYMAN ISLANDS DEVELOPMENT BANK BILL, 2001**

**The Clerk:** The Cayman Development Bank Bill, 2001.

**The Speaker:** The Bill has been read for a first time and is set down for the Second Reading.  
Bills, Second Readings.

## **SECOND READING**

### **THE APPROPRIATION (2002) BILL, 2001**

**The Clerk:** The Appropriation (2002) Bill, 2001.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled The Appropriation (2002) Bill, 2001.

**The Speaker:** Does the Honourable Member wish to speak to it?

## **THE BUDGET ADDRESS**

**Hon. George A. McCarthy:** Yes, Madam Speaker.

Madam Speaker, in moving the Second Reading of the Appropriation Bill, I would like to offer the following comments by way of this Budget Address.

Madam Speaker, the Cayman Islands thought much of the 1970s and 1980s were marked by significant economic growth fuelled mainly by strong performance in the Tourism and International Financial and Business Services Sector and by significant inflows of foreign direct investment into real estate development.

The 1990s, however, ushered in a decade of significant change for the world economy. The fall of Communism and the increasingly successful economic liberalisation policies of the G7 countries, combined with rapid technological and transportation advance, led to major strides in the globalisation of world production, trade and investment.

*[pause]*

**Hon. George A. McCarthy:** Madam Speaker, I have been asked to try to get closer to the microphone. It is a bit short but I will try my best to manoeuvre as best as possible. So I will start over again if you will allow that.

Madam Speaker, as I said earlier, for the Cayman Islands, much of the 1970s and 1980s were marked by significant economic growth fuelled mainly by strong performances in the Tourism and International Financial and Business Services Sector and by significant inflows of foreign direct investment into real estate development.

The 1990s, however, ushered in a decade of significant change for the world economy. The fall of Communism and the increasingly successful economic liberalisation policies of the G7 countries, combined with rapid technological and transportation advances, led to major strides in the globalisation of world production, trade and investment.

This, in turn, had positive effects on the Cayman Islands Financial and Business Services and

Tourism sectors and real estate market, and all enjoyed robust growth for much of that decade.

The Asian crisis of the late 1990s, however, brought a check to these gains and vividly demonstrated the growing interdependence of global markets and the accompanying increasing volatility of the global economy. Developing economies were now having a sizeable impact on the world economy. Subsequent to this occurrence the old adage, "*When America sneezes Europe catches a cold and the rest of the world comes down with pneumonia,*" was possibly challenged for the first time since the OPEC (Organization of the Petroleum Exporting Countries) world crisis of the 1970s.

Following on the heels of the Asian crisis, the world economy began experiencing slow growth; a trend that prevailed since, and now more so after the tragic events of September 11. As a result, this slowing is forecasted to continue over the next 9 to 12 months or so and this too is expected to be the economic situation here in the Cayman Islands.

Over these three decades (the 1970s, the 1980s and 1990s), the Cayman Islands reinvented itself from the Islands that time forgot, to become a global leader in international financial and business services and a world-renowned tourist destination, particularly known for its diving.

The terms 'tax haven' and 'banks secrecy', which were the buzz words for earlier years, were replaced by 'offshore financial centre' and 'confidentiality' by the 1980s. More recently, terms such as 'privacy' and 'information gateways' have taken centre stage along with International Financial Centre concept. If asked, Madam Speaker, to summarise the Cayman Islands economic development experience over these past three decades, I would suggest that five major features could be used. These five features are as follows:

1. A reliance on substantial inflows of foreign indirect investment with relatively little indigenously sourced capital formation and investment. This has helped to create a domestic economy that is therefore more dependent on foreign investment inflows and thus, more prone to external economic shocks.

2. A higher emphasis on economic infrastructure development with less emphasis on environmental and social development issues. This makes the achievement of sustainable economic development over the longer term much more challenging for these Islands.

3. Substantial levels of public and private sector collaboration. This has been very effective in promoting economic development, but what of collaboration with the social and environmental sectors?

4. Public and private sector operations are focused more on growth than on efficiency. Therefore, these two sectors are not now easily able to adapt to periods of slower economic growth like that expected over the medium term.

5. An increasing reliance on two economic sectors, namely: the tourism sector and the financial and business services sectors.

Madam Speaker, there is now an urgent need to rethink our approach to the longer term development of these Islands. The tragic events of 11 September 2001 and the continuing conflict and uncertainty arising from these events, present not only another opportunity to assess our historical approach but also signals the emergence of new trends that will impact the conduct of global business for some time to come. Notwithstanding the immediate world situation, Madam Speaker, the main longer term challenge for these Islands remain maintaining its global leadership position in its two main industries while creating more balance in its development and meaningful growth opportunities for its people. This challenge would need to be met against a backdrop of increasing globalization of world economics, finance, labour and culture.

In response, Madam Speaker, the current Government has embarked on a course to collectively strive for a more inclusive and broad-based approach to the overall development of these Islands. This new approach will at the very least include some, if not all, of the following five main principles.

Firstly, a tripartite approach to national development which involves the active participation of public and private sectors. This approach will promote sustainable development and greater inclusion and balance in development and business opportunities for local residents.

In pursuit of a tripartite approach to national development, the Government:

- a) Has already adopted a tripartite approach to labour relations, created an employment services department and established an employment centre and plans to retrain frontline tourism and government staff. These initiatives are all being spearheaded by the Ministries of Human Resources and Tourism and will also involve the establishment of a tourism training centre.

- b) Establish a Cayman Islands investment unit within the Ministry of Development as a one-stop facility for foreign and local investors in order to promote and facilitate investment in the local economy.

- c) Establish a growth management bureau within the Ministry for Development. This bureau will promote balance including full consideration of economic, environmental and social issues in the development of the Cayman Islands; coordinate the implementation of Vision 2008; and regularly update the plan and oversee the formulation of a growth management strategy for the Islands.

- d) Resolve the key immigration and security of tenure issues for long term residents. This, Madam Speaker, is already underway.

- e) Pursue economic diversification through the expansion of information technology to promote e-commerce and e-business services spearheaded by

the Ministry of Information Technology. This again is under way;

f) Establish a Cayman Islands Development Bank under the Ministry of Development and Commerce that will merge the existing AIDB and HDC into one organization. This, Madam Speaker, is already underway.

g) Actively promote and encourage small business development in all three of the Cayman Islands.

h) Create the necessary legislative framework conducive to the listing and trading of local companies on the Cayman Islands Stock Exchange. This will promote domestic capital formation and investment.

Secondly, a focus on the renewal of existing systems, those that work on reform and those that do not. Most importantly, on the introduction of new systems that are needed to move the provision of public services forward in a positive way. Actions to be taken under this heading include:

a) The phased implementation of the ongoing Financial Management Initiative (FMI) over the next five years. The reform was given legislated effect by the recently enacted Public Management and Finance Law 2001, and will fundamentally change the way in which the Government manages its affairs. Over time this will improve both the effectiveness and efficiency of government actions.

b) Phased implementation of the accepted recommendations of the review of the Cayman Islands Civil Service Commission by H. E. the Governor and carried out by the Civil Service College of the United Kingdom.

Thirdly, Madam Speaker, a focus on the attainment of greater efficiencies in the Government and business operations and not just on growth. Actions to be taken under this heading will include:

a) The pursuit of public and/or private partnerships in the provision of public services and the full privatization of other public services. This might include areas such as Radio Cayman, the Department of Vehicle and Equipment Services, Garbage collection, Debt collection and the like.

b) Nationalization and restructuring of Cayman Airways;

c) liberalization of telecommunications and a review of other utility sectors;

d) promotion of efficiencies in core government activities flowing from the Financial Management Initiative.

Fourthly, the strategic reorientation of the government machinery and of private businesses in order to meet new domestic and global challenges and opportunities. Actions to be taken under this heading include:

a) The encouragement of new businesses and the expansion of existing businesses based on e-commerce and e-business principles and practices;

b) education and training of the local labour force to promote efficiency in the provision of public services, facilitate the necessary strategic reorientation of public and private sector operations and enhance the competitiveness of local business;

c) introduction of legislation such as the Electronic Transaction Law, which has already been passed, the Proposed Information and Communications Technology Bill and the development of new consumer protection legislation in order to facilitate further e-commerce and e-business development;

d) re-examination and streamlining of our domestic import duty regime for items such as computer software, music, et cetera;

e) adoption of a much more strategic approach to government's own decision making and budget formulation as required by the recently enacted Public Management and Finance Law, 2001.

Fifthly, the implementation of a more selective and focused approach to marketing our international financial business and tourism services. Actions to be taken under this heading include:

a) The establishment of a Grand Cayman working group to develop a programme to integrate and refocus the marketing and promotional efforts of the public sector under a destination marketing concept. This will still allow for the customisation of individual sector messages and strategies.

b) Implementation of the related marketing and promotion recommendations of the tourism economic committee and of the first annual economic forum of the Chamber of Commerce.

Madam Speaker, in order to further the re-examination of our historical approach to the overall development of these Islands and provide advice on the way forward, the Government plans to establish a National Advisory Council. The Council will operate within a comprehensive framework and will comprise individuals from the public sector, the private sector and the social sector. As such, the underlying principles of the Council are consistent with the United Nations sustainable development; an Agenda 21 framework, which supports multi-stakeholder participation in and benefit from development.

The National Advisory Council will have three main sub-committees namely: the sub-committee for economic, social and environmental issues; the sub-committee for fiscal committees; and a sub-committee for legislative issues. The Council will not replace existing mechanisms for public and/or private sector collaboration such as the private sector consultative committee but will instead supplement them. The appointments to this Council and detailed terms of reference will shortly be announced.

The United Democratic Party Government has proposed a charter with Cayman which outlines the direction in which it will steer the Cayman Islands over the next three years. This Charter has as its genesis the Vision 2008 document and its importance to this Budget cannot be underestimated. That is, the Budget

reflects the social, economic, cultural and capital development as articulated by the Government in the Charter.

Madam Speaker, before I move on to look at the world economy, I would like to speak to a milestone in the development of our vital financial services sector, being the signing of a tax information agreement with the United States.

I referred earlier to the need for Cayman to pay attention to global trends, to re-examine its historical approach to development and to reposition its businesses to take advantage of new opportunities in the global market. This new agreement, Madam Speaker, represents progressive thinking and will position the Cayman Islands' financial and business services sector to pursue new markets and new opportunities formally close to us. In particular, it ushers in a stronger relationship with our major trading partner (the United States), from which positive benefits are expected to flow. It will be the aim of the Government to seek to ensure broad participation within the financial and business services sector in the new markets and new opportunities that will emerge.

The information exchange agreement has several important features, which I will describe as follows: it is non-retrospective; it applies to criminal tax evasion for taxable periods commencing 1 January 2004, and to Civil and administrative tax matters for taxable periods commencing 1 January 2006. It covers federal income tax only, although there is provision to include other federal taxes by agreement of the parties. Information is to be provided on a request basis and not spontaneously and automatically. The definition of criminal tax evasion and the requirements to be met for a valid request for information are designed with the intent of both parties to eliminate fishing expeditions.

Any information provided under this agreement cannot be passed to any third party; this prohibition is in fact also a matter of United States law. This agreement, Madam Speaker, is not self-executing; that is, domestic legislation will be required to give effect to it.

Under the timelines in the agreement we have approximately two years to develop and implement the necessary legislation. The legislation and the agreement itself include safeguards and checks and balances so that the right to financial privacy and due process are not compromised. A dedicated separate channel for dealing with any request for information received will be established and a valid reason will have to be demonstrated prior to any information being provided.

The Cayman Islands, Madam Speaker, cannot secure its future by burying itself in the past. However, we must plan our future carefully and be true to fundamental principles. The ability to respond positively to change in this context will determine our future success. As always the economic interest and

wellbeing of the Cayman Islands will continue to be paramount.

## THE WORLD ECONOMY

The global outlook for 2001 has weakened significantly since the 11 September terrorist attacks, with declines expected in all major regions of the world. The world economy is expected to grow by 1.4 percent in 2001 compared to 4.7 percent in the year 2000. Much of the slowdown is due to events occurring in the United States. The first nine months of 2001 were marked by a deceleration of GDP growth in the United States economy. Third quarter GDP contracted by 0.4 percent and the forecast for the entire year is 1.1 percent, the lowest in a decade.

This week's growth reflects a number of factors. The most important are a slowdown in investment spending, a buildup in inventories, and a decline in consumer confidence. Consumer confidence remained resilient until the second quarter and then fell dramatically following the terrorist attacks.

In October, the Conference Board Consumer Confidence Index declined sharply to 85.5 percent, which is the lowest reading since 1994. Unemployment levels have been rising in the United States since the beginning of the year with massive job losses experienced in the various sectors. The unemployment rate is expected to rise from 4 percent in 2000 to 5.4 percent in 2001. This increase mainly reflects decline in manufacturing activity, the technology sector, primarily the dot-coms and more recently the airline and travel related industries.

Fortunately, Madam Speaker, consumer prices have remained low in 2001 and there have been no significant inflationary pressures. The threat of rising oil prices did not materialise given weak global demand. The slowdown in the United States economy has impacted on the growth of other regions of the world. The European Union is expected to grow by 1.8 percent in 2001, compared to 3.4 percent in 2000. Similarly, growth in developing countries is expected to be 2.5 percent in 2001 compared to 5.8 percent in the year 2000 and a Japanese recovery now appears remote.

Looking ahead, world growth is expected to be somewhat lower than the 2 percent projected by the United Nations for 2002. This is primarily because the United States' growth forecast for 2002 has recently been downgraded to just 0.8 percent. The United States economic stimulus package is not expected to have its full effects before June 2002. In general, the recent easing of macro-economic policy in the United States should support economic activity in the year ahead.

On the monetary side, the Federal Reserve Board has cut the federal funds rate ten times during 2001, reducing it by a total 450 basis points or 4.5 percent. This rate now stands at a historical low of 2 percent. In terms of fiscal stimulus, the Bush Admini-

stration recently announced a \$99.5 billion package of business tax breaks, rebates for low income households, capital gain tax relief and extended unemployment benefits. This package together with the tax reduction in June, an emergency spending made just after the attacks should amount to an estimated \$160 billion in 2002. It should be noted that although the pace and timing of a United States recovery are uncertain at this point in time; the strong economic fundamentals of the United States economy and its resilient structure indicate that it will recover.

### **THE DOMESTIC ECONOMY**

Growth of the Cayman Islands economy slowed considerably in 2001. A rate of around 1.5 percent is expected at year-end compared to the earlier projection of 3 percent. The main factor influencing this downward trend is slow growth of the United States economy. The terrorist attacks of 11 September also exerted a negative impact on growth primarily through effects on the tourism industry. The annualised rate of inflation to September was 1.2 percent or 2 percentage points down from the previous year. This low rate of inflation was influenced by reduced fuel prices, declining interest rates and a softening of the rental segment of the housing market.

The results of the unemployment survey, which are expected by mid December, will provide an overall picture of unemployment. The unemployment rate is expected to increase in 2001, mainly as a result of job losses in the construction and tourism industries. However, this increase is likely to be only marginally higher than the estimated 4 percent for the year 2000. Businesses have opted to reduce working hours and make wage adjustments rather than re-trench workers.

In terms of sectoral developments, several sub-sectors in the financial and business services sector have shown positive growth but real estate and construction continue to decline. In the tourism industry performance has been mixed.

### **FINANCIAL AND BUSINESS SERVICES**

In the first three quarters of 2001, the financial services industry recorded buoyant growth of mutual funds and captive insurance registration and positive but slow growth in stock market activities and CI dollar bank assets. New company registrations were down relative to the 2000 figure but not significantly changed compared to the previous five-year trend to 1999. Mutual funds continued strong growth of 19.8 percent in 2001, with registrations increasing from 2,900 in September 2000, to 3,476 in September 2001. This rate of growth was significantly lower than the 22 percent recorded in the previous year. The number of insurance licences increased from 545 to 564 mainly on account of an increase from captive insurance companies. The rate of increase in captive

formation was higher in 2001 compared with 2000, and 2001 looks set to be best year ever for captives.

In the banking sector category 'A' bank and trust CI dollar assets were \$837.2 million at the end of June 2001, compared to \$825 billion at the end of June 2000. The number of banks and trust licences dropped by 4 percent, from 569 in September 2000, to 548 in September 2001.

The reduction in licences is as a result of bank mergers and retrenchments. The policy introduced in April 2001, on the residual private banks had an effect as well. The policy required that private banks without a physical presence establish a presence to the degree appropriate to their activities within a nine-month period and surrender their licences. To date, 24 of these banks have opted to surrender their licences, six have restructured to become subsidiaries and retain their licences and 12 licences have decisions pending.

The Stock Exchange had an unusually good year in 2000, doubling its market capitalization and listings. Performance in 2001, continue to be positive but the rate of growth is much reduced taking into account the natural attrition of listings due to maturities of which there were 44 in the first three quarters of 2001. Market capitalisation rose from \$32.1 billion as at September 2000, to \$34.8 billion as at September 2001, an increase of 7.7 percent. Listings grew from 387 to 405 over the same period, net of maturities. As a further comparison, growth listings for the first three quarters of 2001 were 418 compared with 495 for the first three quarters of 2001.

### **STOCK EXCHANGE**

In 2001, the Stock Exchange was admitted to membership of the European Securitization Forum and the International Surveillance Group; two organizations valuable to the development of the Exchange. The Exchange also established a link with Euroclear Funds Settle System, which will be of benefit to the Exchange's, listed funds.

Company registration also had an unusually good year in 2000 when Hong Kong recognised the Cayman Islands as a jurisdiction for the registration of Chinese companies. The influx of new companies raised registration from 6,763 at September 1999 to 9,963 at September 2000. However, new registration of 6,680 for September 2001 represents a decline of 33 percent over the corresponding figure for September 2000.

### **TOURISM**

Madam Speaker, official tourist arrival figures are available for January to June only. They reflect an increase in air arrivals of 2.4 percent, from 192,409 for the period January to June 2000 and 197,094 for the corresponding period in 2001. The terrorist attacks impacted negatively on the industry causing numer-

ous cancellations and hotel bookings in September. The Cayman Islands Tourism Association estimated that hotel occupancy rates might have plummeted to as low as 10 percent in September. This suggests that third quarter figures for air arrivals will be much lower than previously expected.

Overall the hotel occupancy rate for the first three quarters of 2001 was 58.7 percent compared to 64.6 percent in the year 2000. The condos and apartments occupancy rate rose marginally from 47.2 percent to 48.3 percent. Cruise ship arrivals were more buoyant than air arrivals for the year increasing from 582,182 at the end of September 2000 to 627,251 at the end of September of 2001, an increase of 7.7 percent.

### **REAL ESTATE**

The real estate market has experienced some volatility in recent years and pricing power was eroded in 2001 in response to slower sales. The value of real estate transfers fell from \$141.9 million in September 1999 to \$205.2 million in September 2000. However, in September 2001 this figure dropped to \$144.6 million. The uncertainties in the United States economy have had an adverse impact on investor confidence.

### **CONSTRUCTION**

The construction industry has experienced continuous declines since 1999. At the end of 2001 the value of approved developments was \$130.1 million. This is a much lower figure than the \$287.2 million registered at September 2000 and the \$303.5 million at September 1999. The largest decline has been in the apartments category where approvals fell from \$166.4 million at September 1999 to \$34 million at September 2001. The value of building permits also showed a marked decline. In the first three quarters of 2001, this amounted to \$67.2 million compared to \$128.4 million over the same period last year. It is expected that the economic stimulus measures introduced on the 14 November will soon begin to reverse the preceding negative trends.

### **THE OUTLOOK FOR THE YEAR 2002**

Given the unfavourable external environment, economic growth in the Cayman Islands is projected to slow further in 2002 to an estimated 1.1 percent, down from the estimated 1.5 percent in 2001. As mentioned earlier, several government initiatives are being undertaken to help cushion the adverse effects of a slowing United States economy and stimulate local economic growth. The Government recently announced concessions for a period of one year in the real estate market and construction industries as follows: a reduction in stamp duty on land transfers from

9 percent and 7.5 percent to 5 percent on or after the 14 November 2001.

A 50 percent reduction in building permit fees in all categories for all projects that have received planning approvals on or after the 23 November 2001. A 50 percent reduction on infrastructure fund fees for all projects that have received planning approval on or after the 14 November 2001. The concessions, together with the reductions in real estate agent fees and low interest rates, are expected to give a boost to the local economy. Attractive prices will stimulate demand in both the real estate market and the construction industry.

Overall tax concessions are expected to boost employment, spur growth in incomes and raise spending throughout the economy. In the Tourism industry the Ministry of Tourism and the Department of Tourism have adopted several initiatives of which the major ones include: a million dollar television advertising campaign in eight cities of the United States and Canada focusing on cities with direct non-stop air services; an additional 72 Cruise ship calls slated to bring in approximately 365,000 visitors to the Islands. Some of the ships will call on weekends thereby increasing the economic benefits to local businesses.

### **FORMATION OF THE LAND AND SEA COOPERATIVE**

This will help to better promote on Island tours allowing smaller, local operators to benefit from tourism opportunities and a vibrant training programme to help train, retrain and improve service levels in front line staff that will include customs and immigration departments. This will be done in conjunction with the Caribbean Tourism Organization and the Community College.

The world of E-commerce and E-business is rapidly expanding and the Government has moved to take advantage of emerging opportunities. It intends to use E-business as a catalyst for diversifying the economy.

The Government's programme is geared towards promoting E-business both locally and internationally. It will put in place a comprehensive framework to facilitate the development and innovation in both E-business and E-government. This will include the legislative, regulatory, technical, physical and human resource aspects.

The new Information and Communication Technology (ICT) Bill will soon be presented to the Legislative Assembly and an ICT authority will be set up in early 2002. The new ICT Bill will subsume the existing broadcasting radio and telephone Laws. Pricing and marketing are two key areas that the Government is currently addressing as a matter of priority. Moves have already been made to liberalize the telecommunications sector with a time frame for the liberalization process to commence in 2002. New entrance into the market will help to drive down the price of in-

formation and communications technology services. This will undoubtedly assist in boosting the competitiveness of E-business. In terms of marketing, a two-prong approach is envisaged.

In the local market the intention is to launch a campaign to raise public awareness of the importance of e-business and to encourage local business to adopt e-business principles and technology. Secondly, an international marketing plan is to be developed to promote the Cayman Islands as an international E-business centre. For the financial services sector, Madam Speaker, in addition to the achievement of the tax information agreement with the United States Treasury Department, legislation will be brought forward during this Meeting to extend the access of the segregated portfolio company form and to provide a regulatory framework for the securities investment business. Both of these are expected by the industry to be beneficial to the financial industry sector.

Madam Speaker, in 2002 legislation for the independence of the Monetary Authority will be presented. The Monetary Authority is a highly strategic agency that is one of the guardians of our financial services sector. It has the responsibility to ensure that the regulation applied in the Cayman Islands recognises international standards and is appropriate to the business conducted in the Cayman Islands. It must also ensure that its policies, processes and procedures support, not undermine the financial services environment that the Cayman Islands wishes to maintain, in both the institutional and private client areas and it must engender confidence. This will require focused leadership and a concerted effort to eliminate inefficiencies or delays in key processes such as licensing. The performance standard that is to be met in this particular area is a turnaround time of two to four weeks on licences for financial services providers. The Monetary Authority will continue to have the Government's complete support towards these ends.

In terms of the international initiatives, Madam Speaker, such as that of the OECD on harmful tax practices, the European Union on the taxation of savings and the FATF (Financial Action Task Force) on anti money-laundering, these can be expected to continue. The intent of the Government is to position the Cayman Islands successfully in relation to these initiatives as they develop, following on from the OECD cooperative country status achieved in May 2000, the positive out turn for the KPMG review of October 2000, and the FATF cooperative country status achieved in June 2001.

Our anti money-laundering credentials are of critical importance; therefore two bodies have been set up in the wake of the FATF review. These are the Monetary Authority's Committee on the anti money-laundering guidance notes on which there is significant private sector representation and a Money Laundering Oversight Committee, chaired by the Attorney General and comprising the key government officials

with responsibilities under our anti-money laundering framework. These bodies will ensure that our anti-money laundering framework remains current, as well as appropriately responsive to the relevant local and international developments.

The Government also recognises that public relations activity needs to be sustained in order to ensure that the correct information and messages about the Cayman Islands are conveyed at a governmental and political level. This is a long-term ongoing strategy and will require the Government to maintain a regular programme of direct contact with, for example, key persons on Capitol Hill. We have had some notable successes in this regard this year. The Government intends to maintain such a programme and to support the financial services sector in any supplementary public relations programmes it may wish to deploy in coordination with the Government.

### **PUBLIC SECTOR REFORM**

Since the early 1990s, the portfolio of Finance and Economics has worked tirelessly to develop and implement financial management reforms to support more open and accountable governance. The primary focus of the earlier years was to build and implement financial management; an integrated resource information systems to support the fundamental change that was to follow. The new Public Management and Finance Law passed in September 2001, is therefore a significant and long awaited milestone for reform in the public service and signal the beginning of a new implementation programme for the broader Financial Management Initiative (FMI). The primary focus of FMI is to implement a results-based management system appropriate to the Cayman Islands.

Once fully implemented the FMI will require the Government to, firstly, plan and manage strategically and to debate and agree that strategy with the Legislative Assembly on an annual basis. This will provide a way to bring Vision 2008 into the mainstream of Government activity.

Secondly, link strategy to specific actions. This will be achieved through the introduction of output budgeting. Outputs are goods and services produced by the public sector.

Thirdly, budget and account for its finances on a much more complete and accurate basis. This will be achieved through the introduction of accrual accounting to replace the current cash accounting system.

Fourthly, bring in a new regime of open disclosure for budgeting and reporting. Members of the Legislative Assembly and the public at large will have access to detail performance oriented budget documents, not just for the Government as a whole but also for each ministry, portfolio, statutory authority and government owned companies. Executive Council and MLAs will also receive quarterly reports on the performance of each agency and on the government as a



whole. These reports will include non-financial, as well as financial information and will be publicly available as soon as they are tabled.

Fifthly, delegate financial input controls to Ministries and Portfolios. This is necessary as we move from a centralised input control environment to a decentralised output and performance focus management system.

The FMI will be progressively implemented over the next five years. However, the first improvements are already evident. This year's budget process has been partly run along the lines required by the Law and this has resulted in better expenditure control. This year's Budget document has been prepared on an output basis. The Government's overall fiscal decisions have been made with the principles of responsible financial management in mind.

During 2002, Ministries and Portfolios will begin preparing output based quarterly reports as well as continue to prepare for the move to accrual accounting. Further improvements to the Budget document will be made for the 2003 Budget. That Budget will only be for a six-month transitional year as the Government moves to a 30 June Financial year from 1 July 2003.

Madam Speaker, fiscal transparency makes a major contribution to the cause of good governance. It leads to better inform public debate about the design and results of fiscal policy makes government more accountable for the implementation of fiscal policy; thereby strengthening credibility and public understanding of macro economic policies and choices.

The newly updated IMF (International Monetary Fund) Code of Good Practices on Fiscal Transparency was published in March 2001. If one were to evaluate the new Public Management and Finance Law 2001 and the ongoing financial management initiative against this code, both would be found to be congruent with the key principles of this code. It should be noted that compliance with this code is not mandatory for the Cayman Islands but as responsible global citizens we should strive to meet appropriate international standards wherever possible or feasible to do so. The updated code is based around the following four principles:

- There should be clarity of roles and responsibilities. In this regard the Government sector should be distinguished from the rest of the public sector and from the rest of the economy, and policy and management rules within the public sector should be clear and publicly disclosed. There should be a clear, legal and administrative framework for fiscal management.
- There should be public availability of information. In this regard, the public should be provided with full information on the past, current and projected fiscal activity of the Government and a commitment should be made to the timely publication of fiscal information.

- There should be open budget preparation, execution and reporting. In this regard, the budget documentation should specify fiscal policy objectives, the macro economic framework, and the policy basis for the budget, an identifiable major fiscal risk. Budget information should be presented in a way that facilitates policy analysis and promotes accountability. Procedures for the execution and monitoring of approved expenditure and for collection of revenue should be clearly specified. There should be regular fiscal reporting to the legislature and the public.
- There should be assurances of integrity. In this regard, fiscal data should meet accepted data quality standards and fiscal information should be subjected to independent audit and scrutiny. The code facilitates surveillance and better understanding of economic policies by country authorities, financial markets and international institutions. This is especially important to the Government as it attempts to restructure its debt portfolio and diversify its existing sources of development financing. By exploring new sources such as private placement of long term bonds. In this regard, Madam Speaker, it is instructive to note that the Cayman Islands received an AA3 rating in October 2001, from the International Rating Agency Modes Investiture Service. This rating puts these Islands on par with other more developed and much larger countries such as Italy, which also ranks as a high quality sovereign debt.

#### **RECURRENT REVENUE FOR THE FISCAL YEAR 2001**

Madam Speaker, I turn now to the expected out turn for fiscal year 2001 on recurrent revenue. Recurrent revenue is forecasted at \$283.2 million down \$28.1 million against the 2001 Budget of \$311.3 million.

Although forecasted to be down, recurrent revenue is expected to exceed the 2001 Budget in the following main areas: gasoline and diesel \$1.6 million; Cable and Wireless licence \$1 million, work permit fees \$1.1 million, and miscellaneous receipts \$1.8 million.

Recurrent revenue is forecasted to be less than the 2001 Budget in the following main areas: motor vehicle \$1.6 million, other import duty \$13 million, stamp duty on land transfers \$2.8 million, other stamp duty \$3.6 million, tourist accommodation tax \$1.4 million, mail terminal credits \$800,000, company fees \$2.7 million, debit transaction fee \$1.1 million and warehouse fees \$1 million.

Recurrent and statutory expenditure is forecasted at \$314.3 million, \$13 million less than the modified 2001 Budget of \$327.3 million. Recurrent

and statutory expenditure is forecasted to be less than the modified 2001 Budget in the following main areas: personal emoluments \$6.4 million, other operating and maintenance services \$4.3 million, grants, contribution and subsidies \$1.1 million.

### OTHER OUTFLOWS

Capital acquisition is forecasted at \$4 million against the modified 2001 Budget to \$4.8 million. Capital Development Fund expenditure is forecasted at \$23.5 million against the modified 2001 Budget of \$28.2 million. Transfers into the Housing Reserve Fund, Student Loan Reserve Fund and National Disaster Reserve Fund are forecasted as budgeted at \$230,000, \$100,000 and \$400,000 respectively. Environmental Protection Fund receipts are forecasted at \$3.4 million against a 2001 Budget of \$3.6 million.

Infrastructure development receipts are forecasted at \$1.4 million against the 2001 Budget of \$2.9 million. Road development fund receipts are forecasted to equal the 2001 Budget provision of \$400,000. The forecasted net deficit on the year 2001 is \$4.9 million down \$15 million against the modified 2001 net surplus of \$10.1 million. Taken together with the net deficit of \$10.2 million brought forward from 2000, this produces a forecasted accumulated net deficit of \$15.1 million which is up \$14.5 million against the modified 2001 budgeted accumulated net deficit \$600,000. In order to help offset this amount, the Government plans to transfer \$7 million from the General Reserve Fund, which would reduce the forecasted net deficit to \$8.1 million, which will be financed entirely from 2002 recurrent revenue.

The General Reserve Fund balance is forecasted at \$4 million as at 31 December after the planned transfer of \$7 million to the accumulated surplus deficit fund to help finance the 2001 forecasted brought forward deficit of \$15.1 million. The forecasted balances on the various other funds are as follows: Capital Development Fund \$700,000, Environmental Protection Fund \$4.6 million, Infrastructure Development Fund \$1.6 million, Housing Reserve Fund \$1.3 million, Student Loan Reserve Fund \$300,000, National Disaster Reserve Fund \$1.3 million, and Road Development Fund \$400,000. These in all, total \$10.2 million. It should be noted that based on information received from the Public Works Department, a sum of \$4 million on the Capital Development Fund facility will remain un-drawn at year end and this amount will therefore be available to fund some capital expenditure in the year 2002.

Madam Speaker, the projected debt service ratio as at 31 December 2001 is 8.2 percent which is below the ceiling of 10 percent allowed by the new Public Management and Finance Law 2001.

I now turn to the brief explanation of each of the main strategies that underpin the draft 2002 Budget. The key fiscal strategies underlying this Budget are:

1. Ensuring a balanced budget.
2. Ensuring that all expenditure, recurrent statutory and capital acquisitions are funded from recurrent revenue and ensuring a contribution to capital development expenditure from recurrent revenue as well. The result of this strategy is that only \$8 million in new borrowings is necessary in 2002 and this will be used exclusively to finance capital development expenditure.

3. Ensuring that a contribution to the General Reserve Fund of \$1.5 million as a step towards creating the cash reserves required by the principles of responsible financial management in the new Public Management and Finance Law 2001.

The balanced budget strategy reflects the financial principle set out in Section 14(3) (a) of the new Law. That principle requires a true balanced budget where total operating revenue is more than operating expenses. This Budget has a proposed operating surplus of \$15.4 million. The minimal borrowing strategy reflects the financial principle set out in Section 14(3)(c) of the new Law. The principle requires that borrowings be kept within the fine limits – that is, no more than 10 percent of recurrent revenue. The proposed new borrowings in 2002 of \$8 million will bring the debt service ratio in 2002 to 8.6 percent which is well under the limit of 10 percent set out in the new Law. The proposed new borrowing of \$8 million is significantly below the \$55.5 million approved in 2001 yet the debt service ratio in 2002 is expected to increase to 8.6 percent. This increase in the projected debt service ratio from 8.2 percent at the end of 2001 to 8.6 percent at the end of 2002 may appear odd when borrowings in 2002 will be significantly less than in 2001.

The explanation for this oddity is that the principle repayments on the 2001 loans will not start until 2002. Hence, it is years 2002 and beyond that will bear the full effects of the loans drawn down in 2001. This accounts for the upward movement in the debt service ratio from 8.2 percent in 2001 to 8.6 percent in 2002, even though total new borrowings are significantly less in 2002.

The increase contribution to general reserve strategy reflects the financial principle set out in Section 14(3)(d) of the new Law. The principle requires that cash reserve to be built up to 90 days of operating expenses. This Budget has proposed a contribution of \$1.5 million to the general reserves, another positive step towards achieving this principle.

The Government, having appointed the Minister for Planning, Communication, Works and Technology, with effect after 8 November, to work closely with the portfolio of Finance and Economics, has worked hard to ensure that the 2002 Budget achieves these strategies. The balanced budget strategy reflects the financial principle set out in Section 14(3)(a) of the new Public Management and Finance Law 2001. That principle requires a true balanced budget where total operating revenue, defined as recurrent revenue is

more than total operating expenses, defined as recurrent and statutory expenditure excluding contributions to their reserve funds other than the pension fund. Measured on this basis this Budget therefore has a proposed operating surplus of \$15.4 million. This proposed surplus has resulted from the following measures:

1. In line with the new Public Management and Finance Law 2001, the agreement of a strategic policy statement prior to the start of the budget process which led to the establishment of targets for the Ministries and Portfolios recurrent capital acquisitions and capital development expenditure. This approach is expected to realize \$6.4 million savings in recurrent expenditure, which represents approximately 2.3 per cent savings over the 2001 Budget. Capital development expenditure is \$16 million which is \$12.2 million less than the 2001, a reduction of 43 per cent. Capital expenditure targets for 2003 and 2004 have been set at \$30 million respectively.

2. An increase in government revenue by introducing new revenue measure in the financial services and business sector including increases in banking, insurance, mutual funds and corporate and company managers' licence fees, improving the collection of existing revenue and increasing government fees and charges so that they reflect the cost of the services provided for example, health services fees.

3. The removal of all funded vacancies from the 2002 Budget except where the recruitment process is already underway.

4. The introduction in the year 2002 of moratoriums on civil service cost of living adjustments and on civil service increments or merit increases.

5. The imposition of moratoriums on the creation of new civil posts and on the filling of existing vacant post except for absolutely essential services or where there are direct revenue or expenditure blocking off sets. As soon as possible a manpower control system will be implemented as an interim measure in conjunction with the budget and management unit and the personnel department.

6. The streamlining of multiple grants, waivers and reimbursements now given by the Government, for example announcements have already been made on the grant of seamen and financial assistance. Other areas that will be affected include waivers and reimbursements to the various non-profit associations for import duty, stamp duty, land transfers and mortgages and various other government fees such as planning, garbage and the like.

7. Curtailing all new services that require additional budgeted expenditure.

8. Holding the 2002 capital acquisition budget at \$5.3 million.

9. Holding the 2002 capital development budget to \$16 million. This has been achieved by re-programming the commencement date of certain projects and reprioritising others to commence in 2003. The minimum borrowing strategy, Madam Speaker,

has been achieved by ensuring that the total recurrent statutory and capital acquisitions expenditure is lower than the operating recurrent revenue and the existing fund balances.

The draft 2002 Budget that I am about to propose is a truly balanced budget and has been shaped in the main by these policies. In addition, other fiscal strategies will be employed during 2002 that will directly impact expenditure levels but which have not been accounted for in the 2002 Budget. These include restructuring of the Government's debt portfolio with a view to reducing the annual debt servicing cost. This is planned for the completion in the first quarter of 2002. The creation of alliances with private sector partners to deliver selected public services; to ensure the correct usage of all future contingency warrants consistent with section 22 of the Public Finance and Audit Law.

## THE 2002 BUDGET

Madam Speaker, the total 2002 Budget is \$342.9 million and it is broken down as follows: Recurrent Expenditure \$269.9 million, Statutory Expenditure \$52 million, Capital Acquisition Expenditure \$5 million and Capital Development Expenditure \$16 million.

In addition, there is an estimated accumulated deficit to be carried forward from 2001 of \$8.1 million as mentioned earlier. The total 2002 Budget of \$342.9 million and the estimated 2001 accumulated brought forward deficit of \$8.1 million will be financed as follows: Recurrent Revenue \$335.1 million, brought forward balance on the Capital Development Fund \$700,000, transfer from the Infrastructure Development Fund \$2.3 million, transfer from the Road Development Fund \$1.7 million, Capital Development Fund loan receipts of \$ 12 million, which is broken down into \$4 million un-drawn from the 2001 loans Law and proposed new borrowings in 2002 of \$8 million. The estimated accumulated surplus as at 31 December 2002 is therefore \$0.02 million. The projected balance on the General Reserve Fund at 31 December 2002 is \$5.7 million. As mentioned previously, the projected debt service ratio at 31 December 2002 is 8.6 per cent, which would put it well below the estimated ceiling of 10 per cent.

## REVENUE MEASUREMENTS

Madam Speaker, these are indeed challenging days for public finances at a time when the demand for public services continues to increase steadily. Against this backdrop the Government is very much aware of the potential impact that the national budget can have on the domestic economy.

In proposing any measure, the Government has to take into full consideration the availability of public revenues, past and expected public expenditure growth and other fiscal measures that are re-

quired to promote sustainable economic growth, while providing revenue to fund much needed public services. The Government has identified revenue measures for the year 2002 totaling \$54.9 million. These revenue measures are absolutely necessary to help address deficiencies on the revenue side that have contributed to the divergence between what the country collects and what it spends on public services.

I will say much more on these revenue measures at the time of speaking on the various pieces of legislation that are required to affect the measures. For now, the proposed revenue measures and the incremental amounts expected from each category for the year 2002 are as follows: time share fee \$1 million, gasoline and diesel duty \$1.3 million (and this sum is to be set aside into the Road Fund for capital works on roads), banks and trusts licences \$18,930,255, local vessel licences \$0.5 million, postage stamps, bill of lading and courier charge \$244,000, court fees and notary public \$51,275, garbage fees \$3,778,140, work permit fees \$5,600,000, mutual fund administrators \$7,401,100, insurance licences \$1,298,850, traders licences \$2,500,000, local company and corporate management fees \$1,763,500, parking fees \$1 million, health service fees, \$9,485,534, the sum of \$54,852,654.

Madam Speaker, a schedule is now being prepared that will show a breakdown of these fees, where they will be moving from and to the new levels. This will be provided to Honourable Members during the course of today's proceedings. All revenue measures will come into force on 1 January 2002 assuming, the legislation is passed prior to 31 December 2001 except the new health services fees slated to be phased in during the period January to April 2002.

Madam Speaker, in closing, I am honoured to recommend to this Honourable House a truly balanced Budget and The Appropriation Bill (2002), 2001 in the amount of \$293.1 million which includes plan transfers into reserve funds of \$2.2 million. As is customary The Appropriation's Bill, 2002 does not include statutory expenditure amounting to \$49.8 million, which is covered by other legislation and which include debt service payments, pension payments and contributions to the Public Service Pensions Fund.

Madam Speaker, the presentation of this Budget address and the 2002 Budget, marks the tenth with which I have had the honour to be directly associated. I say this to also record my sincere gratitude to the staff of the Portfolio of Finance and Economics. In particular, I would like to single out the Deputy Financial Secretary, Mr. Joel Walton, the two assistant financial secretaries, Miss Deborah Drummond, and Mr. Kenneth Jefferson. I would like to also mention Mr. Peter Gough who has worked assiduously in the preparation of this Budget together with the staff in this Department.

Also, I would like to mention the Accountant General and the civil service in general without whose support this would not have been possible. I would

also offer my deep thanks to Members of this Honourable House past and present with whom I have had the distinct pleasure of working over the past 10 years.

Thanks to you, Madam Speaker, for allowing this Budget address and the tabling of the relevant documents and may God continue to bless these beloved Cayman Islands.

Thank you, Madam Speaker.

#### **MOTION TO DEFER DEBATE ON THE BUDGET ADDRESS**

**The Speaker:** Honourable Member do you wish to move your Motion at this particular juncture?

**Hon. George A. McCarthy:** Yes, Madam Speaker.

Madam Speaker, I beg to move that the Second Reading debate on the Appropriation (2002) Bill, 2001 and the Budget Address be deferred until Monday, 10 December 2001.

Thank you, Madam Speaker.

**The Speaker:** The question is that the debate on the Budget Address be deferred until Monday, 10 December 2001. Does any Member wish to speak? If not, then I shall put the question that the Budget Address be deferred until Monday 10 December 2001. Those in favour, please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it. The Budget Address shall be deferred until Monday, 10 December 2001. At this time I shall suspend proceedings for 15 minutes.

**AGREED: THE SECOND READING DEBATE ON  
THE APPROPRIATION (2002) BILL, 2001 (THE  
BUDGET ADDRESS), DEFERRED UNTIL MONDAY,  
10 DECEMBER 2001.**

**PROCEEDINGS SUSPENDED AT 11.52 AM**

**PROCEEDINGS RESUMED AT 12.19 PM**

**The Speaker:** Proceedings are resumed. Please be seated.

**SUSPENSION OF STANDING ORDER 46(4)**

**The Clerk:** Suspension of Standing Order 46(4).

**The Speaker:** The Honourable Minister for Tourism, Environment, Development and Commerce.

**Hon. W. McKeever Bush:** Madam Speaker, in order to take the Bill through its different stages today we propose the suspension of Standing Order 46(4) and I so move.

**The Speaker:** The question is that Standing Order 46 (4) be suspended.

Does any Member wish to speak? If no Member wishes to speak then all those in favour, please say Aye. All those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED BY MAJORITY: SUSPENSION OF STANDING ORDER 46(4) SUSPENDED.**

**THE CAYMAN ISLANDS DEVELOPMENT BANK BILL, 2001**

**The Clerk:** The Second Reading, The Cayman Islands Development Bank Bill, 2001.

**The Speaker:** The Honourable Minister responsible for Commerce.

**Hon. W. McKeeva Bush:** Thank you.

Madam Speaker, the Cayman Islands Development Bank Bill, 2001 establishes a bank to consolidate and assume the function of both the Agricultural and Industrial Board and the Housing Development Cooperation. In that regard all rights, powers, privileges, liabilities and functions, of those entities will be transferred to the new bank. Both the AIDB and the Housing Development Cooperation (HDC) will then be dissolved. A long-standing and widely recognised problem within the community has been the challenge of raising capital and providing consolidated professional services to promote Caymanian enterprise and home ownership.

While the existing entities have served the Cayman Islands well over the years, they have proven too restricted to keep pace with the local demand for affordable housing and development assistance. This Bill, Madam Speaker, responds to a great need in our society to provide a local consolidated mechanism, which is equipped to address these challenges in various sub-sectors including human resources, businesses and housing. In this regard the Bank will provide financing and technical expertise.

By proceeding with the natural progression, from boards to a full service development bank, the country will have greater ability to have access to international funds, as these lending institutions tend to give little regard to mere boards. Then, Madam Speaker, once established, the new Bank will be better aligned to cater to the needs of our society by shifting the consideration process from issues purely of collateral, security and profit to include wider considerations of social good by strengthening local professional capacity and expertise.

These challenges, Madam Speaker, are great. These are challenging times for everyone, but the low-income earners and micro entrepreneurs have

been particularly hard hit by recent economic trends. In this regard the Bank we hope will respond by developing specialised programmes which will actively seek to cater to these disadvantaged groups. Madam Speaker, because of the condition of world economics and its effects on these Islands, a major need was raised for us to develop self-sufficiency by facilitating indigenous business enterprises where we have depended heavily upon imports for instance. The strategic planning exercise of this new Bank has identified the need for micro enterprises in three main areas:

1. Information technology
2. Agro-business
3. Industrial

Some examples include cottage type industries, agro-processing industries, Internet and web-base enterprises and small manufacturing concerns.

The Cayman Islands Development Bank will provide the fundamental tools needed to promote nation building and indigenous ownership within these Cayman Islands. The Bank will have at its core a mission to enhance opportunities for Caymanians who have entrepreneurial ambitions but require access to basic resources and technical expertise. Indeed in some circumstances the Bank may be of benefit to some veteran small businesses which require financial assistance to expand capital or technical counselling to promote efficiency.

Madam Speaker, recognising that the market demands keen technological management and financial skills, the goal is to provide the tools for new and existing small businesses to be better able to compete and thrive among larger more modern competition. By providing a source of funding and expertise the Bank will be geared to assist Caymanians and residents in implementing sound business practices in order to facilitate their achieving a greater share in the activity and profits of the Caymanian economy.

Given the pressing need for such an entity, the Bill does make allowances for future growth if the growth of the Bank if, and when, Madam Speaker, this should prove necessary. The Bill provides for the Bank to establish branch offices if the need arises, but in particular in Cayman Brac and Little Cayman. This Bill establishes three main bank duties and functions:

1. Business development
2. Student credit
3. Housing

Madam Speaker, Members will note that the responsibility for housing has shifted from my Ministry to the Ministry of my Honourable colleague, the new Minister of Community Services. He will carry out programmes and policies for housing, while my Ministry, through the Development Bank, will provide the funding.

Within the Bill, Madam Speaker, the Memorandum of Objects and Reasons state that **“the CIDB will provide finance for the development of approved enterprises in the following six areas of the economy: agriculture, industry, e-commerce,**

**tourism, housing and human resources.”** The Board of the CIDB will comprise seven directors. Madam Speaker, the directors may only hold office for a term not exceeding two years, but shall be eligible for reappointment only for an additional term of two years. The Board is expected to meet at least once every three months. Madam Speaker, no Member of the Legislative Assembly will be eligible for appointment as a director of the Cayman Islands Development Bank. As Chairman of the present Agricultural and Development Board, Madam Speaker, I will now relinquish that appointment. The main functions of the Bank are detailed in the Law but can be summarised in four distinct areas:

1. Making loans and advances to any person or enterprise, government, public or statutory authority, or cooperative within the Islands.
2. Promoting the development of the Islands particularly in the area of agriculture industry, e-commerce, tourism, housing and human resources.
3. Providing advice, financial counseling, management consulting and technical assistance in relation to any of the above functions and Madam Speaker, formulating any studies which it considers as necessary.

The Cayman Islands Development Bank also has several new features which were not in effect previously. These include the ability to issue bonds and debentures for raising funds, the ability to appoint a receiver in the event that any project appears to be in serious jeopardy and the Bank's establishment and maintenance of a reserve fund of not less than 20 percent of the net income of any financial year.

It is important, Madam Speaker, to point out that the Monetary Authority has the responsibility for oversight and financial regulation of the Bank. Madam Speaker, this is a milestone in the life of the country; this is gigantic step for mankind in the Cayman Islands in the life of the United Democratic Party government. This Bank will serve the people we represent, well.

Madam Speaker, there are at least three main problems that we experience as a country in assisting our people: Firstly, there is a savings problem; the need for capital accumulation. Secondly, there is a pioneering problem, the need to make use of opportunities for investment. Thirdly, and lastly, is a governmental problem: the need to demonstrate that this is a sensitive and dynamic Government attuned to the needs of our people. These we consider to be fundamental issues in economic development. How then do we help our people? That is the question. Madam Speaker, there is much debate, as to whether government or the private sector is more important for economic development.

Our present condition dictates, Madam Speaker, that we cannot merely rely on the private sector to address these challenges. Government must come into the picture playing a more positive role. We consider this initiative, the creation of a development

bank, to be the catalyst for more involvement in the economic development of our Islands by our people, by increasing the level of funding available for them to make the maximum use of investment opportunities.

Madam Speaker, people must save and as a government we can only encourage that. We must also have an economy in which people can save. Government must also provide ways of encouraging its people to be pioneers in their own country. It is within this context that the Government is channeling its efforts to provide the necessary leadership to promote the growth of local enterprise by our people. This, Madam Speaker, is an objective, which I hope both sides of the political divide can appreciate and support.

Finally, Madam Speaker, on behalf of this Honourable House, I wish to publicly commend the work of the two former agencies—that is, the Agricultural and Industrial Development Board and the Housing Development Cooperation and its various board directors. They have given quality service over the years and they have laid the foundation on which the new Cayman Islands Development Bank could have been structured.

I also pay credence to those minds, Madam Speaker, who over the years have given thought, and spoken many times in this honourable legislature and in the public and various forums on the need for the creation of a development bank and proper funding for such a bank—Members of the United Democratic Party being foremost amongst them, Madam Speaker.

I trust that Caymanians will take pride in the formation of this historic institution as it seeks to become a pillar in the economy of these Cayman Islands. Madam Speaker, I am sorry that more time was not available for this Bill, although it has been in the making for a long time. However, that is the pressure of Government's day-to-day operation. I trust that all Members in this Honourable House will understand that and not try to make or get political mileage by stating otherwise.

In closing Madam Speaker, I recommend to this Honourable House the Cayman Islands Development Bank Bill, 2001 for Members support.

Thank you, very much.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for the district of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

Madam Speaker, I rise to make a short contribution to the debate on this important Bill. As I indicated earlier this morning, Madam Speaker, I regret deeply having been handicapped in preparing my contribution because of the very serious shortness of time which has been afforded all Honourable Members of this House in relation to this matter

Madam Speaker, I also deeply regret and resent the indecent haste with which this matter is proceeding to this Honourable House. It is again, Madam Speaker, further evidence of the imperious nature of the new Government. In the relatively short time since they have attained office, we have seen, Madam Speaker, more than one demonstration that they are prepared to sacrifice due process and proper procedure—

#### POINT OF ORDER

**Hon. W. McKeeva Bush:** Madam Speaker on a point of order.

**The Speaker:** What is your point of order?

**Hon. W. McKeeva Bush:** Madam Speaker, the Member is misleading the House and thus he will be misleading the country. There is no taking away of due process. The Standing Orders of this legislature gives any Member the right to ask for a suspension of Standing Orders. Any other measure or action that he talks about was done constitutionally. This is being done constitutionally, perhaps some people do not understand constitutional.

**The Speaker:** I have listened carefully and I would concur with your point of order and would ask the Honourable Second Elected Member from the district of George Town if he would refrain from using such imputations and if he would also take it a step further and withdraw that remark which was unnecessary.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I withdraw the remark that due process has been sacrificed on the altar of expediency in the moving of this Motion and the suspension of the relevant Standing Orders.

**The Speaker:** I thank you. Please continue.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, the Honourable Minister of Tourism referred to this Motion or to this Bill as a gigantic step for mankind in the Cayman Islands. Madam Speaker, I believe you will forgive me if I am disappointed and resentful that I have been prevented from participating in the way in which I would do. The way in which those who elected me to this office expect me to do regarding taking that gigantic step. Madam Speaker, the Bill seeks to establish Cayman Islands Development Bank. I ask again, in a matter of this significance whatever Standing Orders may provide, is it right that those of us who do not live with the Government should be deprived of the opportunity to properly peruse and debate this Bill? Is that fair to us, Madam Speaker? Is it fair to the people of this country? Does what we have to say count for naught Madam Speaker?

Madam Speaker, Standing Orders are established so that all concerned in the business of this Honourable House know what to expect. The suspension of Standing Order is a matter that should—

#### POINT OF ORDER

**Hon. W. McKeeva Bush:** Madam Speaker, the Member—

**The Speaker:** What is your point?

**Hon. W. McKeeva Bush:** On a point of order. The Member is repeating himself, he knows that . . . well it is becoming very tedious because it is continuing.

**The Speaker:** Thank you, I have listened and I think there is still some scope for him to continue in his debate. I would ask if he would exercise due diligence and care in his debate to ensure that he stays within the rules of debate and not enter into the sphere of tedious repetition.

Please continue.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I am grateful to you for acknowledging that I had not repeated myself. I was about to say that the suspension of Standing Orders is permitted by the Standing Orders itself. However, it is a matter that should be done only when there is a real good reason to do so: when it does not affect the ability of the minority Members of this Honourable House from having the ability to contribute to the debate. That is my complaint, Madam Speaker.

Madam Speaker, given the shortness of time afforded, I have not been able to peruse the Bill in any detail, but I do have one serious policy concern—Madam Speaker, I should pause here to say that this is one of the complaints that was leveled at the First Elected Member for George Town by the West Bay Members of the Back Bench, namely the lack of communication.

I hear the Honourable Minister of Tourism say that this Bill has been in the works for some time and he is asking if I attended meetings. I want him, Madam Speaker, in his reply to tell the Honourable Members of this House which meetings I did not attend.

**The Speaker:** Honourable Members I should be most grateful if we would refrain from crosstalk and endeavor to conduct the debate at the highest level of decorum as possible.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I am on my feet and at the microphone.

Madam Speaker, I have never had any discussion; I have never had the benefit of any explanation as to the policy that drives this piece of legislation. Even in the short time that I have had to consider the

matter, I have real concerns about whether or not the Cayman Islands Government should enter the banking business.

Madam Speaker, I agree with them that much of the policy existed since I have been in this Honourable House and supports the former Government because I see much of that in the Budget presented today. I do agree about the need for government to privatise certain aspects of its operations and at a time like this, when that is supposed to be one of the policies that underlie the current Budget, I seriously question whether it is advisable for this Government to establish a bank. It appears to me, Madam Speaker, that we are talking about a retail operation.

Madam Speaker, who in Government is qualified to establish and operate a bank? Are we going now, Madam Speaker, to have to employ new personnel again and set up new and more expensive machinery? Would it not have made more sense to create a policy to encourage other lending institutions to establish themselves in these Islands, those who were prepared to operate outside the current cartel? I have expressed concerns in this Honourable House and elsewhere about the apparent reluctance of financial institutions in the Cayman Islands to lower their interest rates, to afford more opportunity to the people of this country, to be able to establish business and to have access to cheap money. I share that concern. However, I do not believe that at this stage in Cayman's development what we should now be doing is creating a new banking institution.

I remember the old Government savings bank, which operated for a long time in what I shall call the genesis of Cayman's development; a very necessary institution. Are we now going back to the Government establishing a lending institution and a savings institution to compete with private banks? A gigantic step backwards! Madam Speaker, I really, really wish that I had had the opportunity to give careful consideration to this matter and to be able to contribute more fully to this debate. I am sure that there are other concerns which would have come to me had I been given that opportunity, but Madam Speaker, on the big policy question which I have identified, I certainly cannot support this Bill.

Thank you.

**The Speaker:** At this time the House will be suspended for lunch until 2.30 p.m.

#### PROCEEDINGS SUSPENDED AT 12.53 PM

#### PROCEEDINGS RESUMED AT 2.35 PM

**The Speaker:** Proceedings are resumed. Please be seated. The continuation of the debate on the Cayman Islands Development Bank Bill, 2001. Does any other Member wish to speak?

The Honourable Minister responsible for Community Affairs.

**Dr. the Hon Frank S. McField:** Thank you Madam Speaker.

Madam Speaker, I would like to, first of all, congratulate you again for being in that very high and honoured position. I would like to go on to say that I shall hopefully not attempt to delay the passage of this Bill to create a Cayman Islands Development Bank simply because I have had the opportunity to be familiar with some elements of this concept that go as far back as the 1980s. That was when the now deceased and National Hero Mr. Jim Bodden had plans to somehow be able to do more in the area for small businesses, for low income dwellings, agricultural development, and in fact, to assist with the diversification of the Caymanian economy. So it was perceived from the very beginning that the participation of the financial community in this country was not sufficient. They did not regard the solutions to these economic issues as urgent and in fact, also assisted greatly in the creation of social problems in the Cayman Islands.

Madam Speaker, I think that it is important that we realise what is happening here today. This Bill is asking that the two named corporations, the Industrial Development Bank and the Housing Development Corporation, be amalgamated to form one entity. This entity will now be able to receive deposits which in my opinion, gives it even more possibilities to be successful in achieving its objectives and the missions which we all believe correct. That is, that there needs to be a financial entity in the Cayman Islands that regards as urgent the need to assist with small business development and with the development of low income or affordable development in the Cayman Islands.

So, Madam Speaker, I am fortunate to be on this side of this Honourable House as the Minister presently responsible for Housing. As strange as it might appear to some of my colleagues, that I might be supporting the Government rather than supporting the Opposition at this time, it is just a reversal in roles. Perhaps I understand a little bit more about the psychology that is involved here. My colleague, the Second Elected Member from the district of George Town gets up to protest that he had not been given sufficient time to go through the paper. As a non-lawyer I realise it is basically a charter. So from a legal perspective it would probably not be too significant except to ensure it is legally correct.

I think we can trust that to a certain extent the Attorney General and the legal draft persons have traditionally made sure that Bills brought to this Honourable House have at least that type of professional attention. Therefore, we do not necessarily, Madam Speaker, at this particular point need a lawyer other than those that are capably rewarded, tested and placed in position by the Government.

I do believe that because my honourable colleague the Second Elected Member from George Town is a lawyer, sometimes we tend to let old habits die slowly. Perhaps that is exactly the pain that he is experiencing as the old habits of scrutinising and hav-



ing to pay attention to these details begin to dwindle as he begins to assume the role of a legislator. That role demands more of an overview and a more precise position with regards to whatever Bill is here. Since I have been here one of those Members stated that a Bill is not just a legal document. It expresses the wishes of those persons that have been involved in bringing it to the legislature. This Bill, Madam Speaker, which seeks to bring to reality a dream which many of us have shared in this country for a very long time, speaks to the issue of low income dwellings for persons that we know badly need some type of assistance.

Now the Member, my colleague from George Town, the Second Elected Member, knows very well that we have very incredible housing problems in the district of George Town. In the Cayman Islands as a whole, but in the district of George Town in particular, as far as I am concerned, we know that the cost of property, the cost of materials, the cost of building is making it prohibitive for many of our people to continue to have some kind of positive relationship with land and with homes or some kind of dwelling. So the urgency I think, Madam Speaker, of bringing this Bill today was expressed by the Minister responsible this Bill. When the Leader of Government Business says conditions are being established at this moment by the Caribbean Development Bank with regards to lending us a certain amount of money, we need this piece of legislation to be in place within a particular time. Otherwise it would not be possible for us to get this money at this point and we would therefore be delayed.

Madam Speaker, I must say that I would not like for my strategies on affordable housing to be the main part of our strategy to deal with social decay and disintegration. We would not like that to be handicapped simply because one Member or two Members felt that they had not been able to acquaint themselves with the legal document; which I have said before is simply being used to create this Bank or to create this legal entity. So we are basically dealing with legal issues here.

Therefore, what I need to therefore stress to the Honourable Member, who I know is passionate about the people, is that the urgency of paying attention to this particular situation has been more than signaled by many persons who have campaigned in this country and have said every four years they are going to be dealing with these particular issues. However, they have never, Madam Speaker, put the instruments in place to make sure that the urgency which they communicated to the general public would be taken seriously. They would have had the vehicle to bring this urgency and concern into being and now the Cayman Islands Development Bank, will give us such an instrument.

It is time that we proceed. It is interesting that the Second Elected Member for George Town would start by being critical of the way in which we went

about bringing this Bill to the Legislative Assembly. However, he switched and when that argument was not making the point that he felt it should make, he then says well maybe then, Madam Speaker, we do not need to be getting into the banking business after all.

Madam Speaker, we do not need to get into the banking business, but we need to make sure that the interests of our people are protected regardless of how we need to do that. If we do it by the partnership between government and the private sector or a partnership with government and its social partners, the people . . . whichever way we do it, it is important that we do something in order to relieve the poor working people in this country of the kinds of inconveniences which have always been attached to the lack of suitable dwellings.

I have no sympathy for the man who sleeps all day, has no ambition and has no house. If he can be helped then there should be some charity out there that helps him. However, from the point of view of the Government, I have much sympathy and much concern and I would like to help greatly those people working for very low wages and who at the same time need funds to rent accommodations that are in many cases substandard. Madam Speaker, they have been in this situation for so long with the same promises from the same politicians, that say wait, wait until tomorrow, wait until the minds and the conscience of the banking community changes to the point where they understand the urgency of solving this problem at the same level that we do!

Madam Speaker, I have been involved in a study that deals with social breakdown and with youth violence in the Cayman Islands. I can tell you that by the time the children get to Northward, they are already prepared to live in close quarters, in substandard conditions. We socialise them in what we call the homes in which they live, so that by the time they get there, they are very well accustomed to those types of dwellings and conditions. So, how long must we wait before we create the instruments to bring them the types of solutions that they have been crying for, at least since the 1980s when the Honourable Jim Boden was a Member of this House?

I can remember, Madam Speaker, in 1980 the important role in that prisons, or low income or affordable housing played in my first political manifesto. Even back in 1980—21 years ago, Madam Speaker—it was important for each politician in this country to begin to talk about the need for housing. The banks in this country have had at least 21 years since they have been on notice that something must be done, at least to create the kind of interest rates for mortgages to allow the poorer working people to afford dwellings for themselves. How long must we wait?

I can only say, Madam Speaker, I made it quite clear on 8 September 2000 that I was attempting to gain a position in this Honourable House as Minister to hopefully be responsible for housing. I had

meant to read, with your permission, a little piece from a bulletin that I published at that time. However, I am having a little bit of a problem locating it and perhaps for a good reason.

Madam Speaker, in concluding I just wanted to say that I really feel we must urgently come to the point to allow people to understand that it is not just 'politricks'. That is, some of us do sincerely feel what they feel, think what they think, and know what they know, when it comes to the importance of having some little place that is decent and clean. Some little place, Madam Speaker, that you can call your own. Some piece of land where you can allow that breadfruit tree to grow. Many of us have accomplished that at some point in the early parts of their lives. I accomplished it only in 1996 and I am still paying a mortgage. At least I know that I am closer to that feeling of ownership, by paying a mortgage instead of renting. So to be able to get into the mortgage system is an important stage in ownership.

Madam Speaker, one thing that I have learned is that when you go the bank, the bank always asks you for equity. If you do not have a house or piece of property paying mortgage on you have nothing. So, if you bought the house for \$90,000 and you had the good fortune that prices went up and the house is not worth \$150,000, you have a little equity in there that you can go and borrow money from the bank and do a little business or something like that. So, let us not fool ourselves about the importance of people being assisted to get on the road of earning. When I am talking about the Bank, it is from the perspective of what it will do in its mission statement in dealing with housing.

That is in the Memorandum of Objects and Reasons, Madam Speaker, where it says that, "**The bank will also undertake the provisions of finance for the acquisition and the improvement of dwellings and for the attendance of persons at approved courses of education.**" So, Madam Speaker, the mission of the Bank is important because the commercial mission of a bank is not the same. I bet the commercial mission of Cayman National Bank is to make profits, whereas this mission is for social good. There is a difference between social good and profits because social good puts people above profits.

It is important for the Second Elected Member for George Town to realise that even as a lawyer it is important for him to realise the difference in the institutions and their priorities. Madam Speaker, it is important for us to understand that people out there have said, *'you have all said, that you were going to help us with housing.'* I want to make it clear that I would like to help people that would like to help themselves. I would definitely not be used to help people who believe that the State should be solely responsible. Maybe the Second Member for George Town meant to suggest somehow that maybe there should remain a division between the private sector and the

public sector in terms of where government ventured into the commercial aspects.

That is, he is more or less saying that the Government cannot manage because Government does not put profits above people. That the Government is always seeing the social good and it is only when you see the profit above people that you can be a success in business. There are a lot of people out there that are attacking governments and saying that governments worldwide are failures when without governments, the whole world would collapse. There would be no social order! We saw that on 11 September. We saw the important roles that government play in maintaining solidarity in the society, in maintaining law and order and in maintaining what is good.

So, let us not give what should be done by us to other people who have different purposes and missions in this life. Our mission is to make sure that the social good is established and maintained; not that the profits are established and maintained. So, as a result of that, sometimes we need different types of vehicles that resemble the commercial institutions but have different formats, because they are going to seek to really alleviate the difficulties and sufferings of another class or kind of people. That is important for us to maintain.

It is not an issue about the West Bay contingent versus the George Town Members, as again has been brought back into the debate, Madam Speaker. I think it is absolutely essential that people understand that I am in this position because I campaigned on this position. That once I had the opportunity to be in this seat I seized the time because I do believe, Madam Speaker, in the social good, I do believe that I can contribute.

That Member from George Town might not necessarily agree with my assessment of my ambitions and he might think that I am being too kind towards myself, but it is not ambition that I am afraid of, Madam Speaker; it is the fact that there are certain people that continue to underestimate the abilities of people who have trained and sacrificed in order to be in the position to make decisions. When you are in the position to make decisions, you do not have to dream about it, you do not have to think about it, you make the decision because your entire life has been spent waiting for that day. One would be a real fool if one had spent all those years as idle as people thought you were. If you had not prepared yourself psychologically to seize the time, and opportunity to make a difference to the lives of those people that you have been with, slept with, ate with, that you are a part of, Madam Speaker. I do not necessarily mean that you are part of at convenient times but you are part of because biologically, sociologically, culturally and other ways you are a part of those folks.

So, Madam Speaker, I have come to the defense of this Bill and I have come to the defense of the Minister who has brought this Bill. I have come to say, that we all know what should be done. The problem is

we disagree in how to do it. However, I believe that the way this is being done today will make this Island better and at the end of the day it will have the support of the majority Members in this House and I believe that is the democratic way. However, if those who feel that this machinery is not necessary, I believe, they are also saying at this particular point that the urgency to solve some of the problems that it purports to be able to deal with, are not urgent as well. So I caution them, Madam Speaker, and I will take my seat.

Thank you.

**The Speaker:** Thank you Honourable Members. Does any other Member wish to speak?

The Elected Member for the district of East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

Madam Speaker, as I rise to make a short contribution to the Bill before us, a bill to establish the Cayman Islands Development Bank I have to first of all say that I am not a lawyer. Unlike the Second Elected Member for George Town who understands the intricacies or finer details of Law, I do not. However, I believe that I am intelligent and qualified enough to understand when I read something and certainly I am deserving of sufficient time to be able to digest it and understand it.

In so saying, I was a little bit disappointed when I arrived in this Honourable House this morning and found that a White Paper that I received yesterday was on the Order Paper this morning. Madam Speaker, over many years this has been the type of conduct by previous governments. The country has spoken about Members of this Honourable House who on occasion were not afforded the opportunity to read and digest and contribute to the debate in a meaningful way—

#### POINT OF ORDER

**Mr. Lyndon L. Martin:** Point of order.

**The Speaker:** Please state your point of order.

**Mr. Lyndon L. Martin:** The Standing Order 35(2). The Member is seeking to revive debate and consideration on a motion that has already been passed, which is the timing of bringing this Motion to this Honourable House.

**The Speaker:** Honourable Elected Member for East End, I should be grateful if in debating that you make every attempt not to infringe the stated Standing Order and at this time if you would please continue.

**Mr. V. Arden McLean:** Madam Speaker on a point of clarification for me so that I can understand where I was infringing, because I have no knowledge of that.

**The Speaker:** If you could now continue on your debate please.

**Mr. V. Arden McLean:** All right Madam Speaker, I bow to your ruling.

Madam Speaker, I was saying that I was not given the opportunity to digest this Bill, but I was going on to say—for the benefit of Second Elected Member for Cayman Brac—that, like the Minister responsible for Housing, I have always had a dream to see Caymanians other than myself and they may very well be in my economic bracket, have something to call their own; in particular a home. So, Madam Speaker, it would be quite foolish of me to oppose a vehicle for that end, but certainly there are Honourable Members who like to jump the gun.

My opposition (if we may call it that) to this Bill, is merely that I did not get sufficient time to review it. I am sure the Minister for Housing and the Minister for Tourism will understand my desire to see something done for the country in that area. That is, in the last year I worked very closely with the Minister for Tourism to try and get something rolling. Two weekends ago the Minister for Housing was on site while I, along with another organisation this country, were trying to do the same thing—the identical thing, which was to help one individual build a little kitchen.

So, Madam Speaker, with respect to the Second Elected Member for Cayman Brac, he must clear his holster before he starts shooting or he will get shot in the foot. The head will be next!

Madam Speaker, I continue to be committed to whatever I can do in this country to ensure every Caymanian who qualifies is capable of moving in to their little home. I trust that this Bill, (which the United Democratic Party, I know, will get the passage necessary), will make the whole country inclusive, by providing loans for housing. Madam Speaker, as I said earlier I only received this Bill late yesterday evening. Nevertheless, between then and this morning I had an opportunity to look at a few things in it and a couple of those things that came right out at me I would like to touch on, keeping in mind I have not had the opportunity to read it all and digest it. I would like the Minister responsible for Commerce to respond to this in his response.

Madam Speaker, in the Memorandum of Objects and Reason item 6 it said that, “**The Bank shall have the capacity to obtain funds from international agencies banks and other financial institutions or from the public for the purpose of re-lending such funds within the Cayman Islands.**”

All well and good, Madam Speaker, I just wonder and if possible the Minister, could tell this Honourable House, for instance what ‘from the public’ means. There is another section, that I would beg some explanation on, that is section 12(1) of the Bill. Where it says, “**In the exercise of its powers and discharge of its function the Bank shall conform with any general directions on matters of policy**

**given to it by the Minister in the public interest.”** That is subsection (1) of section 12 and subsection (2) says, **“The bank shall give to the Minister such information or advice as he may require as to the performance of its function under this Law.”**

Madam Speaker, I wonder if it is not in the best interest of such an institution to be governed by the Financial Secretary of country; the Third Official Member. I have concerns regarding a Minister being responsible for a bank regardless of which Minister it is, Madam Speaker. There are certain fiduciary responsibilities that need to be recognised.

#### POINT OF ORDER

**Mr. Rolston M. Anglin:** *[inaudible comment]*

**The Speaker:** Please state your point of order.

**Mr. Rolston M. Anglin:** Madam Speaker, Standing Orders clearly govern the rules of debate and I have listened carefully to the Member for East End, and I have watched carefully how he selected 1 and 2 without subsection (3) of section 12 of the proposed Bill. Madam Speaker, Standing Order 35(4), **“No Members should impute improper motives to another Member.”**

Now Madam Speaker, for the Member to say that it is improper for a Minister to be in charge of a bank without clarifying the point, to show that subsection (3) of section 12 clearly says that the bank does not need to comply with the Minister's decision, is misleading.

**The Speaker:** Honourable Elected Member for West Bay, I have listened with great care to your explanation I do not find it to be a point of order at this particular juncture. I will continue to listen carefully and should you realise a similar circumstance that falls within the ambit, do feel free to call it to my attention again.

At this time I would ask for the Honourable Elected Member for the district of East End to please continue with his debate.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

Madam Speaker, again, I was going on to say there are certain fiduciary responsibilities that anybody in charge of a bank has, even though subsection (3) says that, **“When the Bank determines that compliance with such a direction would be commercially or otherwise unsound the Bank shall not be under any duty to comply with it until the Governor in Council has given the Bank a written undertaking that the Government will reimburse the bank for any losses incurred in relation to that compliance.”**

Now, Madam Speaker, I respect the Second Elected Member for West Bay for rising on that point.

He obviously did not give me the chance I deserve to go on to complete what I was about to say.

Madam Speaker, while I understand that the Governor in Council would have final authority on it, I do believe that it is absolutely necessary that the checks and balances other than that . . . Madam Speaker, while I understand that further on in the Bill, the Monetary Authority has certain controls over the Bank, I believe that the most suitable persons in government to run the Bank, a lending institution, would be the Financial Secretary's office.

Madam Speaker, I cannot with any clarity or any authority say what caused the old government bank to close down. Whether it was any lack of equity or what-have-you but something caused that to shut down. Government made the decision to close that down because of the lack of business or whatever the case may be. I trust that the same will not be case with this one.

Madam Speaker, another area that I notice in here was under 15(1), **“The funds available for the purpose of enabling the Bank to perform its function under this Law shall consist of a) equity capital and importantly, b) such sums as may be provided for those purposes in the estimates of revenue and expenditure of the Islands.”**

Madam Speaker, as a result of that and keep it in mind that I have not had the opportunity to see the full Bill; I wonder if provisions are made for the Auditor General to audit the Bank. As it is public funds and that is the responsibility of the Auditor General and Public Accounts Committee.

Another brief area, Madam Speaker, that I saw is section 21(6), **“The first financial year of the Bank shall be the period beginning with the coming into force of this section and ending with the 31 December 2002 and any subsequent period of 12 months ending with 31 December shall be a financial year of the Bank.”** Madam Speaker, my question to the Minister here is that since government is moving to a 30 June financial year would not it be reasonable then to make the Bank, all of government entities be the 30 June the end of the financial year. I think we would streamline government instead of having to wait for the end of December to get the financial statements from one entity of government we get them all on the 30 June or whenever provisions are made for them.

Madam Speaker, I encourage the new Government to make this institution all inclusive, for all the people of these Islands, that is, Cayman Brac and Little Cayman as well. The Minister for Housing said that in particular George Town is an area that needs housing; I can say that in the area of East End there is a need for Housing and people to feel like it is worthwhile. Maybe the Minister for Commerce and the Minister for Housing can ensure that whatever government does in the future it is considered affordable housing. So as not to make people who are getting these homes or being able to afford it, think that they

are any less than any other one of us as Caymanians or residents in this country.

Madam Speaker, as I said earlier I had some concerns with the manner in which the Bill was brought. It is unfortunate and I understand the Minister for Tourism when he says that there is an urgency to get this done. I suspect that is to get the Governor's assent because the monies needed from Caribbean Development Bank is on a time line. However, Madam Speaker, I would also ask the UDP whether this is not the beginning of things to come. Because, Madam Speaker—

**The Speaker:** Honourable Members—

**Mr. V. Arden McLean:** Madam Speaker, while the Government will always have its way, the Opposition should be afforded its say. The same Caymanians who voted for the UDP Members are no different from the Caymanians who voted for me in East End. They have sent me to this Honourable House so that their voices can be heard. For their voices to be heard Madam Speaker, I have to be afforded the privilege to review the business of this House in sufficient time in order that I understand it and make meaningful contribution to it. I said during my maiden speech and then during the revocation speech that I am not in here for frivolous matters—these are the matters of this country.

I understand the awesome responsibility that has been placed upon my shoulders by the people of East End and they expect results. The same way the constituencies of the UDP Members expect results, the people of East End also expect results. Madam Speaker, I implore the Government to ensure that whether they want to call it the other side of the aisle or the Opposition that they afford the respect that is due to the Honourable Members of this side of this Honourable House.

Madam Speaker, I know that there are many who respect that. Unfortunately, they may be caught up in a system that does not have the same philosophy they do. However, that is the nature of the beast and I also understand the disciplined and structured environment, as well as anybody else. Nevertheless, Madam Speaker, this is the time to come together in this country! We appeal to the rest of the country to come together for specific purposes. This is the time that we as legislators must come together in order to put our heads together in the interest of this country. To do that, we need to be informed.

There needs to be some kind of communication and not one day prior to the enactment of Laws. You know, Madam Speaker, it is so strange; I have always said that there is a thin line that separates opposition and decision-making. Once we cross the aisle it is different ball game. We no longer have to stand up here and talk about our philosophical ways of life, our training, and about the poor people. Madam Speaker, having said that, I just want the new Gov-

ernment to know that I am willing, able, and very capable to assist in anything that is in the better interest of this country. The Minister for Housing knows that because he saw me with hammers and saws and planes in my hand recently. So, Madam Speaker, (again to the UDP) please do ensure that it is all inclusive.

Thank you Madam Speaker.

**The Speaker:** Thank you Honourable Member.  
The Honourable Minister for Education.

**Hon. Roy Boddin:** Madam Speaker, this Bill which brings to life the Cayman Islands Development Bank is important for two reasons. The first is that it recognises that there is the need to improve and streamline old mechanisms which in the past were responsible for delivering the kinds of services that the Cayman Islands Development Bank purports to deliver by coming into existence.

However, the second reason is of greater significance and it is the reason that was well expounded by the Minister responsibility for Housing, among many things. Namely that it is fulfillment and realisation that there is an element in this country now that has the political will to deliver on promises that have been futile for so long to the ears and expectations of so many people.

Madam Speaker, it is obvious that the country cannot continue in the way in which we have been. That is, disenfranchising certain elements, making them promises that for whatever reason have never been kept, without renting the social fabric greater than it is renting at this moment. There are those who have been calling for years for such an institution and no amount of diatribe (I do not care which direction it is coming from) will detract from the seriousness of the situation and will negate the importance of the establishment of this Bank at this time.

The Bill adequately speaks to provision, safeguards and parameters, which are set and defined. So, that those on the other side can have no good reason to question and query whether the proper safeguards are in place. Madam Speaker, what should be questioned is their intentions and their political will to keep on talking the talk or to join us in walking the walk. I am happy to be associated with this effort. I am pleased that it was brought by this group, this entity, which prides itself on being the United Democratic Party, because we are about addressing the practical and glaring needs of this country.

Madam Speaker, if those on the other side wish to do something, they can join us in this effort so that we can move the country forward. However, Madam Speaker, you cannot be fish and fowl! You cannot expect to get up and pound the Government and create obstacles in the way of progress and then expect that you are going to reap the returns when the returns are being disbursed and apportioned. Madam

Speaker, it would serve us well if we stop pontificating and get down to more action. I give this Bill my full support!

Thank you.

**The Speaker:** Thank you Honourable Minister. Does any other Member wish to speak? Does any other Member wish to speak?

The Second Elected Member from the district of West Bay.

**Mr. Rolston M. Anglin:** Thank you Madam Speaker.

Madam Speaker, this Bill creates the Cayman Islands Development Bank. As I see, it was indeed put on Business Paper No. 4 on the 28 November 2001. What may be currently exposed is the fact that all Honourable Members of this House need to check their mailboxes in a timely manner and get Bills on a timely manner, so that you can review them, because the 28 November was last week Wednesday.

As I look through this Bill, I see in it a platform for executing much needed delivery of critical services to the Cayman Islands Community. Madam Speaker, this Bill and the Bank that this Bill seeks to create, is not only going to deal with the critical issue of housing. It is also going to deal with the critical issue of capital for entrepreneurship; small entrepreneurs. It is also going to deal with the critical issue of student loans because, Madam Speaker, I can relate to going to university and not being in a position to necessarily have parents that can assist in financing the way some in our community would have been afforded.

Madam Speaker, even now there are still some scholarships that will not necessarily cover one hundred percent of the costs of going to school. Madam Speaker, when we look at those three areas: affordable housing, startup capital for small entrepreneurs and student loans, we could not be looking at areas that are any more important to building a good society; to building a good community.

However, I would like to take a quick step back before I speak to certain aspects of the Bill and to remind all Honourable Members and indeed the wider public that this concept of a Cayman Islands Development Bank has been in the works for many months. In fact, on the 2 April 2001, the Honourable Minister for Tourism clearly outlined to this Honourable House and to the wider public his desire to have such institution. So for any of us to say that we were not aware that this was in the works, for any us to speak about lacking communication, I suppose we all have to understand that communication is not only one person speaking but being humble enough to listen.

Madam Speaker, I would like to quote from the *Hansard* of 2 April for a brief moment if you would permit.

**The Speaker:** Please proceed.

**Mr. Rolston M. Anglin:** Madam Speaker, on 2 April [2001], the Honourable Minister for Tourism and Commerce said:

**“Mr. Speaker, the Agricultural & Industrial Development Bank (AIDB) and the Housing Development Corporation individually have tremendous responsibilities in our changing economic scenario. The Agricultural, Industrial and Development Board, in particular, celebrate several years as a development financial institution.**

**“During its years of coming of age the long discussed merger with the Housing Development Cooperation (HDC) will take place this year, I hope. I have instructed the management of these institutions to finalize the merger within the next few months. More importantly, I have asked them to create a totally new, dynamic development financial institution that will meet the challenges that it has begun to face in this millennium.**

**“The new development institution will become a true development facility of the Cayman Islands and it is to be called the Cayman Islands Development Bank (CIDB). The CIDB will continue to build on the foundations of the past and seek to achieve even greater impact within the Cayman Islands, in facilitating greater development in Agriculture, small business, tourism and housing, as well as in the promotion of human resource development through its loan portfolio for students. Over the coming months, the mechanics of this new entity will be worked out and it is expected that the draft legislation for the establishment will be tabled in the Legislative Assembly some time in the third quarter of this year.”** [Page 312, 2001 *Official Hansard Report*]

It is important that the listening public always receives a balanced view as to what actually transpires in these Halls. It is easy for us to get up and to speak in ways that seek to castigate others; that seek to make others look in a bad light when in fact, we know the truth and we know the difference. The Second Elected Member for George Town in his contribution insinuated that this had come out of the blue; this was not effectively communicated. Well, Madam Speaker, what could be more effective communication than in the Honourable Chambers of this Legislative Assembly. Madam Speaker, I turn now to the Bill. In going through it, the Bill itself seems to provide a very balanced platform on which to build such an entity.

Madam Speaker, whilst there are no bankers on the Government Bench, I do not believe that we should wait until a banker is elected and reaches the Government Bench before we get a development bank. The last time I checked, the Government of the Cayman Islands owns or have direct involvement on numerous entities that have never had specialisation on the Government Bench. I do not see any engineers, yet we have a Water Authority. I do not see any airline executives, yet we have a Cayman Airways. I

do not see any hospital administrator, yet we have a hospital.

Madam Speaker, the issue revolves around the Government selecting a very good board and a good general manager with the necessary experience to effect what it is that this Bill seeks to effect within the wider community. Madam Speaker, to insinuate that because there is no one on the Government Bench with banking experience we should not have a development bank seems ludicrous to persons like me. When we look at the Bill we see specific provisions covering many important items. Items like who will be on the board of directors, their duties, what the functions of the general manager will be and the functions of the power of the Bank. We also see items covering the finances of the Bank, covering the authorized share capital, the funding of the Bank, the power of the Bank to borrow. Madam Speaker, I will stop there at point sixteen.

The Bill calls for the Bank to take care when it borrows and raises capital. Madam Speaker, this Bill also speaks to areas such as audits, the accounts of the Bank and the reserve levels of the Bank. One of the most important things that it also does is speak to the application for loans and what the powers of the Bank are in regards to default. Madam Speaker, earlier the point was made to the necessity to have the Auditor General audit the Bank. In Section 21 the Bill clearly calls for some very important fundamental financial reporting criteria.

If you permit, Madam Speaker, I wish to share with the wider community some of these points. Section 21(1), **“The Bank shall a) keep proper accounting records in accordance with generally accepted accounting principles; and (b) prepare a statement of accounts in respect of each financial year.**

**“(2) The statement of accounts shall give a true and fair view of the state of the Bank’s affairs at the end of the financial year and of its income and expenditure for the year.**

**“(3) The statement of accounts shall be audited annually by an auditor who shall be a chartered accountant, a certified public accountant, a firm of professionally qualified accountants or other professionally qualified accountants appointed by the Board, after consultation with the Monetary Authority.”**

Madam Speaker, just speaking to point 21(3) for a minute, I certainly would encourage the Government and the Monetary Authority to guide the Bank in this area to try and ensure that they do go to one of the bigger accounting firms for the audit. Madam Speaker, I say this because the bigger accounting firms on this Island have not only audited large commercial enterprises here, therefore have the accumulative audit knowledge and experience. However, they would also then be able to afford the Cayman Islands Development Bank, the type of insight in terms of in-

ternal controls and business advice that this institution will desperately need.

Madam Speaker, when we went out and audited places like CIBC, the Bank of Butterfield and Scotia Bank, every year one of things that our clients always looked forward to was our management letter. In those letters we provided them with sound, practical business advice. Since they knew the experience that big firms brought to the table was not only limited to the audit of the particular client, but also other clients, so we obviously do not practice secrets between clients. However, we share critical information and advice that all clients appreciate because I have always been of the firm view that when you compare the big five accounting firms they all can audit.

What will separate the best from the better are those who can provide the best management letters; the best advice to their clients; the best recommendation and bring to the table experience that is tangible for the client; that can bring to the table partners who have been involved and are experts in the banking field for years. This is critical, and so I would encourage the Government in this instance to look in that direction. Madam Speaker, obviously there are medium size firms in these Islands and there is a place for them, because they can provide certain benefits.

However, where we are talking about banks and banking (a sensitive industry; a very technical industry), I would support the Government moving in that direction. So, Madam Speaker, for the record yes, this Bill does provide for audits to be carried out. In regards to the Auditor-General, it is known that the Auditor-General does not audit every Government-owned entity. There are certain Government-owned entities for which the Auditor-General relies upon those statements to provide his certification. So, I do not necessarily need the Auditor-General to audit this institution. In fact, Madam Speaker, in my humble opinion it would be advantageous to have one of the big five accounting firms audit this institution because they are going to bring to the table the commercial expertise that may not necessarily be housed in the Auditor-General’s office, with all due respect to him and his staff.

Section 23 speaks in great detail as to how this Bank is going to be regulated and that will be done by the Monetary Authority. So, it is very important that the listening public understands that this was not just some piece of rushed legislation. Madam Speaker, the public has to understand that the circumstances that the Government finds itself in rushing the legislation is in terms of passage—not its development. This seems to be a very comprehensive piece of legislation; one that is going to serve as a good platform for the Cayman Islands Development Bank. As with all things in life, everything can be improved upon and I would anticipate like all Laws and Bills that make their way to Law, there will be amendments down the road. No one can say that any Bill is perfect but, when we look at section 23 and we look at

the power that is vested in the Monetary Authority in regards to this Bank, we clearly see that the regulatory regime in this country will have to ensure proper operation on a big picture level of this institution.

Madam Speaker, not only will the Government select a board of directors and have a management team—but from what I understand the personnel that already exists in the AIDB and HDC will provide expertise that this new entity will need. So, I do not agree that this necessarily is going to cause a great influx of new civil servants. Madam Speaker, to the best of my knowledge the AIDB already has a manager. From my understanding, that manager already has expertise in how to run a credit lending facility.

Madam Speaker, section 29 deals with loans and I think what is very important is the platform that the Minister of Housing set, the platform that I can say the United Democratic Party wholeheartedly accepts. That is, this is going to be a commercially run enterprise but it is going to have terms that make capital available to certain sectors of our community that have found it difficult to acquire the necessary capital to build a house, to start up a business, to get a student loan at rates that are palatable and affordable. Madam Speaker, it has been the rates that have excluded them from participating in the past. It is very important to note that the Minister made it very clear, that anyone who is not out there working hard, wanting to improve themselves are not going to be available to get the funding that this Bank is going to afford.

If we look at subsection 29(4) application of loans, Madam Speaker, I would like to read into the record so that the public can understand. It says, **“If any such loan has been secured by mortgage or otherwise, and the borrower defaults in complying with the order made in accordance with subsection 3, the Bank may by notice in writing addressed to the borrower demand payment of the loan or any part of the loan on such date as is specified in the notice together with the repayment of all interests, fees, and charges due on some demanded at the date of the notice; and in default of payment on the specified date the Bank may sell all or part of the land or other assets mortgaged for the purpose of the loan and take steps to enforce any other security provided by the borrower for the purpose of the loan.”**

The public must understand the ease of acquiring the capital is what the Cayman Islands Development Bank is seeking to address. The costs that is, the interest rates attached to capital, is what we seek to address. Not whether or not you are going to repay, because with everything comes a responsibility. The responsibility to which this Bank will hold the public will be no different than that of any other bank. People will have to pay their loans, mortgages, business loans and student loans. However, Madam Speaker, once again we are doing it at rates that those who

have otherwise been excluded in the past can now afford.

Madam Speaker, it is safe to say when we look at the operation of the commercial banks within the Cayman Islands, for all the years that they have been here, if there was a genuine interest to lend to a certain segment of our community who has found it difficult to acquire such lending, they would have come up with programmes to do so. No one is going to convince me that the retail banks in this country do not have the management expertise to have been able to do this. It has not happened and so at this point in time the Government feels duty bound to have to provide such a facility to the people of this country.

I think it has become very obvious who came to this Legislative Assembly with a plan for the people and those who have not. On page 15 of the Manifesto that I ran on, we spoke of small business support, we spoke of the issue of AIDB, reorganising AIDB's lending practices, to have a new mission statement and all the things that are going to be incorporated in this new Law. We also spoke of not just having people come in and say they want to start a new business, but we spoke to the issue of providing market research packs that allow them to go into the community and do real research, to really find out whether there is a demand for their proposed business. Madam Speaker, there would be nothing worse than to have the development bank lend to people on frivolous ideas.

That will not be the case, Madam Speaker. We will ensure that people have proper business plans; that they have realistic goals; that they have done the proper marketing research—all of those facilities must be provided in house by the Bank before lending monies for small business entrepreneurship. In fact, Madam Speaker, on page 16 of our Manifesto we spoke of a development bank and we spoke of a Cayman Islands Development Bank. So, Madam Speaker, we all have to remember that each of us ran on very different types of platforms and the platform that we were elected on in the district of West Bay was one that in my humble view was comprehensive. One that showed the public what it is that we wanted to do, one that showed a broad cross-section of issues and items. In fact, Madam Speaker, we had some 16 different areas in our Manifesto that we covered and yes, small business loans and housing was one of them. Establishing a Cayman Islands Development Bank was one of them. So this is not new to the public in West Bay.

However, Madam Speaker, when we look on the national scene we also see that within the United Democratic Party there are persons who have supported this concept for many years. In fact, the Honourable Minister for Education has been speaking about the Grameen Bank, probably from the time I was a teenager I have heard him on the radio speaking of that Bank. In fact, he spoke about that Bank again in the Throne and Budget Address this year. I think it is fair to say that as a group, as a party, this



Bill is certainly in conformity with the vision we have for the Cayman Islands; in terms of being able to provide the public access to funds that they would not normally have access to. Madam Speaker, I think it is a critical part of the development of the Cayman Islands.

Madam Speaker, I would like to end off my contribution by simply quoting Standing Order 35(2), **“It is out of order to attempt to revive in any debate a matter or reconsider any specific question upon which the House has come to a conclusion during the current session, except upon a substantive motion of rescission.”** Madam Speaker, it is sad that we still have persons getting up in this Honourable House and talking about the West Bay Backbench Members and that they did not remember hearing anything about this, insinuating that the Minister responsible for Tourism had brought to this House a Bill that has not been shared.

Madam Speaker, it would seem that certain Members of this House either have selective or a lack of memory because they also run around quoting at their public meetings and having quotes in the *Caymanian Compass* that as an Honourable Member it was me that made it when in fact it was from the Third Elected Member for West Bay. So, you see I really do not rely on the memories of certain Members of this House. I would like to say that before we just jump up and oppose something that we actually search all the carvings of our memory to ensure we do recollect exactly has transpired.

On 2 April 2001 the Minister of Tourism clearly outlined the need for a Cayman Islands Development Bank, his vision as to when it would come and I would like to congratulate the Minister. He said the third quarter of 2001. Well, this is December and as we know in this business, that is only a couple of months off which is pretty good in my books. This Bill I recommend to all Honourable Members. I believe it provides a tool that will be very useful to the Cayman Islands Community. It will be very useful to persons who are in agriculture, to students who may need access to low interest financing, to persons who want small business loans, but, of course, also housing—an area that I think most of us would agree is of critical importance to the critical development and the social fabric of the Cayman Islands.

The persons that I was elected to represent told me loud and clear that these were areas that they wanted addressed and that this was an area in which they needed something comprehensively done. I keep getting phone calls from people asking about housing. Is the Government going to be able to do anything about housing? Hardworking people, some of whom called and asked, *‘I own my own piece of land, I have saved for the last 8 years and I have now managed to pay off for my piece of land’*—clearly demonstrating the responsibility that the Cayman Islands Development Bank will be looking for in customers. Some of them are single parents with two, three and four chil-

dren. Madam speaker, I believe that we need to act now. The Caribbean Development Bank has approved certain funding, they have provided certain criteria that have to be met and the Minister has clearly outlined the need to have this legislation passed.

Madam Speaker, I believe that this is a proper Bill to be the first Bill of the United Democratic Party. What a way to get started, to be able to finally provide funding for critical areas like affordable housing, small business loans, student loans, agriculture loans.

Madam Speaker, I would just like to finally remind us all that we had suspensions of Standing Orders 46 and 47 in the year 2001. In fact, I went and did a quick research in the break and found that we had suspended Standing Order 46 five times, and 47, once. I believe the providing of access to funding for affordable housing requires us to be cooperative; requires us to recognise that the Government in this instance needs to act swiftly.

I voted yes for the Standing Orders suspension because I recognise that within my constituency there is a great need. I think it is fair to say that within every constituency in this district there is a great need for access to relatively cheap funds for proper housing. I could not think of a Bill that would be more fitting for the suspension of the Standing Order and certainly, Madam Speaker, I have had the opportunity to go through the Bill so I cannot understand how others have not.

**The Speaker:** Thank you, Honourable Member.

Does any other Member wish to speak? Does any other Member wish to speak? If no other Member wishes to speak, would the Mover wish to exercise his right of reply?

**Hon. W. McKeeva Bush:** Madam Speaker, thank you very much.

Madam Speaker, I certainly want to thank all Members who rose in support of the Bill before the House and I certainly want to thank my colleague, the Second Elected Member for West Bay for so ably dealing with some of the points that had been raised by the Opposition. One of the things that he pointed out was that this is not the first time in the year 2001 we had to suspend the same Standing Orders that allowed us to take this Bill through all its stages today. So, Madam Speaker, that demolishes the argument of the Second Elected Member for George Town concerning the leadership of Government business before 8 November 2001.

Madam Speaker, I would have been very pleased, and perhaps the country as well, if this Bill would have been given every respect by the Opposition. It should have been given easy passage and I believe that we should have been out of this House by now without the unnecessary ranker and bitterness and politicking that simply has taken place with the Opposition. While they cry for peace, they rage a war. Hypocrisy at its best!

One of the things I would like to reiterate is that the Bill does provide for a Memorandum of Objects and Reasons on its very first pages and it is easy to read. It is done this way so that those that might not have a legal understanding in reading clauses could easily understand what is contained in the Bill. This is not the first Bill. This is how Bills are done in a Legislative Assembly, in this Parliament. Madam Speaker, that Bill was sent to this House from last week and every Member that has any responsibility about them should have taken the time to read that over the weekend. Madam Speaker, the Opposition is grumbling again but they had sufficient time to read the Bill.

The Second Elected Member, who rose this morning to deride the Government, could have taken his time this morning when he was studying the *Hansard* reading speeches and instead read just the Memorandum of Objects and Reasons. In his supposed training he should have easily grasped the purpose, intent and contents of this Bill. However, I know his *modus operandi* and I want him to understand that I know it and that I can defend myself at all stages. I have allowed him to go great distances in the last several weeks but it will not continue. I put him on notice.

Madam Speaker, not all persons who read the Bible are angels. In response to his debate, I wish to point out the amazement from that side of the House to the statement that the Cayman Islands Development Bank is news to that Member. When personally in this Honourable House, I have made various statements regarding the amalgamation of both the Agricultural and Industrial Board and the Housing Development Cooperation into the merge Cayman Islands Development Bank—the one on discussion today. Also, Madam Speaker, had they been as effective as he has been hollering about since 8 November, he would be well aware of the contents of this Bill.

The *Hansard*, Madam Speaker, in my speech which the Second Elected Member for West Bay referred to, carries two pages which dealt with the intent and some of the contents of this Bill. I have made statements since that and the Government that was formed last year also talked about it. Madam Speaker, the process is simple. Does the Honourable Member have a problem with the existence of the Housing Development cooperation? Does the Honourable Member have a problem with the existence of the Agricultural and Industrial Development Board?

Madam Speaker, for all intents and purposes, all this Honourable House is seeking to do is to merge these two entities into one and to effect a name change. While at the same time to streamline and improve their existing functions to bring them in line with modern 21<sup>st</sup> Century development banking protocol, which can only assist our people in a manner we are talking about.

In respect of the matter in retail banking which the Member raised, I would like to go on record once and for all, that the proposed Cayman Islands Development

Bank is not being restructured to compete with any of the retail banking outlets existing in the country. So, the Honourable Member can be assured that this restructured institution has a pure development thrust and not a commercial motive at improving various weaknesses in our economy which are not readily addressed by other agencies or institutions. However, at the appropriate time we would need to mobilise domestic savings by taking deposits under the supervision of the Monetary Authority.

Madam Speaker, one of the areas that needs to be addressed is the development of our micro enterprise sub-sector. The United Democratic Party wants to ensure amongst other things, that this country has a strong, indigenous business platform wherein new entrepreneurial opportunities can be created for Caymanians and residents alike, for all our entrepreneurs.

If the Second Elected Member for George Town has the good will of the Caymanian population at heart (but sometimes he is talking out of both corners of his mouth), he would applaud this new development banking Bill. That is, it seeks to assist Caymanians in areas where others fear to tread. Just to give one example, Madam Speaker, the area of the provision of low-income housing—which Members have dealt with and I do not need to go into—but the Member said that he has real concern about whether Government should enter the banking business. He also says he shares the concern of assisting our people. Well, is that really so? Because, 1) if you look at this argument he does not want Government to do it, we should not be in the business; 2) he says that the banking institutions in the country are cartels; and 3) he says we must help our people.

What does the Member really want and how are we going to help our people if we do not put the institutions in place?

I believe that they are so bitter that he fails to see reason. Presumably he speaks for his group and when he says that Government should not be in the banking business, is that one of the things, Madam Speaker, that he claims so many times recently, I could not get done before we changed the leader, is that one of the things? Maybe it is one of the many things that we could not get done for our people.

Regarding professional staff, I do believe that we have competent staff in the manager and the present project officer, as good as you will get anywhere else. We will need a financial controller and that post will be asked for in coming weeks. However, I do not buy his argument that we do not have the competent staff. Where does he get his information?

Madam Speaker, my friend, the Elected Member for East End, as usual is trying to straddle. He wants to be the benefactor of everything but he is not prepared to support what is necessary to get those things. Well, the Member is young in the House and I know how a young Member is in the House. However, he must understand that he cannot at all

times beat the Government over the head and then expect for them to just bow and kowtow. We will do what is necessary for all districts in this country and when he peruses the Budget, Madam Speaker, he will see that. We have not forgotten East End and we never will. Nor will we forget North Side, nor Cayman Brac, nor George Town, nor West Bay. We are all inclusive, if that is what you want to find out, but if you peruse the Budget you will find that everybody is accounted for.

Madam Speaker, I can say today to the Member for East End, I have been the Chairman of the AIDB since last November. I was the Chairman for a period of over five years before that. In that time, students received millions in funding for educational purposes and small business initiatives grew under my leadership. I guess they will have to wait and see what happens next. However, I have confidence, Madam Speaker, in the proposed makeup of the board, if Members would look at the Memorandum of Objects and Reasons, item 3 and I quote, **"The Bank will be managed by a Board of seven directors. Directors of the new Board will be appointed by the Governor in Council."** Madam Speaker, not by the Minister.

**"The chairman and deputy chairman of the Board will be persons who the Governor in Council considers are qualified for their appointments as having had experience and shown capacity in financial management and administration or law or in any other area relating to the functions of the Bank. Five other directors will be appointed with the following ranges of experience: one member will be appointed who has had experience of agriculture, one member with experience of industry, one member with experience of education, one member with experience of housing and one member with housing of tourism."**

Madam Speaker, I believe this will serve our country well. I think that the Government has done what it could. As I already explained, and I will put it on record again, the reason for urgency is that our line of credit for housing depends upon moving expeditiously with this Bill in order to get it dealt with at the next Caribbean Development Bank Board meeting next week.

The Bill was sent out on the 28<sup>th</sup> and it will be no different when we pass it, unless Members feel that we should make some changes in Committee stage. We are going through a Committee stage, Madam Speaker, and Members will have a chance to point out any shortcomings as they feel fit.

The Caribbean Development Bank requires the amalgamation of the AIDB and the Housing Development Cooperation in order to deal with the line of credit for housing. Madam Speaker, if that is not a good enough reason then you tell me. If Members knew or had this Bill from the 28<sup>th</sup>, because it was in this legislature, then, Madam Speaker, why in heaven's name were they not able to understand it if they had other problems with it? However, I do not

leave any excuse for the Second Member for George Town because he is supposed to have legal training and understands quite well and where he does not want to create mischief, he can create good and he had that opportunity.

Finally, Madam Speaker, the Cayman Islands Development Bank is in response to our Government's strategic plan as documented in Vision 2008. Programmes that will be established for Caymanians to become self-sufficient in more areas than they do and so be in total control of their destiny. I think, Madam Speaker, that that is a good note to end on at this point.

I thank Honourable Members for their indulgence; I thank the Attorney General's Department for having the Bill put together. I would certainly like to thank the two officers, Mrs. Martin and Mrs. Miller [pause] and Mr. Allen (sorry, I am not remembering names presently) for all their effort in pushing this thing through. Mrs. Miller and the Financial Secretary for going with me to St. Lucia to defend our position and get the funding for housing and all the work that they do in the AIDB to bring us thus far. Madam Speaker, we must give credit where credit is due. There are people who work hard and long hours to sustain the development of the country and benefit Caymanians, and all Members of this House should readily say so when they have an opportunity instead of tearing down.

I thank you.

**The Speaker:** Thank you, Honourable Minister.

We have reached the hour of interruption. Would you wish at this stage to move a suspension of Standing Order 10(2) and 10(4) if you wish to carry on the business of the House?

#### **SUSPENSION OF STANDING ORDER 10(2) AND (4)**

**Hon. W. McKeever Bush:** Madam Speaker, I would like to seek suspension of Standing Orders to take the Bill through its final stages today.

**The Speaker:** The question is that Standing Order 10(2) and 10(4) be suspended. Does any Member wish to speak? If not I shall put the question that Standing Order 10(2) and 10(4) be duly suspended. Those in favour say Aye.

**AYES.**

**The Speaker:** Those against, No. The Ayes have it. The Standing Orders 10(2) and 10(4) are duly suspended.

**AGREED: STANDING ORDERS 10(2) AND (4)  
SUSPENDED TO ALLOW THE HOUSE TO CONTINUE  
BEYOND 4.30 PM TO TAKE THE BILL THROUGH ITS FINAL STAGES.**

**The Speaker:** At this time before the House . . . I should put the question that the Bill be given a second reading. All those in favour please say Ayes.

**AYES.**

**The Speaker:** All those against No. The Ayes—

**Hon. W. McKeeva Bush:** A Division, Madam Speaker.

**The Speaker:** Certainly.  
Madam Clerk, can we have a division please?

**The Clerk:**

**DIVISION NO. 20/01**

**AYES: 7**

Hon. W. McKeeva Bush  
Hon. Linford A. Pierson  
Hon. James M. Ryan  
Hon. George A. McCarthy  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr.

**NOES: 1**

Mrs. Edna M. Moyle

**ABSENTIONS: 2**

Mr. Alden M. McLaughlin, Jr.  
Mr. V. Arden McLean

**ABSENT: 7**

Hon. Roy Bodden  
Hon. Gilbert A. McLean  
Dr. the Hon. Frank S. McField  
Hon. David F. Ballantyne  
Mr. D. Kurt Tibbetts  
Mr. Lyndon L. Martin  
Mr. Anthony S. Eden

**The Speaker:** The results are 7 Ayes, 1 No, 7 Absentees and 3 Abstentions.

**AGREED BY MAJORITY: THE CAYMAN ISLANDS DEVELOPMENT BANK BILL, 2001, GIVEN A SECOND READING.**

**The Speaker:** The House will now go into Committee.

**HOUSE IN COMMITTEE AT 4.33 PM**

**COMMITTEE ON BILL**

**The Chairman:** Please be seated. With the leave of the House, may I assume that as usual we would authorize the Honourable Second Official Member to correct minor printing errors and such like in these Bills?

Will the Clerk state each Bill and read its respective clauses?

**THE CAYMAN ISLANDS DEVELOPMENT BANK  
BILL, 2001**

**The Clerk:**

Clause 1 Short title and commencement.  
Clause 2 Interpretation.

**The Chairman:** The question is that Clauses 1 and 2 stand part of the Bill. Is there any debate? If no debate, I put the question that clause 1 and 2 stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clause 1 and 2 do stand part of the Bill.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:**

Clause 3 The Cayman Islands Development Bank.  
Clause 4 Board of Directors.  
Clause 5 Appointment of senior officers.  
Clause 6 Appointment of legal and other advisors.  
Clause 7 Functions of the general manager.  
Clause 8 Power to delegate.

**The Chairman :** The question is that Clause 3 to 8 do stand part of the Bill. Is there any debate on these Clauses? If not, I put the question that Clauses 3, 4, 5, 6, 7 and 8 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 3 through . . . Is there an Amendment Honourable Minister?

*[inaudible comment]*

*[pause]*

**AMENDMENT TO CLAUSE 5**

**Hon. W. McKeeva Bush:** Madam Chairman, I would seek permission to insert in Clause 5(3) where it reads, '**The Board shall appoint officers**' and the words inserted should be '**on such terms and conditions as if may determine to be responsible for**'. Madam Chairman, on Clause 5(3)(1)(a), (b) and (c) there are some material changes.

*[Proceedings suspended to allow a committee stage amendment to be circulated in writing]*

**The Chairman:** The question is that Clauses 3 and 4 stand part of the Bill. Is there any debate? If no debate, I put the question that Clauses 3 and 4 stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clause 3 and 4 do stand part of the Bill.

**CLAUSES 3 AND 4 PASSED.**

**The Clerk:** Clause 5. Appointment of senior officers.

**Hon. W. McKeeva Bush:** Madam Chairman, in accordance with the provisions of Standing Order 52(1) and (2), I, the Honourable Minister responsible Tourism, Environment, Development and Commerce, hereby give notice to move the following amendments to the Cayman Islands Development Bank Bill, 2001, that the Bill be amended as follows: (a) in Clause 5(3)(i) 'by deleting the words in order to assess compliance with the established policies of the Bank in paragraph (b) and (ii) by inserting the words in order to assess compliance with the established policies of the Bank after the word 'Bank' in paragraph(c)'.  
**The Chairman:** The Amendment has been duly moved. Does any Member wish to speak to the Amendment? If not, does the Mover wish to exercise his right of reply? I put the question that the Amendment do stand part of the Clause and all those in favour, please say Aye. Those against, No.

**The Chairman:** The Amendment has been duly moved. Does any Member wish to speak to the Amendment? If not, does the Mover wish to exercise his right of reply? I put the question that the Amendment do stand part of the Clause and all those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The Amendment stands part of the Clause.

**AMENDMENT TO CLAUSE 5 PASSED.**

**The Chairman:** I will now put the question that the Clause as amended stand part of the Bill. All those in favour please say Aye. All those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The Clause as amended stands part of the Bill.

**CLAUSE 5 AS AMENDED PASSED.**

**The Clerk:**

Clause 6 Appointment of legal and other advisors.  
Clause 7 Functions of the general manager.  
Clause 8 Power to delegate.  
Clause 9 Functions and powers of the bank.  
Clause 10 Vesting of land in bank.  
Clause 11 The Agricultural and Industrial Development Board and the Housing Development Cooperation.  
Clause 12 Directions by Minister.  
Clause 13 Powers of the Bank.  
Clause 14 Authorized capital.  
Clause 15 Funds of the Bank.

Clause 16 Power to borrow.  
Clause 17 Government guarantee.  
Clause 18 Delegation of power to give guarantee.  
Clause 19 Limitation on borrowing activities.  
Clause 20 Reserve fund.  
Clause 21 Accounts.

**The Chairman:** The question is that Clauses 6 through 21 do stand part of the Bill. Is there any debate? If not, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 6 through 21 do stand part of the Bill.

**CLAUSES 6 TO 21 PASSED.**

**The Clerk:** Clause 2 Annual report.

**AMENDMENT TO CLAUSE 22(2)**

**Hon. W. McKeeva Bush:** Madam Chairman, in accordance with the provisions of Standing Order 52(1) and (2), I, the Minister responsible Tourism, Environment, Development and Commerce hereby give notice to move the following amendments to the Cayman Islands Development Bank Bill 2001. That the Bill be amended as follows: (b) in Clause 22(2) by deleting the word 'report' and substituting the word 'certificate'.

**The Chairman:** The requisite two days' notice has been duly waived. The amendment has also been moved. Does any Member wish to speak thereto? If not, does the Mover wish to reply?

I put the question that the amendment do stand part of Clause. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The amendment now stands part of the Clause.

**AMENDMENT TO CLAUSE 22(2) PASSED.**

**The Chairman:** I will now put the question that the Clause as amended, do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 22(2) AS AMENDED PASSED.**

**The Clerk:**

Clause 23 Regulation by the Monetary Authority.  
Clause 24 Power of the authority in relation to the Bank.

- Clause 25 Power of search.
- Clause 26 Liabilities of members and insurance.
- Clause 27 Restrictions on the disclosure of Information.
- Clause 28 Exemptions.
- Clause 29 Application of loans.
- Clause 30 Offences and time limit for prosecutions.
- Clause 31 Regulations.
- Clause 32 Policy guidelines.
- Clause 33 Power of the Bank to appoint a receiver.
- Clause 34 Repeals and transitional provisions.

**The Chairman:** The question is that Clauses 23 through 34 do stand part of the Bill. If there is no debate, I put the question that these Clauses do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman :** The Ayes have it.

#### **CLAUSES 23 THROUGH 34 PASSED.**

**The Clerk:**

- Schedule 1 Cayman Islands Development Bank, the Board of Directors.
- Schedule 2 Powers and functions of the Agricultural and Industrial Development Board and the Housing Development Cooperation hereby transferred to and vested in the Bank.
- Schedule 3 Transitional provisions.

**The Chairman:** The question is that Schedules 1 through 3 do stand part of the Bill. If there is no debate, I put the question that these Schedules do stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman :** The Ayes have it.

#### **SCHEDULES 1 THROUGH 3 PASSED.**

**The Clerk:** A Bill for a Law to establish The Cayman Islands Development Bank to dissolve the Agricultural and Industrial Development Board and the Housing Development Cooperation and for connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The Title do stand part of the Bill.

**TITLE PASSED.**

**The Chairman:** The question is that the Bill be reported to the House. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. This concludes the proceedings in Committee Stage.

#### **COMMITTEE TO REPORT TO THE HOUSE.**

**HOUSE RESUMED 5.13 PM**

**The Speaker:** The Honourable Minister responsible for Tourism.

### **REPORT ON BILL**

#### **CAYMAN ISLANDS DEVELOPMENT BANK BILL, 2001**

**The Speaker:** Please be seated.

**The Clerk:** Report on Bill. The Cayman Islands Development Bank Bill, 2001.

**The Speaker:** The Honourable Minister responsible for Tourism.

**Hon. W. McKeever Bush:** Madam Speaker, I am pleased to report that a Bill entitled The Cayman Islands Development Bank Bill, 2001 was considered in Committee of the House and passed.

**The Speaker:** The Bill is accordingly set down for Third Reading.

#### **SUSPENSION OF STANDING ORDER 47**

**The Clerk:** Suspension of Standing Order 47.

**Hon. W. McKeever Bush:** Madam Speaker, I move the suspension of Standing Order 47 in order to facilitate the Third Reading of the Cayman Islands Development Bank Bill, 2001.

**The Speaker:** The question is that Standing Order 47 be duly suspended. If no Member wishes to speak, all those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 47 SUSPENDED TO ENABLE THE BILL TO BE READ A THIRD TIME.**

## THIRD READING

### THE CAYMAN ISLANDS DEVELOPMENT BANK BILL, 2001

**The Clerk:** The Cayman Islands Development Bank Bill, 2001.

**The Speaker:** The Honourable Minister for Tourism.

**Hon. W. McKeeva Bush:** Madam Speaker, I move that the Cayman Islands Development Bank Bill, 2001 be given a Third Reading and passed.

**The Speaker:** The question is that the Bill entitled The Cayman Islands Development Bank Bill, 2001 be read a third time and passed. All those in favour, please say Aye.

**AYES.**

**The Speaker:** Those against, No. The Ayes have it.

**AGREED: THE CAYMAN ISLANDS DEVELOPMENT BANK BILL, 2001, GIVEN A THIRD READING AND PASSED.**

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Madam Speaker, I move the adjournment of this Honourable House until 10 am Monday, 10 December.

Further, Madam Speaker, as discussed with you and with the First Elected Member for George Town, we intend to settle it some days, in order to expedite business on the Agenda and other Members will be made aware as usual.

**The Speaker:** The question is that the House do now adjourn until 10 am Monday, 10 December 2001. Those in favour, please say Aye.

**AYES.**

**The Speaker:** Those against, No. The Ayes have it.

**AT 5.17 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 10 DECEMBER 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**10 DECEMBER 2001**  
**10.15 AM**  
*Third Sitting*

**The Speaker:** The Second Elected Member from West Bay will grace us with Prayers this morning.

**PRAYERS**

**Mr. Rolston M. Anglin:** Let us pray.

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

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

Let us say the Lord's Prayer together:

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

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

**Proceedings resumed at 10.18 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for the absence of the Honourable Leader of Government Business, the Third and Fourth Elected Members from the District of West Bay and the Second Elected Member from Cayman Brac and Little Cayman whom I understand are off the Island on official business.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**QUESTION NO. 125**

*(Deferred)*

**The Speaker:** The Fourth Elected Member from West Bay, to ask the Honourable Minister responsible for Planning Communication and Works.

**Mr. Rolston M. Anglin:** Madam Speaker, the Fourth Elected Member for West Bay is off on official business and I would so request that this question be deferred and put down to a later time.

**The Speaker:** The question is that Question No.125 be set down for a later date. All those in favour please say Aye. Those against say No.

**AYES.**

**The Speaker:** The Ayes have it. The question shall be put down for a later date. Would an Honourable Member wish to second the Second Elected Member for West Bay out of an abundance of caution?

**Mr. Anthony S. Eden:** Madam Speaker, I wish to second the Motion.

**The Speaker:** I am grateful, Third Elected Member for Bodden Town. Shall I put the question again? All those in favour of having the said question No. 125 put down for a later sitting please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes, have it. The question shall be put down for a later sitting.

**AGREED: QUESTION NO. 125 DEFERRED UNTIL A LATER SITTING.**



**QUESTION NO.126**

**The Speaker:** The Elected Member for East End.

**No. 126: Mr. V. Arden McLean** asked the Honourable Third Official Member responsible for Finance and Economic Development if all monies due on leased Government properties have been fully paid up to date.

**The Speaker:** The Honourable Third Official Member responsible for Finance and Economic Development.

**Hon. George A. McCarthy:** All monies due on Government rental lease of sites and buildings have been paid in full to date.

**The Speaker:** Are there any supplementaries?  
The Elected Member for East End.

**SUPPLEMENTARIES**

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the Honourable Third Official Member could give us a list of properties that Government is leasing to individuals or corporations.

**The Speaker:** The Honourable Third Official Member for Finance and Economic Development.

**Hon. George A. McCarthy:** Madam Speaker, I have got a list available that can be circulated to Honourable Members.

**The Speaker:** The Elected Member for East End, is the due circulation of the said list satisfactory?

**Mr. V. Arden McLean:** Madam Speaker, if the Honourable Third Official Member would just read it that would be fine.

**The Speaker:** Honourable Third Official Member, is it a substantial list?

**Hon. George A. McCarthy:** No, Madam Speaker, I can go through the details.

**The Speaker:** Please proceed.

**Hon. George A. McCarthy:** The first property on the list is that of the Craft Market and there are six units. Units one through six are for a total value of \$48,816 per annum. That has been fully paid up to date.

The White Hall Bay Café is for a peppercorn lease and there are no arrears on that.

The former First Baptist Church is for \$24,000 per annum. That is leased to Cayman Prep and High School and has been paid in full.

The Cable and Wireless usage of property at the Truman Bodden Sports Complex is for a value of \$10,500 per annum. That has been paid in full.

The former Post Office at East End which is being used as the East End Community Centre is for a peppercorn lease and there are no arrears on that. Again, it seems as if there are two occupants of the former Post Office of East End. There is a person by the name of Rudy Solomon but again, that is for a peppercorn lease and is fully paid up to date.

The Hospital Gift Shop is for \$3,300. That is fully paid up to date.

The Hospital Hyperbaric Chamber is leased to the Cayman Hyperbaric Services Ltd. for \$22,000 which is fully paid up to date.

The doctor's residence on Cayman Brac is for \$7,200 and it is fully paid up to date.

The Teachers cottage on Cayman Brac is for \$8,400 and is fully paid up to date.

There is a piece of land off Courts Road, George Town, leased to the National Trust for a peppercorn lease and is paid up to date.

There are various houses at Portuguese Point. Unit No. 1 for \$22,800; Unit No. 2 for \$25,200; Unit No. 3 for \$27,600; Unit No. 4 for \$27,600 and Unit No. 5 for \$28,800. All are paid up to date.

There is another house in South Sound, parcel 15 C/79. This is leased to the Auditor General for \$28,800 per annum and is fully paid up to date.

Foster Village No. 10 is for \$10,200 and is paid up to date.

Hell shops: Unit No. 1 is for \$4,320; Unit No. 2 for \$6,060 And Unit No. 3 for \$6,300. All are paid up to date.

That, Madam Speaker, is the extent of the list and I will, with your indulgence hand the list to the Serjeant-at-Arms to be circulated to Honourable Members.

**The Speaker:** So ordered. Thank you. Are there any further supplementaries? The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I really did not hear anything about land properties but that may not be the case. However, if that is the case, I wonder if the Honourable Third Official Member could say if we do have any. Secondly, could the Honourable Third Official Member say who pays for the properties at Portuguese Point, which I think are five in number?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, these properties are paid for by the occupants of those properties and in terms of the earlier question as to lands, could the Honourable Member from East End be a bit more specific? Then, I could probably give him the information that he is seeking.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Madam Speaker, I do not have a specific block and parcel, but I am just wondering if Government leases any property or land in the Cayman Islands that is owned by the Government. That is, raw land, Madam Speaker.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, this list only contained properties for which annual lease payments are made to the Government. Properties that have been rented include the Safe Haven and Ritz Carlton. Where one-off payments have been made but no payments are being made on an annual basis, these have not been included on the list that has been circulated. This list prepared by the Lands and Survey Department represents the list of all properties for which the Government receives lease payments on an annual basis.

**The Speaker:** Are there any further supplementaries? If there are no other supplementaries we will move on to the next question.

#### QUESTION NO. 127

**The Speaker:** The Second Elected Member for George Town.

**No. 127: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister responsible for Planning, Communications, Works and Information Technology to describe what drainage works have been carried out by the Cayman Islands' Government in the George Town district over the course of the past year.

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** In addition to routine maintenance activities carried out Island-wide to drain-wells and other drainage infrastructure, the following drain-wells were installed or re-drilled as part of George Town district road programme in 2001:

- ◆ One new well at Outpost Street.
- ◆ Re-drill and extend depth of one well on Keturah Street.
- ◆ One new well on Grace Street.
- ◆ One new well on Middle Road.
- ◆ Two new wells in Randyke Gardens.
- ◆ One new well off Eastern Avenue.
- ◆ One new well off East Boulevard.
- ◆ One new well on Palm Road (off Smith Road)
- ◆ Re-drill and extend depth of one well off Windsor Park (near Barnes Laundromat)
- ◆ Re-drill and extend depth of one well on Crewe Road by Mr. Ira Thompson.

- ◆ Re-drill and extend depth of one well on Dorcy Drive by Island Interiors
- ◆ One new well on Barnes Drive off Seymour Drive.

Sixteen new wells were installed as part of two major projects—Shedden Road/North Sound Way intersection and roundabout near to the Lions Centre.

**The Speaker:** Are there any supplementaries?

#### SUPPLEMENTARIES

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I did not note on this list any drilling activity in the area known as the East in George Town. That is the area behind Zodiac Club in the vicinity of the late Mr. Bobby Seymour's Residence. I wonder if the Honourable Minister could indicate whether or not Public Works is satisfied that the drainage in that area is satisfactory.

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. I am informed that last year several wells were drilled in that area, were cleaned out and re-drilled and that a new one will be drilled in that area later on during this month.

**The Speaker:** Are there any further supplementaries?  
The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you, Madam Speaker, could the Honourable Minister state if the re-drilling and extended depth of the well on Dorcy Drive by Island Interiors is considered a satisfactory solution of that ongoing problem or is there a longer term solution being looked at by the relevant agency involved?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. I am further informed that the well that is there now is really not a final solution; that further drainage will be done along the airstrip to take some of the water that is now running off of that into that particular area.

**The Speaker:** Are there any further supplementaries?  
The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you. Understanding that this is an ongoing situation, which at some point in time will involve the Civil Aviation Authority, can the Minister state if any discussions have taken place between the Public Works Department and the Civil

Aviation Authority. Is there is a course of action that is set out and any time line that has been defined for this to be done?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, as the Honourable Member is no doubt aware, there have been several discussions held with Civil Aviation. There is no timeline as to when this work will be done due to financial constraints.

**The Speaker:** The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Can the Minister state whether the financial constraints that he speaks to is regarding the position of central Government. Is there a question as to whose responsibility or to whom, what portion of the responsibility with regards to the financial aspect of this remedial action is responsible to financing the situation and does that involve any dispute between the Civil Aviation Authority and the Government?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, I am informed that there is no dispute with the Civil Aviation Authority. The problem that we are experiencing is not on the airstrip as such; it is really on the public road and it is a problem for the Public Works Department. We will as in the past be consulting with them if work would be necessary on the airstrip but there is really no dispute with them and we hope to get their full co-operation.

**The Speaker:** Are there any further supplementaries? If there are no further supplementaries, that concludes Question Time.

The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

## STATEMENTS BY MEMBERS OF THE GOVERNMENT

### INFORMATION AND COMMUNICATIONS BILL, WHITE PAPER

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. During the last meeting of this Honourable House, I laid on the Table a White Paper; entitled the Information and Communications Technology (ICT) Bill. The purpose of doing so was to solicit input from

all stakeholders in this important sector of our economy. At that time, I indicated that Government hoped to present the final version of the Bill for consideration by Honourable Members and Ministers during this meeting of the House. I am pleased to inform you, Madam Speaker, that the White Paper has stimulated much constructive comments. Furthermore, in October last, Executive Council decided that the Telecommunications sector in the Cayman Islands should be liberalised as soon as possible. A target date of August 2002 was set for the commencement of this process. The ICT Bill currently enables but does not mandate the introduction of liberalisation. Now that the decision to liberalise has been taken, it may be necessary to amend some of the draft provisions as appropriate.

The rapid liberalisation of telecommunications is critically important for the social and economic development of this country. The introduction of this proposed new legislation is an important step in that process; nevertheless, it is equally important to ensure that the Bill is the best that we can produce. I therefore, have decided to delay the First Reading of the ICT Bill until the next meeting of the House. This will give sufficient time to further review the draft in the light of the decision to liberalise, to give detailed consideration to the submissions of stakeholders and to obtain the input of the telecommunications consultants that we have recently engaged. It is important to note, however, that this short delay in the introduction of the new legislation should not significantly alter the time-table for the start of liberalisation.

Negotiations with Cable and Wireless will proceed as planned and we are of the view that the August 2002 target date is still achievable.

Thank you Madam Speaker.

**The Speaker:** Thank you, Honourable Minister.

### THE DRAFT HEALTH PRACTITIONERS BILL 2001

**The Speaker:** The Honourable Minister responsible for Health Services, District Administration and Agriculture.

**Hon. Gilbert A. McLean:** Thank you, Madam Speaker. A revised version of The Draft Health Practitioners Bill, 2001 will be made available for further input by health care professionals and other interested persons, before the proposed legislation is presented to the Legislative Assembly for approval in March 2002. It will not be brought to the Legislative Assembly at this Meeting for approval as previously announced. I also intend to further discuss the Draft Bill with health care professionals and hopefully reach a consensus before attempting to have it approved by Members of this Honourable House. I consider the health practitioners to be partners with the Ministry in providing quality care to our residents and visitors and

as such, their input into any Law governing the health practitioners in these Islands is absolutely essential.

Madam Speaker, a committee convened by the Ministry of Health, continues to work with an overseas consultant and Government's Legislative Drafting Department to review the Draft Bill and its proposed legislation.

Input received today from the present Health Practitioners Board, individuals and health associations such as the Cayman Islands Medical and Dental Society (CIMDS) has been given every consideration. I believe that the Ministry and health care practitioners agree that standards similar to those in the UK, USA and Canada should be included in the new Law. In a similar vein, although current Laws of the Cayman Islands do not specifically provide for licensing and inspection of health care facilities, it is a well known fact that Government and private health care facilities need to have a physical plant, equipment and personnel standards. Therefore any new Law governing health practitioners in the Cayman Islands must take this into account. The new Law is also intended to provide a transparent appeals process and as Minister it is my responsibility to ensure that these avenues are fair and just.

I welcome the opportunity to work with health care professionals in developing a health care practitioners Law that further enhances the standards of care in the Cayman Islands.

Therefore, Madam Speaker, I will not seek to rush into the passing of any such Law until I am satisfied that it is workable. It must take into account the interest of the providers of health care as well as their patients. Nevertheless, revision to the Draft Bill and accompanying regulations is well advanced and I am confident that the concerns currently expressed by members of the professions can be satisfactorily resolved in order to be passed into Law in March 2002.

I thank you, Madam Speaker.

**The Speaker:** Thank you Honourable Minister.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE APPROPRIATION (2002) BILL 2001

##### COMMENCEMENT OF DEBATE ON THE BUDGET ADDRESS

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank You, Madam Speaker. I rise to offer my contribution to the debate on the Budget Address delivered last Wednesday, 5 De-

ember 2001 by the Honourable Third Official Member.

This would be my second contribution to a Budget Address; indeed this would be a moment for which most if not all the citizens of this country would be waiting: that is the Budget for the year 2002. Much has been said about the state of public finances in this country. Much has been said about the decade of the 1990s. If the Cayman Islands is to continue as a viable entity, it is well recognised by all and sundry, that there has to be a fundamental change in the way in which we manage our financial affairs. Madam Speaker, that is a point I think that all of us in this Legislative Assembly would agree; how we achieve it is another story. We may not agree on that. However, I think, as we go through this exercise of debating the Budget Address and looking at the proposed revenue measures, most of us would agree that this indeed marks a fundamental shift from the way in which Governments have addressed this issue of raising adequate revenue to fund their activities.

Madam Speaker, for many years we have heard the cry that we needed to broaden our tax base and come up with new, creative ways to raise revenue. We have heard the cry that certain sectors of our economy were not contributing their fair share to the running of the country. However, all that this country has traditionally seen and heard are increased taxes on the small man and in the Tourism sector. Indeed, they would hear the echo as that cry was made in central government that we need to broaden the tax base and come up with other ways of raising revenue. All that usually came back, Madam Speaker, was an equally, if not louder, echo from those who have shouted.

My comments today will look at ten major points:

1. The state of the domestic economy;
2. What I term the Cayman economic triangle;
3. A brief look back at last years' Budget Address;
4. The impact of last year's Budget;
5. The creation of the current Budget;
6. In a bit more depth, looking at exactly what it was a lot of us would have said earlier this year when we looked at the budget and we went through this same exercise of debating that budget address;
7. The financial services industry, paying particular attention to what this industry faces in other comparable jurisdictions;
8. The revenue measures that are being proposed;
9. A way forward for the budget process, looking at certain systemic weaknesses and information vacuums and coming up with some viable alternatives and solutions: and
10. The issue of courage. Courage, Madam Speaker, to look all stakeholders in this Cayman economy squarely in the eye and let them know that this Cayman is a Cayman that all of us have a vested interest in seeing move forward in a positive

manner, but most importantly allowing the Government to be able to function.

It is quite easy for all of us to claim that Government is too big and inefficient. While most of those claims are indeed true, that does not get us away from the fact that we are in the here and now. We therefore have to ensure that the country has a budget and that the country is operational.

Yes, Madam Speaker, it is the stated and clear intention of the United Democratic Party to encourage, pleading if we have to, with His Excellency the Governor to ensure the following points.

To keep on track, the announced review of the Civil Service and allow all those who participate in the exercise to freely come up with viable alternatives;

To have those alternatives implemented into action plans and those action plans materialised into time lines. Within those time lines, to go through the exercise of firstly looking at those recommendations and saying, *'Well, here is the plan, here is the agenda, here is how we are going to get there, and here is the target date.'*

This process must not be derailed. This process drives to the heart of the whole exercise of budgeting. However, that is an ongoing process that has not even begun in earnest and so we are left here to deal with the situation as it stands.

In the Honourable Third Official Member's Budget Address, there was what I believed to be a concise and accurate description as to what has transpired within the Cayman Islands over the past three decades. Briefly, he spoke to the reliance and substantial inflows of foreign direct investment. Secondly, he spoke to the issue of a higher emphasis on economic infrastructure development and less on environmental and social development issues.

Madam Speaker, to all of us who have watched the Cayman Islands develop, that paints an accurate picture of exactly what has happened within these Islands. You hear people talk about the good old days. You hear talk about Cayman not being the same. You hear people talk about so much destruction in young lives in this country. I beg to endorse what the Honourable Third Official Member has said. Yes, indeed we have placed less emphasis on environmental and social development issues.

Thirdly, he spoke to the issues of substantial levels of public and private sector collaboration. He went on to say or posed the question that this has been very effective in promoting economic development but what of collaboration on social and the environmental sectors? Again, driving back to the second point that he raised, it is easy to create the legal infrastructure to attract the persons here to have the economic development. However, it is very difficult then to raise the revenue, to have the education system and the social building mechanisms in place that will allow the people to move forward with the develop-

ment. No one should be surprised about the current social and moral chaotic state in Cayman.

What we have achieved economically has taken most other countries hundreds of years to achieve. Overnight, Madam Speaker! We have persons in this country who are over a hundred years old—we do not even need to speak of people that old—we have persons in this country who are in their seventies. What profound changes they have seen in their lives, what profound changes they have seen! However, as the Honourable Third Official Member has quite rightly said, we have done a good job, a relatively good job at the economic infrastructural development and at collaborating on developing economically. However, Madam Speaker, what of our people? What of Caymanians? What of things Caymanian?

The Honourable Third Official Member went on to say that there were public and private sector operations alike that were more focused on growth and less on efficiency. Certainly in the private sector, I cannot say that there was necessarily a conscious effort on growth. However, it seems that the cure to issues and matters was always to create a new bureaucracy to deal with it. As those of us who came from the private sector would say, they always seem to throw bodies and dollars at a problem. It should be looked at realistically and do a better job of ensuring whether or not the current services being offered could be tailored to deal with the problems that arose. More importantly, to see whether or not there was anything that we could do on the public and private sector collaboration initiative to address those issues.

We live in a country that has all the images of North America constantly beamed into our living rooms. We see advertisements for the Boys Club, the United Way and advertisements that show how corporate citizens in those countries allow their employees time off from work to be a Big Brother or a Big Sister and in a lot of instances pay them. We see the collaboration reaching that level because the Government and the private sector recognise that there are ills that must be cured. However, just to create a new bureaucracy is not necessarily the way forward.

The last point raised by the Honourable Third Official Member dealt with the two economic sectors within the Cayman Islands, namely Tourism and the Financial and Business Services sectors. So much has happened in the last 30 years in this country that indeed I cannot profess to be able to speak to all of them as I am restricted by age. However, having grown up and gone off to university in the 1990s and to have been in high school in the late 1980s, I believe that I do offer an insight that is critical to the way forward.

I would like to turn firstly to the state of the local or domestic economy and I pick up on two key points that were raised by the Honourable Third Official Member. In regards to real estate, the Honourable Third Official Member has clearly demonstrated

to the country by way of certain statistics that there had to be a fall-off in Government revenue. The value of real estate transfers rose from \$141.9 million in September 1999 to \$205.2 million in September 2000. However, by September 2001, that figure had dropped to \$144.6 million.

He also pointed out that in the construction industry as at September 2001, the value of approved developments was some \$130.1 million which was significantly lower than the same figure as at September 2000 which was \$287.2 million and \$303.5 million in September 1999.

As we all watched the boom in the Cayman Islands in the 1990s, we saw that there was no real need to look at the fundamentals that drove the economy. There is little or no need to truly look at the way in which Government raised revenue to fund its operations because those were truly boom years. Madam Speaker, to have a decrease in construction on the value of approved developments from \$303.5 million in September 1999 to \$287.2 million by September 2000 to \$130.1 million September in 2001, clearly tells all of us that things like development, impact and, planning approval fees would therefore have to drop off.

A decrease in real estate transfers from \$205.2 million in September 2000 to \$144.6 million by September 2001, clearly demonstrates that another area that the Government has always used as a revenue measure and always relied upon to fund its operations—that is stamp duty—would naturally have to suffer.

Madam Speaker, it is quite interesting that because the boom was so large and lasted so long, we could become dependent upon selling off our land, or developing our land to such a large extent that once those activities fell off, the Government did not know where to turn from 2000 through 2001.

Tourism has been on the decline, as I understand it from those who are in the industry, for the better part of two years now. The events of September of this year only sought to heighten and expose the situation. It only deepened a crisis that was already there and once again, yet another area that the Government has relied upon for revenues was seen to be contracting, that is, tourism accommodation taxes. The taxes on alcohol that are brought about and increased periodically are due to the relatively large transient tourist population coming to our shores and buying those products and therefore creating the demand. The wholesalers import them and the Government would charge the taxes on them increasing the taxes on them.

Yes, we have been rather rudimentary in our approach of raising revenue. Yes, from the political side of things we have been cowards to say the least. We would not sit down and look at the stakeholders within the domestic economy and ensure that the tax burden required to run the country was distributed in an equitable fashion. Yes, we can now turn to the

economic triangle that has operated within the Cayman Islands. We have the domestic economy, tourism and finance.

Looking at the domestic economy, it is my humble view that those of us who reside here, those of us who are in a lot of instances less able to pay were incrementally burdened in an inequitable fashion when it came to taxes. When we looked at the tax burden of the country, when it came to things like import duties, we clearly saw that in relation to earnings capabilities, the small man, the common man, the persons less able to pay have always been called upon to pay an inequitable portion of the tax burden in this country.

Traditionally, the tourism sector has had significantly stronger ties with the domestic economy than did finance. Madam Speaker, more Caymanians were employed within the tourism sector. More Caymanians used to be employed in those ancillary industries that sprang up mainly out of tourism, things such as construction—industries that employed people such as electricians and plumbers. Over the years what continued to happen within the Cayman Islands was that those two sectors were continually hit with the tax burden.

Yes, we have raised significant revenues from the financial industry through company fees, also through the fees that would have been paid on the buildings that house our financial services partners. However, what no one on the outside could ever understand was how it was that the Cayman Islands could brag of having the fifth largest financial centre in the world and yet struggle to balance a budget. Yet up until last year a mere \$300 million budget! I say mere, because it is mere in relation to the fact that we are the fifth largest financial centre in the world. Those on the outside would always look in and say: *'Well, the Cayman Islands should be well off; they should be an extremely rich country; they are the fifth largest financial industry in the world; there are only 30,000 people there.'* However, Madam Speaker, over the years, the political directorate of this country have refused to ensure that all economic sectors within the Cayman Islands bore their relative share of the tax burden.

This is not a radical concept. This is a concept that prevails in all or a great majority of free, truly democratic countries. Bill Gates, the richest man in America, pays a lot more taxes than the plumber who earns \$30,000 a year within the United States. He not only pays a lot more in tax dollars but also in tax rates. They have a progressive tax structure in the United States. So, to say that there should be a relative sharing of the tax burden in a country is something that all other countries have recognised a long time ago.

However, I get back to what I said earlier. We developed so fast, so quickly, there was a lag between that economic prosperity and getting those who had the knowledge and courage to sit in these Cham-

bers to do something about it. It is easy to sit back and say, *'This year, we are going to raise garbage and drivers' licence fees, the duty on food and on building materials.* That is quite easy because we recognise that when you do that, again you are shifting that tax burden in an inequitable fashion and you are sharing it inequitably with the poor man, the common man. After all, Madam Speaker, who better, who easier to do that to? They do not have economic clout, they do not have high social standing, they are here to stay, and they are Caymanians.

So it is, and has been, very easy over the years to tax in that fashion. To look at things simplistically and say, *'Ok, let us bump this or that up'*, without looking at the entire Cayman Islands as does just about every other country and saying: *'Ok, who is benefiting most from the climate that is created mainly by the Government?'* Who provides police? Who provides prisons? Who provides the courts? It is the Government. The Government in every country is the social checking agent that ensures social order prevails and by extension ensures that there is a harmonious society which gives the platform that is so critical to economic prosperity. It is the Government that does it.

Madam Speaker, one year ago—not even a year ago, it was earlier this year—I stood up in these Chambers and I debated my first Budget Address. At that time, I made it quite clear that I was not willing to support any budget that resembled the one that we had last year. I went on to say, however, that given the state in which the country was found at the time, I was willing to support the Budget. In fact Madam Speaker, I would like your indulgence just to quote briefly from what I said if you would—

**The Speaker:** Please proceed.

**Mr. Rolston M. Anglin:** Madam Speaker, I said:

**"Our Government has to function. It has to go on. The country has to go on and again I accept the budget as a good faith and the revenue enhancement package as a good faith attempt to ensure that we carry on the business at hand. However, this is the short term. This is one year. I can accept this position for one year. What I cannot accept and continue to be a part of is a continuation of this trend. I campaigned to the contrary, my conscience leads me to the contrary and I will not do it."** [2001 *Official Hansard Report*, page 260]

I went on to say that we must come up with medium- and long-term financial strategies. I went on to also say that I had to accept what was presented in the Budget because I was not in Executive Council and did not have the opportunity to actively participate in the creation of the Budget. Those were my words on 29 March 2001.

Madam Speaker, what we got in terms of the 2001 Budget was deficit financing to the tune that has

never been seen in our country's history and general borrowing levels that were indeed high, to say the least.

In the draft 2002 Budget document that was disseminated to all Honourable Members last Wednesday by the Honourable Third Official Member, if we turn to page 2(b) we see in a snapshot exactly what has happened for the 2001 year. We see a recurrent deficit of some \$30.26 million. We see borrowings to fund the recurring deficit. Simply put, that is the equivalent of the common man on the street owing his electricity bill, his phone bill, needing some money for food and going down to the local bank and borrowing that money to pay for this month's electricity bill, to pay for this month's phone bill, to buy some food for himself and his family. That is deficit financing.

At the time, certainly I looked at the 2001 Budget and as I said on 29 March, I saw what was contrary to what I debated and to what I campaigned on. I campaigned on fiscal prudence and responsibility, on broadening the tax base, on finding new ways, new areas and new sources of government revenue.

However, what we got for 2001 was a feeble attempt to say the least. We wound up giving this country a Budget that caused us to have to borrow for our electricity and our phone bills so that we can have lunch money for tomorrow. This was certainly seen as a short-term situation that needed to be overcome so that we could move on.

However, what was still left out was that there was an existing area in the Cayman Islands economy that derives all the benefits that you and I derive, Madam Speaker. They derive the relatively safe and clean environment and good roads. Yet, in terms of carrying their proportionate share of the tax burden in this country—that is relative to what they got out of the economy—they derived the benefits and the profits from being here in the Cayman Islands. However, they were not carrying their share and once again a relative blind eye was turned.

It would be like the United States, all of a sudden waking up tomorrow morning and saying "Ok, all those who make over US\$100,000, you are not going to be taxed anymore, you are going to be taxed a nominal rate. We are going to then try and balance the Budget and we are going to then try to create a Budget that will move that country forward.

Madam Speaker, it is accepted in the home countries of most of the banks, trust companies, mutual fund administrators, captive insurance managers, lawyers, accountants, architects and actuaries that the only way that the Government can function, truly maintain a balance and to maintain the social order that all of us need as the haven for prosperity and economic development, is for those who are more able to pay, to pay more.

You go to the United Kingdom or to Canada, you see the same thing. This is not new. We see before us in Table 2 (b) a situation where there is a pro-

posal to transfer some \$7 million from the General Reserve fund to help fund the deficit and the short fall in cash that this country is projected to experience in a few short days; that is by the 31 December 2001. Madam Speaker, the General Reserve fund in this instance is therefore almost being depleted.

It is known that the Cayman Islands Government has a general reserve situation that is untenable, to say the least. It is accepted internationally that governments, should always strive to have 90 days cash requirements within their cash reserve fund. I think the balance that currently stands and based on the 2001 and 2002 estimates for recurrent expenditure, the general reserves of this country would last a mere two weeks. Fourteen days is a long way from 90 days.

I think in my first Budget address, I clearly outlined some of the contributing factors that got us to the situation whereby we had the explosion in recurrent expenditure. We had growth on the recurrent revenue side but we had tremendous growth in public debt. We also were not able, because of policy decisions taken by the political directorate at the time, to build up our General Reserve to acceptable levels. Indeed the new Public Finance and Management Bill calls for some 90 days of operating expenditures to be in the General Reserve fund.

We see last year (that is the 2001 Budget) we did have a token contribution of \$100,000. However, at the same time the country was put in a position that we had to come here and convene Finance Committee and increase the overdraft facility to some \$15 million. Now, Madam Speaker, there would be those of us who would say *'Well, why would we not take \$7 million of the \$10 million that we have in the General Reserve to fund a part of the shortfall that we are going to experience in 2001?'* There would be those of us who would say *'Well, we should keep that. That is money put aside.'*

The analogy would be the common man on the street having an overdraft facility of \$100 in his chequeing account, projecting through December and recognising that his overdraft is actually going to be, let us say, \$120. He has two options. He can either go and take the \$20 out of the \$25 he has in his savings account to fund that shortfall or he can go back to the bank and request another overdraft increase. He can go back to the bank and say, *'Well, based on my projections, I am now going to require an additional \$20. So can you increase my temporary overdraft position?'* Either way, Madam Speaker, the \$20 must be paid.

However, if we look a little deeper into the situation, we can see two points that support taking the money from the savings account and putting it into the cheque account to ensure that you do not go above your approved overdraft limit. Firstly, other things being equal, you are not going to be able to earn in terms of interest and capital appreciation, a greater amount than you would be charged, if you

were to increase your overdraft facility. In other words, the common man on the street is not going to get in interest the amount on that \$20 that he needs from the bank that would be greater than or equal to the amount that he would have to pay in interest to the bank for going and getting yet another overdraft increase. So, in the short term if you would go the route of increasing your temporary overdraft, it will cost you more money.

There is also a greater argument to be made in this debate. Currently, the Cayman Islands Government has an overdraft facility of some \$15 million that was passed by the Finance Committee of this House. If the Government was to increase that overdraft facility to, let us say, \$22 million which is the \$7 million that is projected to be required by the end of the year, there is another critical factor that has to be taken into account. That is, the amount of money that is in circulation within the domestic economy or money supply, Madam Speaker. Yes indeed, money supply does impact greatly on what the Government seeks to do.

It is my information that there is some \$45 million of CI currency currently in circulation and so the Government itself currently has an overdraft facility of some \$15 million dollars which accounts for 33.3 percent of the money supply of the country. That is a relatively high ratio. It gets dangerously high if we were to go about increasing the overdraft facility yet again to \$22 million.

Madam Speaker, this business of money and money supply is one that most of us and most people in any country do not understand the fundamentals of because no Government can just go out and print money willy-nilly. If it were that simple, there would not be any poor and hungry in the world. Why would there be if your Government could just print money? We have the mint. The Honourable Third Official Member could easily, along with support, call for an increase in money supply. Unfortunately, there must be value behind your supply of money.

Many years ago it was gold bullion. Governments had stored away in their reserve or central banks actual gold bullion that served as the value that backed up their currency. The world has certainly got away for the most part from such rudimentary practices in terms of money supply and there is much more sophistication now in this global economic village.

Madam Speaker, governments will often now have certain financial securities to utilise to back up their currency. Governments certainly will now utilise their Federal Reserve and Central banks to back up and give value to their money supply. So, the Cayman Islands Government cannot just go out and print money; we must have value. Therefore, if we were to increase the temporary overdraft facility to \$22 million, I believe that we would be putting the financial stability of the country on a footing that is not sound.



To have the Government have at its disposal an overdraft facility and a drawn overdraft facility that equates to some 50 percent of its money supply is not something that I believe is healthy at this point in time. So, that leaves the position that is before us which is to utilise the General Reserve to be able to fund the projected overdraft through the end of the year.

At the end of the day, for the year 2001 in large part, we have continued a trend and exacerbated a financial crisis situation. That is, not to go out and ensure the stake-holders in this country recognise the value of the Government, the need for the Government and that they must pay their proportionate share to help finance the operations of the Government.

Madam Speaker, the financial services industry has gotten away with murder over the years in this country. We have struggled to balance our Budgets. We have run up unprecedented debt levels and left the financial services industry pretty much untouched, untapped. Even when we look at what it is that government gets from the presence of the financial services industry, we see that a lot of that revenue comes from the underlying clients directly. We do not raise revenue to any large extent from those who are here, those who have a physical presence here, and those who reap the benefits of being in these Cayman Islands.

Indeed, if we look at prior Budgets, we see significant revenues coming from areas like company fees but who pays the company fees? Certainly not the entities that are here with us, certainly not the banks and the trust companies that are here with us. These are paid by the owners of those companies and that is something that any company expects in any area, any jurisdiction and any country in this world.

However, as we continue to look through the fees, the revenue that is raised by the Cayman Islands Government, we see that on the domestic side, in terms of those who have a physical presence in these Islands and actually do make a contribution to the Government, we clearly see there is a vacuum. We clearly see that the financial services industry has not been carrying its weight in the Cayman Islands. Yet the infrastructure and the environment here is so conducive to businesses because it allows them to make these profit levels, to come here and work with us, to live with us and to earn those relatively high salaries. Yet for all these years, we have turned a blind eye and said, *'Ok, let us attack tourism and let us attack our poor people. That is where we are going to get the revenue.'*

**The Speaker:** Honourable Member, is this an appropriate time for you to take a break?

**Mr. Rolston M. Anglin:** Madam Speaker, if I could have five more minutes I will be at an ideal place to stop.

**The Speaker:** Certainly, please continue.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker. When we look at Table 2 (b), we see a horrific, horrific financial picture. We see a country with a deficit of some \$30.26 million that was financed by borrowing. I can certainly (as I did one year ago) tell the world, that in terms of creating the revenue side of the budget to come up with a revenue package that was sustainable in the long term, I certainly was not afforded that opportunity. I think it is clear to all of us that the budget process, the budget that comes here is a budget that the people's representatives must vote on. Those on the political side of things have to vote on the budget. Therefore, for many years now, it has also been the political side that has engineered the budget process because after all, we are the ones that have to go back and look our constituents in the eyes and say, *'This is the Budget that we voted on, on your behalf.'*

Certainly, the 2001 Budget was one that had much input, obviously from the Government side at the time. However, having been a member of the Government Back Bench at that time, it is fair to say that the Budget was steered on the political front from the First Elected Member from George Town. Certainly, the Financial Management initiative (FMI) was also being steered by the First Elected Member from George Town.

This new political directorate has within Executive Council put the Honourable Minister for Planning as the key person when it comes to budget fiscal matters. The decision for that is very simple. On the Government Bench, he is indeed the Member who has expertise and indeed qualifications to do such a task. He is a qualified accountant. Madam Speaker, this new political directorate is utilising all the expertise that the entire Government has at its disposal. Indeed I myself am a qualified accountant. The Second Elected Member from Little Cayman and Cayman Brac has a first and second degree in Finance and Economics and indeed we do bring a certain skill, a certain eye that serves the Government well in this area. We have been able to be involved on the creative side of the Government that is the revenue side.

We have all heard how the expenditure side works. We have all heard and seen where you say last year plus five percent. We have all seen and heard how the Civil Servants come with their wish list and then the political directorate sends them back and say, *'No, here is your target.'* That, Madam Speaker, is a practice that has to cease. Later on in my contribution I will give some insight as to how that practice is going to be addressed.

However, Madam Speaker, all through the years I have listened eagerly to this time of year and I

have heard Members get up in this Honourable House and speak a lot about the expenditure side. *'Why are you spending this on education? Why are you spending this on health? What about this line? What about that line?'*

Whilst that is very important, what is also very important is the fiscal policy of the Government. A key component of the fiscal policy is how you raise the revenue for the Government to operate. How do you raise enough revenue for your recurrent expenditure? You raise enough revenue to pay down your debt, not just to service your debt but pay it down on an accelerated basis. That is why in my contribution I will be concentrating greatly on the revenue side of the Budget and showing the country where we are heading.

It behoves all to remember that no man is an island and a man has to know his limitations. We have a Government that recognises that and is willing to accept all the assistance they can get when it comes to this matter of creating a budget because what the Budget looks like is of national importance. It impacts the lives of all our citizens.

Madam Speaker, I think this is a convenient time.

**The Speaker:** I will now suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.55 PM

#### PROCEEDINGS RESUMED AT 12.18 PM

**The Speaker:** Proceedings are resumed. Please be seated.

The Second Elected for West Bay continuing his debate.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker.

Before we took the morning break, I had just completed point four of my ten points, but so far we have looked at the state of the domestic economy of the Cayman economic triangle. We have looked at some of my contributions to last year's Budget Address debate and we have looked at what impact the 2001 Budget has had on the financial position of the country. Now, as I said before the break, my debate is going to look primarily on the revenue side of the Budget because to get bogged down in the minutia that is involved on the expenditure side is not the methodology. I feel that would offer the public some clarity as to where we are and where we are heading.

Madam Speaker, just about all of us agree with the impending review of the Civil Service. We all agree that there will be decisions to be made and services to be looked at. It will be determined whether or not the Government should be providing the service, whether the service should be provided at all, or is there some other agency that would be better equipped to deliver the service. If it is the determination that Government should be involved with, then

the efficiencies and the structure will be looked at. If it is not, then the decision will have to be made as to whether something along the lines of a business unit will have to be created or whether or not the Government is going to seek to have full privatisation. A third possibility obviously would be for the Government to have some form of joint venture with the private sector.

So we all agree on the big picture which covers the recurrent expenditure side of the Budget as the way forward. I am not going to get bogged down in the details of specific ministries, about how much is going here or there and how much money is being allocated to certain line items.

Madam Speaker, I think the country needs to know where we are heading. How are we going to address some of the weaknesses that I addressed earlier? Let us first look to the Honourable Third Official Member's address. He has brought to us five main principles that are going to be adopted by the new political directorate. Just by way of clarity for those who are out there in the public who will be listening and who may not necessarily have a copy of the Honourable Third Official Member's address, or may have listened but probably would have forgotten a lot of the points raised, I just want to reiterate these five principles.

First of all, there is going to be a tripartite approach to national development which will involve the active participation of the public, private and social sectors. It is envisioned that this approach will promote sustainable development and a greater inclusion and balance in development and business opportunities for local residents.

There are a number of new matters on the Government's agenda to further this tripartite approach. Firstly, there is going to be the establishment of a tourism services training centre. There is going to be the establishment of a Cayman Islands Investment Unit. This unit is going to be seen as a one-stop facility for foreign and local investors who seek to do a development and again it says foreign and local. Anyone—Caymanian and non-Caymanian—who wants to do a specific development is going to have at his fingertips, one place to go to get their questions answered. They are not going to have to go from Planning over to Environmental Health over to the Financial Secretary's Office, over to Immigration.

Madam Speaker, the aim of this Investment Unit will be to promote and foster consistent messages, timely messages being provided to those who seek to invest in the Cayman Islands. This of course is not a new concept. The Bahamas has the Bahamas Investment Authority, I think it is called. Similarly, in Bermuda there is such an organisation and that type of organisation will allow us to be able to better manage what is coming down the line in terms of development.

Also it is envisioned that there will be a growth management bureau established. Again, this

bureau is going to be charged with formulating an overall growth strategy for these Islands. All this will have to tie in to our national policy statement of Vision 2008. Madam Speaker, this is another area that we have talked about for years and years. How do we manage development? How do we manage the affairs of the country? I think now we are taking a step that is going to be in the right direction to actually get us there in a tangible way. Yes, we have had boards appointed before but with all due respect, this requires the type of private and public sector collaboration that no board can offer the country. We must have these types of units and bureau that is being envisioned here; otherwise we will be blindly charting ahead not knowing when we are going to run aground.

Madam Speaker, there are many who think that we have run aground now. However, when we just look around this region, this Caribbean region that we all live in, we can see that even with the state of the local economy as it is, we still have much to be thankful for.

So it is also envisioned that we are going to resolve the key immigration and, security of tenure issues of long term residents. This is a matter that is already on the way. There will be a promotion and focus on E-commerce, E-business and utilising information technology to not only to develop a new industry in Cayman, but also be able to be utilised by the Government in the provision of its services, yet another area that we are going to greatly invest in so as to try and reduce the recurrent expenditure side of Government.

However, this process has to be managed. It will involve training and retraining of people. It will involve inevitably a reduction in jobs in the Civil Service but again, this is a process that must be managed. Those people must be trained and retrained. We have some 14,000 work permits in this Island and so if we are going to have true public and private sector participation and partnership, when this retraining exercise happens we must have the co-operation of the private sector.

The private sector continually criticises the Government for being too large, too inefficient; saying that the recurrent expenditures are too high. Well, personal emoluments are certainly the greatest part of Government recurrent expenditure and so they in the private sector must not expect that any Government is going to lay people off without a plan. If they are going to be active participants in the way forward, training is a key area in which they can be involved. A critical area is training and retraining those Caymanians who would be affected so that they can transition into new jobs, into new areas and be productive.

There are other initiatives that drive towards this tripartite approach, namely developing a Cayman Islands Development Bank and promoting small business development. We can see the stock exchange

continually mature to the point where there would be the possibility of it serving its purpose as a true stock exchange for the Cayman Islands. An institution where local entrepreneurs can raise capital, where local people with good ideas can get out there and have a broad based approach to investment and not have to go out and take out exorbitant loans on their own or need wealthy business partners. It would be able to afford all the people in these Islands who are able to and who so desire to participate in investment in Cayman. So there is that focus also.

Secondly, there is going to be a focus on renewal of existing systems that work and reform those that do not. Certainly, I have spoken to this issue but also a key component will be the continuation of the financial management initiative. That initiative is critical to the country reaping the benefits of The Public Finance and Management Bill which we recently passed in this Legislature. I think all of us at the time saw the need, saw the potential benefits that such legislation was going to bring. However, implementation of all these things is key because it is easy to do plans and to write reports and have studies done but, Madam Speaker, it is work. It is getting down and having the will, having the political know how, having the partnerships with the private sector that is so key to move the country and these initiatives forward. There would be a phased implementation of the accepted recommendations of the review of the Cayman Islands Civil service again, Madam Speaker, a key component to the way forward.

Thirdly, there has to be a focus on the attainment of greater efficiencies in government. Yes, Madam Speaker, there must be the public and private sector participation of which I spoke. We must rationalise the existence of the national flag carrier, Cayman Airways. We must move forward on the liberalisation of the telecommunications industry, because if nothing has stopped E-business from developing more, it is been the cost of telecoms. We can talk about E-business all we want but with the current rate structures that the sole provider of telecom charges in this country, it will continue to stifle the development of such an industry. Therefore, we are committed to the liberalisation of the telecommunications sector.

Madam Speaker, we are also committed to looking at all other such utility sectors and ensuring that the structures and agreements that they operate under with the Cayman Islands Government, is one that serves the benefit of the citizens and businesses of this country. This is a pro-business Government. Business creates jobs; jobs create spending power. That is the basis of capitalism but when we address all these issues we do have a balanced approach and we do recognise that there have been some serious weaknesses in the way in which the public and private sectors have co-existed over the years.

Fourthly, Madam Speaker, there is going to be a strategic orientation of Government machinery and of private businesses in order to meet new do-

mestic and global challenges. The key component to all of that is our people; developing our people, education, training, retraining; this is a key component to the way forward. We must have the education reform that the Honourable Minister of Education has spoken about for many years. We must ensure that the very system that seeks to educate and train the citizens of this country will equip them with tools that are usable in the private sector and that allow them to forge their way in this life.

We have heard over the last year, some of the nightmare stories with regard to import duties in regards to just how rudimentary that system is. In fact, I would go on to say that for the purposes of running the country it is archaic. How is it that a Government cannot look at a specific line and be able to do a reasonably, sensitivity analysis as to what will happen to that particular line of products or line of goods and services, if they moved the import duty rate either upward or downward? There is often a common fallacy that if you want to raise revenue, you simply reduce the rates on whatever it is you are talking about. However, that does not always happen. What happens sometimes to Governments who do not give good information is that they reduce prices but the actual amount of the goods or services that they sell does not increase and so they wind up losing revenue.

That would be like us saying we are going to make the Rolls Royces duty free. Sure, we can say that we are going to make Rolls Royces duty free. Does that mean that people are going to rush out and get Rolls Royces? Well, not duty free but let us say lower the duty to ten percent, does that mean people are going to rush out and get Rolls Royce and then we are going to all of a sudden see this growth in revenue because we reduced the revenue on that particular line? No, Madam Speaker, and so this re-examination and streamlining of the import duty regime that the Honourable Third Official Member has spoken to is also a key spoke in the wheel that we are trying to create that will allow us to offer the type of governance that the citizens of the country deserve. Information is king, Madam Speaker.

Fifthly, there is going to be an implementation of a more selective and focused approach to marketing our international finance and business sectors and tourism services. There is an aim to have a Grand Cayman working group to develop a programme to integrate and refocus the marketing and promotional efforts of the public sector. Given the state of tourism this certainly is going to be something that is a welcome change.

However, it is going to be up to all of us in this Chamber to hold those who are going to be the key implementers of these strategies accountable. It is going to take all of us; not just those who say that they are a part of the Government Bench. Every single Elected Member must hold the persons accountable, to the best of their ability, because this is our

Cayman Islands. This is one Cayman Islands. There is not a Government or Opposition Cayman Islands. There is one Cayman Islands. We must have one common agenda and that is the furtherance of our people, the development of a sustainable economy, reform and education that will allow our people to maximise their potential.

Certainly, these five initiatives are going to require a lot of work and much private public sector collaboration. So once again, the Government is calling upon the private sector to hold up its end of the bargain in this regard. Certainly, the National Advisory Council as envisioned is going to provide the platform for that collaboration. It is envisioned that there will be a sub committee for economic, social and environmental issues, for fiscal issues and legislative issues.

Again, this Government recognises that there must be that collaboration with those that are in the private sector to move this country forward in a balanced manner, in a manner that is going to provide a worthwhile legacy to pass on to our children and grandchildren.

Madam Speaker, we must have these fundamental changes. What is so invigorating is that the Honourable Third Official Member is eager to get these initiatives on the way. He recognises the need for these initiatives. He recognises the need to have political support to move this country forward in a balanced manner.

I turn now to the main strategies that went into creating the 2002 Budget. As the Honourable Third Official Member has said, there were a number of fiscal strategies that underlie this Budget. One meant taking the tough decision to ensure that we had a balanced budget and not continually delaying that decision.

We could easily have taken the easy street this year and said, *'Well things still do not look good. Real estate is still down, construction is still down, tourism is down, so the country is going to under-stand, we need to have another 40 million of deficit financing.'* No, Madam Speaker, it would have been most unfortunate and most irresponsible taking the easy street. One thing that is certain in life is that in this political arena, every decision you make is going to be met with those in favour and those who are opposed. We cannot get away from that. The day that we think that we are going to please everybody is the day that we please no one. So, Madam Speaker, this is a decision that pleases no one and one that we felt had to be made at this point in this country's history.

Certainly, on the budgeting front we have taken a step backwards, in my humble opinion. Her Majesty's Government has sent an economist to work with the Honourable Third Official Member. If that is not a clear indication that Her Majesty's Government is not going to sit back and watch us run up amounts like \$55 million a year in borrowing, nothing is!

The British Government recognises that there is a contingent liability within the Cayman Islands

Government and any of us who wants to deny that is denying some basic facts. It is a basic fact of life. We are a contingent liability of Her Majesty's Government and so Her Majesty's Government has given us much autonomy over the years. However, we have taken that autonomy and we have broken the sacred trust and Her Majesty's Government now has taken the decision that an economist must be placed with us here in the Cayman Islands. This is a grave step backwards for us in Cayman! A grave step backwards because this process that we are going through here is sacred—the ability to create our own budget. When people speak of creating destinies, how else can you create your destiny if you cannot create the budget, the framework under which you are going to develop yourselves? Certainly, this has been in the works for a number of years, but none of us can deny the fact that last year sent out a very negative message for the Cayman Islands—\$55 million in debt in one fiscal year; somewhere in the order of \$30 million of deficit financing.

Certainly, ensuring that all expenditure recurrent statutory and capital acquisitions are funded from recurrent revenue was another key component of our fiscal strategies and the Budget that we have before us achieves that strategy. That strategy is one that can be found again in the new Public Finance and Management Bill.

We find ourselves yet again at the crossroads in Cayman and we have been at the crossroads for a number of years now. This is at least the third straight year that we are at the crossroads where we have had the slow down. The boom years that artificially kept the Government coffers buoyant, that artificially kept the country going are no longer here. When we look at construction and we look at the value of approved projects and land transfers, what persists now in 2001 and going into 2002 may very well be the economic reality of the country.

Yes, the Government can try to reinvigorate those sectors. Yes, the Government can come up with initiatives to try and find growth in those two sectors. However, that might very well be the reality. Spiralling growth cannot continue unchecked. At the end of the day in every economic scenario, there comes a time where the dreaded flat line kicks in; that is where growth is normal. It is not in the order of 15 and 20 percent but it is more in the order of two to five percent. So, in these Cayman islands, we should not sit back and say *'Oh, the boom years are going to come back, oh well let us ride out the storm, let us weather the storm for a few years and then We will pick back up again and We will see a return of land transfers to the levels that existed, We will see a return of approved projects in construction to the levels that that existed.'*

We have within the Cayman Islands, a Financial Services Sector that has not contributed what it should to the coffers of the general revenue of the Government of the Cayman Islands to will allow us to

run this country so as to provide them with the environment to do business.

We have also had a third fiscal strategy, which was to have a contribution to the General Reserves and that is this year in the order of some \$1.5 million. Now I recognise that contribution is not going to get us to the point within the timeline that we need to get to in terms of having the operating reserves; the reserves that can fund recurrent operations up to 90 days that is called for by the Public Finance and Management Bill.

However, if we take a quick look at Table 2, we will see where this Budget provides the framework that will allow for much greater contributions to the General Reserve fund in the future. However, that point I will get back to later in my debate, Madam Speaker.

A point that needs to be stressed is the debt service ratio. The Honourable Third Official Member made it quite clear that one of the main contributing factors to the debt service ratio going from 8.2 percent in 2001 to a proposed 8.6 percent in 2002 was mainly due to the timing of the drawdown of the loans from 2001. In other words, consider when the Government has a loan bill that does not automatically trigger the increase in the debt service ratio. It will depend on when the moneys are actually borrowed by the Government, when the Government receives the funds and, tied into that, what the loan agreement says in regard to repayment of those funds, such as when will those repayments start. It is those repayments that actually seek to increase the debt service ratio. The year 2002 is going to be the first year that will bear the full load of the new borrowings from 2001. Thereby causing the increase of the debt service ratio despite the fact that this Budget only proposes \$8 million in new borrowing and an additional \$4 million of undrawn funds from last year—so \$12 million in total in borrowing.

**The Speaker:** Is this a convenient time for the lunch-eon break, Honourable Member?

**Mr. Rolston M. Anglin:** Yes, Madam Speaker, I was just about to go on to a new point.

**The Speaker:** The House will be suspended until 2.30 pm.

#### PROCEEDINGS SUSPENDED AT 12.54 PM

#### PROCEEDINGS RESUMED AT 2.40 PM

**The Speaker:** The Second Elected Member for West Bay continuing his debate on the Budget Address.

**Mr. Rolston M. Anglin:** Thank you Madam Speaker. When we took the lunch break, I had just outlined a number of new initiatives for which the Government is seeking support and to implement as a way forward in

regard to the good governance and fiscal management of the country. As I have said earlier most persons in the country I believe have expressed the view that the Financial Services Industry is poised to contribute more significantly to the revenues of the country. Now I believe that this is a view that certainly those of us in this Chamber would share. This is an idea that I have heard people toss about for years; yet, seemingly nothing tangible came of it.

I would now like to take a look back at the debate on Budget Addresses earlier this year and demonstrate that this idea certainly has support across the floor of this House because, Madam Speaker, it is important that, as I said earlier, although the methodology and the exact details may differ sometimes, the fundamental concept of the Financial Services Industry contributing more seems to be one that is shared by many persons who have been elected to this Legislative Assembly.

Firstly, with the Chair's indulgence, I would like to take a brief portion of one of my honourable colleague's contribution to the Budget Address in this Legislative Assembly earlier this year, to show and demonstrate that this ideology is something that is shared. With your indulgence, Madam Speaker, I would like to read a portion.

**The Speaker:** So ordered.

**Mr. Rolston M. Anglin:** I quote:

**"I now turn to the financial industry. Having worked in the financial community for some 17 years, I say that the financial industry in this country is not bearing its fair share of the tax burden. The stakeholders in the financial industry generate significant profits and carrying on business in Cayman provides profit opportunities that would be difficult to realise elsewhere. It is my view that this industry needs to contribute significantly more to the coffers of Government to ensure that this favourable environment that they currently operate in continues.**

**"Now, there is more justification for asking the financial industry to contribute more. The financial industry is actually costing the Government significant sums of money as Government continues to negotiate with OECD, FATF and other international agencies seeking to set up and administer the kind of regulatory framework now necessary to comply with the far reaching international initiatives. For example the Monetary Authority has had to increase its staff from 48 to 73. By the year 2003, the staff complement is expected to increase to 129.**

**"The recurrent cost of operating the Monetary Authority has risen from \$5.2 million last year to \$8.5 million this year. By the end of next year that cost is expected to rise to \$10.6 million and by the end of 2004 is expected to be \$13.5 million.**

**"Plainly we cannot expect to pay for these increased costs by taxing food or any of the other items that affect the ordinary man in the street. These costs need to be borne fairly and squarely by the industry on whose behalf they are being incurred. These are some of the difficult decisions that need to be made. The Government needs to sit down with the financial community just as it did when trying to put together the 2001 Budget."**  
[2001 *Official Hansard Report*, page 459]

Madam Speaker, this is a quote from 18 April 2001 by the Second Elected Member for George Town in his contribution to the Budget Address. Certainly that clearly demonstrates that there is support on both sides in this Honourable House to the notion that the financial industry must contribute more to the coffers of the Government of the Cayman Islands.

Just for clarity I would quote the first sentence again; "I now turn to the financial industry. Having worked in the financial community for some 17 years I say the financial industry in this country is not bearing its fair share of the tax burden. The stakeholders in the industry generate significant profits and carrying on business in Cayman provides profit opportunities that would be difficult to realise elsewhere."

Madam Speaker, the Government wholly endorses that view. That is precisely why the revenue package that the country and this Legislative Assembly has before it is indeed looking to derive much of the revenue to be generated from the financial industry. I believe that we have a lot of common ground when it comes to this revenue package on all sides of the aisle within this Legislative Assembly. I believe that once we put all the political and personal differences aside that there is a common ground that we can stand on. I think that is clearly demonstrated by the budget that we have in front of us. I use a specific example of a view that was taken by the Second Elected Member from George Town on 18 April 2001, and we on the Government side certainly agree whole heartedly with that view.

Now, Madam Speaker, this business of raising revenue is one in which you find that the stakeholders in Cayman typically talk a good game but seem very unwilling when the time is at hand, to actually sit down with the Government in a meaningful way, agree that that is the way forward and come up with solutions to the issue of raising revenue that there is satisfaction on both sides.

I would like to share with this Honourable House and indeed with the country, a quick comparison to some of the jurisdictions that we have compared ourselves to, quite rightly, in the past namely Bermuda and the Bahamas.

When we look at the 2001 Budget for the territory of Bermuda, we see that their recurrent expenditures were somewhere in the order of United States \$528.7 million dollars and utilising the 84 cents exchange rate that comes out to some CI\$448,108,000. When we compare that to the Cayman Islands Gov-

ernment's recurrent budget for the similar period, we see that the Government had a recurrent budget of some \$299.4 million, equating to a difference of some \$144,708,000. That is some 48 percent more than the Cayman Islands.

I do not believe that it is a coincidence that Bermuda has a similar percentage difference in population to the Cayman Islands. They are some 50 percent bigger than we are. We are some 40,000, they are some 60,000. So the difference on the recovery side is some 48 percent; right in line, Madam Speaker.

It is also not surprising that the Government of Bermuda has just themselves completed their review of the Civil Service exercise whereby they had staff and expertise come in from the United Kingdom Civil Service College to perform a detailed review that took some six months on the size, structure and efficiency of their Civil Service. Indeed, the private sector in Bermuda has had several claims that the private sector in the Cayman Islands has, and that is that the Government is too big, the Government is too inefficient. So we see even on that level there is some commonality between the two territories, namely Bermuda and ourselves.

What is significantly different is the ability to raise revenue in Bermuda and the level of debt that the Central Government of Bermuda has compared to the Cayman Islands. Whilst our recurrent expenditure seems to be fairly similar, their recurrent revenue substantially outstrips the Cayman Islands. Also, their national debt is on a similar level as the Cayman Islands; in fact it is only a couple of million dollars different; yet they merely have 50 percent more persons. On a similar period, the Bermudan Government was able to raise somewhere in the order of CI\$470 million, thereby producing recurrent surpluses.

Let us now compare how it is that the overseas territory of Bermuda taxes its citizens versus the Cayman Islands.

Firstly there is one significant difference. The territory of Bermuda has a payroll tax. They have a payroll tax of some 12.75 percent and on personal income they have a payroll tax of some 4.75 percent. The remainder is made up, as I understand it, by the actual companies themselves. However, they have a direct form of taxation; yet they have a buoyant international financial services sector. They do cap the salary that is taxable at some \$225,000. So, on \$225,000, persons in the territory of Bermuda pay indirect taxation 4.75 percent. The remaining 8 percent is taxable, as I understand it, to the actual companies themselves.

Madam Speaker, our Budget does not seek any form of direct taxation. There are many in our jurisdiction who feel as though that would make us uncompetitive and would send out the wrong signals. However, I wanted it to be clearly stated on the record that this territory that we compare ourselves with so often, namely Bermuda, has a very different approach

to raising revenue for Government. Not only do they have a direct payroll tax, but also persons who go there, like people from the Cayman Islands, will pay health insurance and pensions.

There is another interesting tax that the territory of Bermuda levies called a social insurance tax, which is payable by individuals at a rate of some US \$21.50 per week. Whereas Bermuda does have the indirect taxation system that is similar to the Cayman Islands whereby you levy duties on imports and they are similar to Cayman in that they have to import the great majority of their consumer goods, be it food, household items et cetera.

However, they have found it necessary to have a payroll tax that the Minister of Finance has clearly illustrated and clearly stated that is geared toward raising the revenues that the country needs to survive. To raise the revenues that allow them to maintain the atmosphere that is necessary for the smooth workings of the Financial Services Industry, Tourism and their society as a whole.

So, Madam Speaker, certainly there will be those who will criticise this Government in taking the bold stance that it has in regard to raising additional revenues from the Financial Services Industry. However, certainly none of them can point toward territories like Bermuda and look at the entire picture as to what is taxed in that territory and then tell the story that Cayman will be uncompetitive because what we are proposing is actually a flat fee. It is not tied to the revenue earnings capability of the individual companies.

Certainly, this Government is one that wants to ensure that the Financial Services Industry remains buoyant because there is much to be gained from having a buoyant Financial Services Industry, much to be gained by way of jobs, opportunities, scholarship opportunities that a lot of us in this country would never have been afforded if that industry was not here. I was privileged to be able to be sent to university for four years by the accounting firm of Price Waterhouse. I am very thankful, extremely gracious that that was afforded to me because if that had not been the case and if we did not have that industry, certainly Government would not be able to afford to give the scholarships that it gives. So I may not have had the opportunity to go overseas to further my education, knowledge and experience base.

When we compare ourselves to Bermuda, I believe the Cayman Islands Government is still extremely competitive. I believe given the revenue measures that are being proposed here, we in this Honourable House, and those in the community and in the Financial Services Industry itself sit down, and really look at the bottom line, they too will recognise that this has been necessary for many years.

I cannot speak to the waste that happened before I got here. I cannot speak to the Budgets before I got here. There might be those of us who might actually say there was not necessarily a lot of waste

in the '90s. There was more of a runaway Civil Service factor and combined with not raising the necessary revenues to be able to build up the General Reserves to the necessary level.

Madam Speaker, if we had had such a revenue enhancement package directed at the Financial Services Industry many years ago, I am confident that despite the fact that many of us may believe that there is and has been a lot of waste within Government. I am confident though, that that additional revenue would have provided a basis to have built up our General Reserves to have not had this country in a situation where we only have some 12 days operating recurrent expenditure in the General Reserves of the country.

When one looks at the taxation structure in the overseas territory of Bermuda, there are still many other differences. They charge a property tax. There are many other differences. However, I believe that we only need to look at the few that I looked at to see the fundamental difference between the Bermudan Government and the Cayman Islands Government. We can see clearly how Bermuda had been able to manage its fiscal affairs in somewhat of a more responsible manner than we have been here in the Cayman Islands.

I said earlier that I believe we have taken a gigantic step backward with Her Majesty's Government now sending an economist to work with us. However, at the same time we have to embrace all changes because all changes create opportunity. So this may have been what we needed to happen for us to pull up our boot straps, pull up our socks and be able to move forward and manage our fiscal affairs but more importantly, be able to look at our entire economy, look at what it is that the Government is providing at present and come up with a way in which we can raise the revenue to run the country.

When the partner sits in his office in the law firm or at the accounting firm, when the bank manager sits in his office, when they go to the nice homes that they have, that is something that helps all of us in the Cayman Islands. It creates jobs and it provides something to which all Caymanians can aspire. All Caymanians can educate themselves and aspire one day to take up those posts. However, at the same time it would be wholly irresponsible of us to continue the trend that has been set all these years.

We have to ensure that the country has the necessary resources. We cannot continue to borrow at the levels that we have been borrowing; we cannot continue down that road. That is delaying the inevitable, it is passing on a burden to our children and grandchildren and I refuse to be a part of that sort of legacy. We have to be big men and women that we can look our private sector partners in the financial services industry and say, *'Listen here is where the country has to get to. This is all to provide the basis on which your businesses and your lifestyles are built.'* No one says that they do not want any one to

enjoy that lifestyle. That is what we want to encourage because we want Caymanians to have that incentive. For all Caymanian accountants who wind up with an accounting firm trying to make it to the top; to make it to the partnership level, if they so desire. This includes providing the incentive to those that are in the Law firms and architecture firms to do the same.

As I said earlier, we are at a crossroads. We are either going down the beaten path that we have tried over and over and it has not worked; it will not work. We cannot continue to tax the poor man. We cannot continue to have that uneven distribution of the tax burden in the Cayman Islands. I think it is clear, when we look at the territory of Bermuda that we can recognise that the measures that we took certainly will not make us uncompetitive.

Madam Speaker, certainly there are some differences in our financial services industries but the bottom line is they are all financial services professionals. All captive insurance companies need auditors and need lawyers. Just because their product mix is slightly different than the Cayman Islands does not get us away from the fact. The fact is when you are a financial services industry domicile, we have the opportunity to bring to our shores job potential that is incredible. At the same time, we must ensure that the society that we have is one that fosters and caters to our industries.

We are so close to being back in the good old days that I hear so many older folks talk about. I have said over and over since being in this Legislative Assembly, tourists do not have to come to the Cayman Islands. The financial services industry does not have to stay here.

However, I believe that the single biggest threat is disorder in our society. That is crime, crime mainly driven by drug use; that is persons who cannot make ends meet; and who wind up having their homes repossessed. When those sorts of circumstances exist, there is always that increasing possibility for social disorder and we have to get to the point where we are not shifting the tax burden in an unequitable fashion to the poorer persons in our community. When we look at how every other country manages its affairs, raises its revenue, you see that those who are better able to pay, do pay more of the tax burden.

That is accepted. It is accepted by every country that these same professionals have come from, whether they come from the United Kingdom, the United States or Canada. Every one of those accountants, lawyers, bank managers, trust company managers, mutual fund administration managers, mutual fund accountants has come from a country where they are, relatively speaking, higher wage earners and therefore they have to contribute a higher portion of the tax revenue.

What all and sundry have to understand is that you cannot expect to have the same lifestyle in the Cayman Islands and tax ourselves the way that we have in the past. The persons in the financial ser-



vices industry have to recognise that the way in which their Governments promote and maintain a good society, a good education system that helps maintain their lifestyle was because they had to pay their fair share of the tax burden. This is not anything new.

I do recognise, however, that certainly when persons do come to the Cayman Islands they quickly forget what existed where they came from. They see this marvellous system that we have built here. You come, you work, there are relatively little taxes and even after these measures there are still relatively little taxes and fees. They have come to expect in the Cayman Islands that they work, enjoy their profits and the fruits of their labour, do not have to contribute anything more than they have contributed to the Government. The Government does not want it, does not ask for it; so why should they go out and volunteer? Certainly it seems as though that old adage "*When in Rome, do as the Romans do*" has been adopted by many persons who come on these shores.

So I would expect there would be some in the financial services industry who will look at the revenue enhancement package and complain. However, at the end of the day, I believe this revenue enhancement package is one that will allow the Cayman Islands Government to move forward in a positive way, having raised a substantial portion of the funding required to efficiently run the Government.

One of the revenue measures proposed is an increase in the fee on gasoline and diesel duty. However, the receipts from this fee will be placed in the Roads Development fund. So one of the things we are going to do is to let the country see the direct results of the revenue measure. All those who utilise gasoline and diesel for use in their automobile use the roads. How else do you get around? So that is why the revenue is going to go in the Roads Development Fund.

This is how we are going to ensure that we have good roads and good infrastructure. Good infrastructure is critical to any country's economic development. Whether it is tourism or whether it be the financial services industry we must have good infrastructure.

It is important to note that the diesel used by CUC will not be subjected to this increased fee. So in other words, we are not going to have it said, at least with any accuracy, that this Government has increased the taxes on CUC which has had that trickle down effect—an increase in costs at Foster's Food Fair, Kirk's Supermarket, Hurley's Supermarket—all of which will be passed on to the consumer. We all know CUC has its own dedicated source of diesel to operate and that will not be, I repeat, will not be a part of the revenue measures.

Let us turn to the banking and trust industry. I think it is fair comment that the banking sector has enjoyed tremendous profits in the Cayman Islands over the years. Tremendous profits and that is something that this Government encourages, because the

more profitable they are the more they should be investing in our people, giving scholarships, more training; all a critical part of building a good society, on building a good nation. However, it was the view that their licence fees were inadequate and the Government had set up a fiscal advisory group. That fiscal advisory group made certain recommendations and one of the recommendations was for an increase in annual licence fees of the banks and trust companies in this Island.

The Government is fully cognisant that Bahamas is our major competitor in this area and certainly after these measures there will be a significant difference in our licence fee structure than that which currently holds in the Bahamas. However, there are a number of key items that must be fully appreciated when we are going to compare us to the Bahamas.

Firstly, Madam Speaker, there are other costs by way of fees and charges; significant fee and charges that are raised in the Bahamas that currently do not exist in the Cayman Islands. So, when we look at the cost of doing business to these individual entities in relation to the amount they have to pay to the Government, we will quickly see that although on the fee side there may be a significant difference, overall that difference is much less.

Also, after consulting with the technocrats in this area—those who work at the Monetary Authority who deal with this business on a day to day basis and who have dealt in this industry over the years—the Government felt fully comfortable that these increases in fees would not cause any large decrease in the business base of the Cayman Islands. These fees we believe will allow or assist the Government in managing the country in a rational manner, in a way that will foster the good civil society that we need to maintain our two pillars: our Financial Industry and Tourism.

It should be noted that the first list of bank fees are those payable on the initial grant of the licence and that is followed by the renewal fee. There is a difference between the initial fee and the renewal and there is logic to that. Certainly, if the Monetary Authority were to receive an application for a banking licence of whatever category, during that first year when they have to do all their due diligence, their research, their Interpol checks on the directors et cetera of those entities, the cost incurred is significantly different than that on an ongoing basis. So once the bank, the entity is registered in the Cayman Islands, at that point the Monetary Authority has already done its base work. At that point, all it has to do is the continual monitoring. So when the licence comes up for renewal in year two, they do not have to go again and do searches on every single person associated with the company.

Certainly they would have to be made aware of all changes and do the due diligence again. However, those changes under normal circumstances equate to wholesale management changes. That is, to bring the bank or the trust company back in the

position where the Monetary Authority would have to do their due diligence checks on all the management within the entity. I think it is quite logical that the initial grant of licence is different from the renewal. I think when we go to many other countries and see the way in which they have such fees set up that this is consistent.

Item four deals with local vessel licences. As we can see from the schedule for boats less than 18 feet, jet skis, and jet skis used for commercial purposes, there is no proposed change. The proposed changes are for local boats over 18 feet, in terms of a minimal annual licence fee similar to that which is paid on automobiles. Indeed, this is one of the areas that there will be a concerted effort to ensure that the Government actually does collect the revenue that is due.

Any of us who have read past year Auditor-General reports know one of the criticisms he and his office have had of the Cayman Islands Government is the ability to collect the revenues that are due. This is something that the Government will seek to tighten up.

Madam Speaker, the Government is of the view that for the boats where there will be an increase in fees, 18 to 30 feet, it will increase from \$150 to \$165; 31 to 50 feet, \$150 to \$500; over 50 feet \$1,000 to \$1,400 and the new boat licence fee will be \$35 a year. I think it is fair comment that this will not impact the common man on the street. For the size vessels that we are talking about and the boat licence fee that is being proposed is a mere \$35 for the year, I think it is fair comment that this is not going to cause any hardship on the common man or the small man.

There is a proposed increase in the postage stamp required on Bills of Lading and courier airway bills from 50 cents to \$2. This fee was last updated in 1973. Again, this is an area that the Government is going to be more focused and more diligent in ensuring that the revenues due it are indeed collected. The technocrats in this area tell us that they have complained for years that this is an area that they have not been able to collect the revenues as efficiently as they need to and so there is in the works increased enforcement in that area to ensure that the Government does collect the fees due.

The Notary Public fees are being increased. Certainly in most countries, it is a privilege to be a Notary of the Public. It is a privilege to be able to practice and notarise documents for the general public. One of the things noted is that over the last few years there has been a move by some of the larger players in the financial industry to have multiple notaries within their offices. Certainly they have started the practice whereby there are many secretaries within offices who are notaries and who notarise documents and that is good and fine. The Government simply is of the view that for that privilege, the fee is not in line with what it should be and so the initial registration fee is proposed to go from \$150 to

\$500 and the annual fee is going from \$75 to a proposed \$250. Again, this is not a fee that is going to hit the ordinary man who has been hit so hard over the years with the tax burden in this country.

Madam Speaker, garbage fees. What can I say? One big mess! I have had the Department of Environmental Health send me a garbage bill and I do not even own a house yet. This is laughable. I have met so many people in this community who tell me they have never received a garbage fee bill in their lives. Caribbean Utilities Company, the provider of electricity in the Islands, has said that there are some 16,000 residential addresses in their database. Yet, there is significantly less in the Department of Environmental Health. Again, under the recommendation from the fiscal advisory group, the Government is seeking a partnership with Caribbean Utilities Company whereby garbage fees will be attached to people's light bills.

There are a few advantages to this approach. Firstly, we would not have to take Government resources to try and build the database necessary to adequately capture all those who have a dwelling that should be charged a garbage fee. It saves us the resources and man hours of building that database. The other thing this does is, it ties your garbage fees to your consumption of electricity. This is not admittedly a perfect scenario. Personally, I believe that the more prudent approach would have been to have it tied to your water bill and I will say why in a minute. However, even as we speak, there are many households on this Island that do not have piped water and so for that reason alone that approach would not have worked.

The reason I believe that would have been a more appropriate base is because admittedly you could have for example a 1,000 square foot house with two persons living in it and another 1,000 square foot house with four persons living in it. I think it is agreeable that the law of averages would dictate that the house with four people would generate more garbage and so should be the house that would be charged a bit more in terms of a fee. However, let us take another step and add an example to that analysis. The house with two people may have central air; the house with the four people may not have central air.

So the household with the two people may wind up paying a bit more in terms of the garbage fee than the household with the four people. In this Island there has been a saying that Cleanliness is next to Godliness. So if it was tied to water, you would find that the household with the four would have paid more because they would have taken more showers, have done more laundry et cetera. Be that as it may, Madam Speaker, I still believe that this is a sound method to collect garbage fees. I believe it is a good decision that the Government is taking in terms of being able to collect the fees that are due it.

The other advantage is that people will now be able to pay their fee on a monthly basis. Instead of having to come up with \$150 or \$200 or \$300, one lump sum at the end of the year, now you can pay or spread it over the year. I think that is a good development for the citizens of this country. Also, I might add, that in this age where we need to be increasingly energy conscious, I do believe that this does provide an incentive for all of us to tighten up our belts in that regard.

I think all of us will look ourselves in the mirror and say, 'Yes, we have not done all that we need to do in that area.' How many of us walk out of the room and leave the television and the lights on? How many of us actually practice all that CUC lays out in its energy efficiency guide? I picked one of those up several months ago, Madam Speaker, and the number of simple things that most of us do unconsciously that cause us to have higher electricity bills is incredible. So, I think this is an ideal opportunity for the Government to be able to collect its revenue on the one hand while persons will be able to pay their bill over 12 months versus having to come up with it at the end of the year and also, it does provide some incentive for all of us to be more energy efficient. After all, we are continually using the resources of this earth. Fossil fuel will probably not last forever and so we must be all conscious in that regard.

There is a proposal to increase certain work permit fees, and again this idea was put forward by the fiscal advisory group. It calls for persons of certain managerial ranks—Chief Executive Officers, General Managers, Managing Directors—to have to pay an increased fee from some \$6,600 to \$10,000. In my travels in the financial services industry and in speaking to persons in that industry over the last three or four months or so, I got unequivocal support for increase in fees such as these—increasing and introducing Trade and Business Licence fees versus going the route of Bermuda with its payroll tax and other forms of direct taxation. So I believe that this is a prudent approach for the Cayman Islands to take.

There is an additional fee for work permits for partners and directors in professional firms. Those fees are based on the number of non-Caymanian partners and directors. Again, the ideology that supports this came from the fiscal advisory group. This was seen as yet another incentive for companies to Caymanianise, and to get as many Caymanians in the door and up the ranks as possible. When we look at the financial services industry, we see an industry that most of us have always believed has not shared in the tax burden within the Cayman Islands on an equal basis.

There is a number of other permit fees proposed, all of which came in consultation with the technocrats in that area who know or have a reasonable idea as to the cost of providing the services that they provide and who believed that the current free structure was not in line with the actual cost of the

service that they provided. That is, the application fees for temporary work permits, for work permits other than temporary, for permanent residence and for Caymanian status. In this regard, the Government was fully cognisant, especially in regards to Caymanian status, that any proposed fee should not have been seen as discriminatory; that is to have such a high application fee that it would preclude certain persons who have been here for a large number of years from applying. That is why the fee has been maintained at a low level.

On the issue of dependants within the Cayman Islands, certainly there has been a policy in the past that only certain categories of workers are allowed to have their dependants here. Those in the unskilled categories cannot. In fact, they may make a special application but they are going to have to prove that they make a substantial earning to be able to have their dependants here. Dependants mainly accompany persons of relatively high financial means. So, it is proposed that there be a fee charged per year just as the work permit holder has to pay an annual fee for each dependent. Now that fee is relatively low. However, it does demonstrate that the Government recognises that even the dependants that are here do cause a strain on government services which have to be provided and by extension, on government resources such as the hospital and schools. Even though there is a policy that they attend private schools, the Government still gives a subsidy to those private schools. In this regard the Government is proposing a \$500 annual fee.

Madam Speaker, there are also occasions where certain visas for certain low risk categories of individuals. That is, entry visas to the Cayman Islands are granted here in Cayman versus in the home jurisdiction. In fact, some of these occurrences happen because of inaccurate information given to travellers by the travel agents. For example, a couple coming to Cayman on a honeymoon may have been told they did not need a visa coming from their country when in fact they needed the visa. They were coming here to have a good time to celebrate their marriage and so when they get here, certainly the Immigration Department does not have a policy of turning them away, but in fact have a policy of ensuring that they do get the visa processed. Often times in that regard, the airlines that they are about to board will contact authorities in the Cayman Islands and make them aware that the person do not have their visa and so the Cayman Islands authorities are expecting this. That fee is being proposed to be increased for a multiple entry visa from \$70 to \$150 and for a single entry visa from \$30 to \$75.

There are multiple categories of work permit fees where the temporary work permit fee does not correlate to the actual fee. In other words, for certain categories the temporary fee was \$150 per month; yet the annual fee was \$6,600 per month. That provided an incentive for persons to bring their employ-

ees in for as many months as possible on a temporary without getting their full work permit. After consultation with the technocrats in this area, it was felt that all those temporary fees should be brought in line with the actual annual fee. In other words, if there was a work permit fee for \$6,000 a year in a specific category which would be some \$500 a month, then the temporary should be similar in terms of the charge per month and I think that is extremely logical. I think that is an area the technical persons within Immigration who practise and carry out the Law on a daily basis, were uniquely positioned to be able to advise the Government and ensure that revenue was not forgone.

There is a proposal to increase fees in the mutual funds area. Currently, a mutual fund administrator licence, a full licence, is some \$12,300 a year. For those that hold that particular licence, that fee is relatively low. Again, the country must have the resources to run itself efficiently. There are numerous proposed fee increases within the mutual funds area and again after speaking to those of technical experience within this area, those who work at the Monetary Authority and those who are actually in the industry itself, there was a feeling that there was scope for increasing those fees.

What is not contained here was a general feeling that there should be discrimination within the fees in this sector. Those who practice in this sector feel that any mutual fund person who holds a mutual fund administration licence but does not operate within the Cayman Islands should have to pay a higher fee. I think that is quite logical because those who are here are creating jobs and opportunities and those who are not here will obviously not do that. On top of that, the Monetary Authority's job of regulation is made a whole lot more difficult when they have to register a service provider who is not domiciled within the Cayman Islands versus one that is.

Certainly, Madam Speaker, there are agreements in place whereby we can rely on the regulators in home countries for certain categories of countries but at the end of the day, if those entities are going to utilise the Cayman Islands mutual fund product and not be here physically and not contribute to the domestic economy, there is a feeling within the industry that they should have to pay an increased fee. However, as I said earlier, that is not included here within this and certainly after further consultation with those practitioners within the mutual funds area that is something that the Government will be looking at in the future.

**The Speaker:** Honourable Member, is this a convenient time for the afternoon break? We will now suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 3.50 PM**

**PROCEEDINGS RESUMED AT 4.10 PM**

**The Speaker:** Proceedings are resumed. Please be seated.

The Second Elected Member for West Bay continuing his debate.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker. Before we took the afternoon break, I had just provided some comment not only on the new proposed fees in the mutual funds area but also some insight as to what the Government would be doing going forward, in terms of dialogue with the participants in that important sector of the financial services industry.

The last point that I would like to make on that is for the actual licences of mutual funds registered in the Cayman Islands, it is being proposed that the fee be increased from \$1,025 to \$2,000. Now that particular fee was also increased in the year 2001 from approximately \$750 to \$1,025 and this year to \$2000.

The Cayman Islands has for many years been the jurisdiction of choice for new hedge funds being started up offshore. In fact, according to *hedgefundnews.com* one of the respected news sources for the hedge fund business, they have reported that in the year 2000, 60 percent of all new offshore hedge funds had chosen the Cayman Islands as their domicile. That, Madam Speaker, is a strong commanding share of that business. We have managed to create a legal framework that is efficient, thorough and it allows us to be a leader in this industry. That 60 percent increase in 2,000 equates to some 500 plus new funds being registered in the Cayman Islands. However, there is much work to be done in this area because the great majority of the new funds that are being registered in the Cayman Islands are being administered in other jurisdictions such as Dublin, Bermuda and Jersey.

Basically, what has happened in the mutual funds area is whilst registration has been on a steep incline, most mutual funds have most of their administrative functions performed in other jurisdictions. That is, all their books and records, their registrar and transfer agent work on share capital and shareholder correspondence. What has caused this? A number of factors have contributed to this. One would be the change in the rules in regards to the ability of service providers in Dublin to be able to provide administrative services for non-Dublin registered hedge funds. Coupled with this is the fact that Ireland, in particular Dublin, itself had suffered a great flight of accountants and auditors to jurisdictions such as the Cayman Islands, Bermuda and New York because the supply was outstripping the demand.

Those persons were coming to these jurisdictions and working for big five accounting firms and providing auditing services for these funds, working for mutual fund administrators as mutual fund accountants. The Irish Government has made a concerted effort to bring their accountants home to create job opportunities in their own home countries.

Whereas in the eighties and nineties there was an exodus of qualified accountants from Ireland. Many are now going back to that jurisdiction and taking up jobs as mutual fund accountants and auditors with auditing firms who provide auditing services for those mutual funds.

Madam Speaker, because of the ready available human expertise, that jurisdiction (Dublin) in particular, has been successful at attracting big hedge fund administrators such as Hemisphere to set up in Dublin and to provide the services of many funds that are actually domiciled in the Cayman Islands. All that the Cayman Islands Government itself is getting out of those mutual funds would be the annual registration fee and those other benefits. Therefore job creation in terms of mutual funds accountants, auditors and audit firms, are escaping and going elsewhere.

That is a trend that those in the industry in conjunction with the Monetary Authority and the Government would have to address. The business opportunities are not only going to other jurisdictions but we are having 60 percent of hedge funds being domiciled in Cayman without having other services provided here and our ability to demonstrate to the international community that we can effectively regulate those products is being challenged.

Certainly in recent times, the Monetary Authority has issued a policy whereby there will be a local audit sign-off requirement for funds registered in the Cayman Islands and I think that will assist the Monetary Authority being able to point to someone in the Cayman Islands that is actually providing a service for those mutual funds. Those of us who might not know what a local audit sign-off might require: let me explain just briefly. If a mutual fund for example is domiciled in Cayman, being administered in Dublin and being audited by Deloitte & Touche for example in Dublin, what will now happen is that once this requirement comes into effect, the Deloitte & Touche arm office here in Cayman will have to actually sign the audit opinion.

As an auditor, you are not going to just rely on your other office to have done a complete and thorough audit. What you will do is request them to provide you with the high-risk areas of the audit file, for example investments. You will also require them to send you their client acceptance section of the file. You will also require them to send you the entire planning file so that you could see that the audit was planned correctly. You will also require them to send you the audit summary file which will assure you that the audit was carried out effectively and indeed that all significant matters have been resolved and that the financial statements do provide a true and fair view of the mutual fund.

In this regard, it is not simply checking items on a list and then their firm in Cayman will sign. The firm in Cayman now has serious reputational risk regarding those mutual funds. They are the ones that are now signing off the audit opinion and so this does

provide some additional comfort to the Monetary Authority, to know that the auditors here in Cayman are now having to go through the "know your customer" section of the file for example and ensure that the office in the jurisdiction in which the fund is administered has indeed audited the clients' "know your customer" regulations. This will add a level of regulation from the standpoint of the Monetary Authority.

I did neglect to state the new proposed fees in regards to the banking industry and so the last thing that I would like to say this afternoon is about the new fees. Madam Speaker, it is proposed that a Class 'A' licence with a retail operation here in the Cayman Islands will incur a fee of some \$400,000 a year, an increase from \$123,000.

Class 'A' licensees who provide principal office services are also having a new fee structure proposed at \$250,000 a year. All the other class 'A' licensees will see their fee increased from \$102,000 to \$130,000.

The 'B' class licences which carry out certain other functions or are structured in a certain way will also see their fees increased. For example, the 'B' licence alone where the licence holder is a branch of a bank licence in a country or territory outside the Cayman Islands will see their fee increased from some \$21,525 to \$57,000. The 'B' licensee alone, who is a subsidiary of a bank licensed outside the Cayman Islands will also see their fee increased from \$22,500 to \$57,000.

This is on renewals, Madam Speaker. The renewal fee for the 'B' licence where the holder is not a subsidiary of a branch in a country outside the Cayman Islands will see their fee increased to some \$60,000. That is mainly due to the increased risks of those particular types of entities.

We see as we go down the line that the 'B' licence that has a trust licence attached to it will see their fee increased from \$21,525 to \$57,000.

**The Speaker:** Honourable Member, we have now reached the hour of interruption. Is this a convenient time or would you be finished within the next few seconds?

**Mr. Rolston M. Anglin:** Madam Speaker, I would be finished within the next two minutes with this section.

**The Speaker:** Please continue.

**Mr. Rolston M. Anglin:** The trust licence alone where the licence holder is a subsidiary of a bank in a country outside the Cayman Islands would see their fee increased from \$22,550 to \$57,000.

A restricted 'B' licence alone where the licence holder is a branch of a bank licensed outside the Cayman Islands would see their fee increased from some \$13,325 to \$37,000.

Restricted 'B' licence alone in the case where the licence holder is a subsidiary of a bank licensed in

a country or territory outside the Cayman Islands would go from \$14,350 to \$37,000. The 'B' licence where the holder is not a subsidiary would go from \$16,400 to \$40,000.

Similarly those restricted 'B' licence holders who have attached restricted trust licences would go up in similar or identical rates as the restricted 'B' licences without a trust licence. Madam Speaker, it has been a practice of issuing licences with a trust licence at no incremental cost. That has been a practice for many years in the Cayman Islands. A restricted trust licence alone would go from \$2,460 to \$6,000 and a nominee trust licence would go from \$2,050 to \$6,000.

I close off by saying that those fees were derived after consultation with the banking industry and those technocrats at the Monetary Authority who do regulate and oversee the banks. This is a budget that seeks to ensure that the financial services sector does contribute a fair share to the government coffers. This country is seeing for the first time in many years, as the Honourable Third Official Member has said in his address, "a truly balanced budget", a budget that seeks to broaden the tax base and to ensure that all stakeholders within the Cayman Islands do contribute their relative share to the funding of the Government.

**The Speaker:** Thank you, Honourable Member.

The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

## ADJOURNMENT

**Hon. Linford A. Pierson:** Thank you, Madam Speaker.

Madam Speaker, I beg to move the adjournment of this Honourable House until 10 am on Wednesday, 12 December.

**The Speaker:** The question is that this House do now adjourn until 10 am, Wednesday 12 December. Those in favour please say Aye. Those against, No.

## AYES

**The Speaker:** The Ayes have it. The Honourable House stands adjourned until 10 am Wednesday 12 December.

**AT 4.29 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 12 DECEMBER 2001.**



**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**12 DECEMBER 2001**  
**11.00 AM**  
*Fourth Sitting*

**The Speaker:** Good morning. I will call on the First Elected Member for George Town to say prayers.

**PRAYERS**

**Mr. D. Kurt Tibbetts:** Let us pray.

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

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

Let us say the Lord's Prayer together:

*Our Father who art in heaven, Hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil: For Thine is the kingdom, the power and the glory, forever and ever. Amen.*

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

**Proceedings resumed at 11.03 am**

**The Speaker:** Please be seated. Proceedings are resumed.

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

*(Administered by the Clerk)*

**OATH OF ALLEGIANCE**

*By Mr. A. Joel Walton JP*

**The Speaker:** Mr. Walton, will you please come to the Clerk's desk to take the oath, and will all Honourable Members please stand?

**Mr. A. Joel Walton:** I, A. Joel Walton, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors according to law, so help me God.

**The Speaker:** Honourable Member, I welcome you to this sitting of the House. Please take your seat and I look forward to the day when this should only be done once per year. Please be seated.

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

**APOLOGIES**

**The Speaker:** Honourable Members, I wish to apologise for the delay in commencement of proceedings this morning but it was in order to facilitate the transfer of the relevant documentation for the Honourable Third Official Member to be enacted here this morning.

I have received apologies from the Honourable Third Official Member responsible for Finance and Economic Development who is not well today. The Honourable Second Official Member will be arriving later this morning.

I should also wish to state for the benefit of Honourable Members that at 4 o'clock today I should move to suspend the proceedings so that the Deputy Speaker will have an opportunity to conclude the remaining of the proceedings to allow me to attend with His Excellency the Governor an official function in my constituency.

**The Speaker:** We have reached the hour of 11 am. Is there a motion to suspend Standing Orders 23(7) and (8)?

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

**Hon. W. McKeever Bush:** Madam Speaker, I move the suspension of the relevant Standing Order in order to take questions this morning.

**The Speaker:** The question is that Standing Order 23(7) and (8) be suspended to allow question time to



continue beyond 11 am. All those in favour say Aye. Those against, No.

## AYES

**The Speaker:** The Ayes have it. Question time is duly extended.

## AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED IN ORDER FOR QUESTION TIME TO CONTINUE BEYOND 11 AM.

**The Speaker:** The Fourth Elected Member for West Bay.

## QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS

### QUESTION NO. 125

*(Deferred Monday 10 December)*

**No. 125: Mr. Cline A. Glidden Jr.** asked the Honourable Minister responsible for Planning, Communications, Works and Information Technology, that in light of the current economic situation in the Cayman Islands if there are any planned or ongoing negotiations with Caribbean Utilities Company, with a view to decreasing their capital costs, thereby reducing their rates.

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Caribbean Utilities Company Ltd. has recently announced to Government and the public that it (CUC) has agreed to forego the rate increase of 2 percent in respect of the fiscal year ending 30 April 2001. According to CUC, this decision was taken in the light of the economic slowdown following the 11 September disasters in the United States of America.

CUC has also advised that it is committed to conducting a full and proper allocated cost of service study with a view of having this completed no later than May 2003. Government has indicated to CUC that there should be no further rate increases until this study has been completed and reviewed by Government.

Since recently being made responsible for the subject of CUC, my Ministry has already begun preliminary groundwork for an in-depth examination of the CUC franchise including matters relating but not limited to its rate of return, capital and asset structure and fuel factor calculations. While it is too early for me to be in a position to provide Members of this Honourable House with a full update or specific details, I want to take this opportunity to give my personal assurance that this matter is a top priority for my Ministry.

**The Speaker:** Thank you Honourable Minister. Are there any supplementaries?

The Second Elected Member for Cayman Brac and Little Cayman.

## SUPPLEMENTARIES

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker.

Through you, I would ask for a commitment from the Minister for Planning, Communications, Works and Information Technology to also include Cayman Brac's Power and Light Company under his review, with the hope of also benefiting the people of Cayman Brac and Little Cayman in any future reductions that may come about.

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. I am pleased to give the Second Elected Member for Cayman Brac and Little Cayman, and indeed you, Madam Speaker, the commitment to include the Cayman Brac Power and Light Company in this exercise.

**The Speaker:** Any further supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I just wonder if the Minister could say if, in this review, Government will be using consultants who are experienced in the related field?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, it has been my position not only during this administration, but whilst I was Minister 1988 to 1992 that in any of these technical matters, I use consultants who are experienced in the particular subject.

**The Speaker:** If there are no further supplementaries shall we move on to the next?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I wonder if the Minister could tell us how Government intends to hire those consultants, that is, the process that would be conducted to hire those consultants.

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, there is a well established procedure within Government on the appointment of consultants. I am not in a position to give all the details of that here but I am sure that the Honourable Member can get that information in writing if he so requires or otherwise he could check with the Personnel Department, but there is indeed a proper procedure in place and that procedure will be followed by my Ministry.

**The Speaker:** Are there any further supplementaries at this time? If not, we will move on to the next question.

**QUESTION NO. 128**  
(Deferred)

**The Speaker:** The Second Elected Member for George Town.

**No. 128: Mr. Alden M. McLaughlin Jr.** asked the Honourable Minister responsible for Tourism, Environment, Development and Commerce what is the current employment status of the Director of the Port Authority?

**The Speaker:** The Honourable Minister responsible for Tourism, Environment, Development and Commerce.

**Hon. W. McKeeva Bush:** Madam Speaker, thank you very much. I would like to move under Standing Order 23(5) to defer Question 128 on today's Order Paper and give the assurance to the Member asking the Question that an answer will be forthcoming shortly.

**The Speaker:** The question is that Standing Order 23 (5) be moved at this time. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Standing Order is duly approved with the consent of the House and the question shall be forthcoming in due course.

**AGREED. QUESTION NO. 128 DEFERRED.**

**The Speaker:** The Honourable Minister for Tourism, Environment, Development and Commerce.

**Hon. W. McKeeva Bush:** Madam Speaker, I would move, out of an abundance of caution, to suspend Standing Orders in order to have the statement read.

**SUSPENSION OF STANDING ORDERS  
TO ALLOW A STATEMENT TO BE READ WITHOUT  
THE ITEM HAVING BEEN PLACED UPON THE  
ORDER PAPER**

**The Speaker:** The question is that the relevant Standing Orders be duly suspended so that a necessary statement by the Leader of Government Business can be read into the record at this time. All those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it. Please proceed.

**AGREED. STANDING ORDERS SUSPENDED TO  
ALLOW A STATEMENT TO BE READ.**

**STATEMENTS BY MEMBERS OF  
THE GOVERNMENT**

**GRANTS OF CAYMANIAN STATUS**

**Hon. W. McKeeva Bush:** Thank you very much Madam Speaker. In recent days the Immigration Board has published the names of those persons who have been granted Caymanian status. On behalf of the United Democratic Party Government, I wish to congratulate and welcome all of our new Caymanians into our Caymanian society.

The United Democratic Party Government stands committed to resolving the issues of security of tenure for those families and individuals who have been long term residents in the Cayman Islands. Much deliberation and consideration has gone into seeking a solution to this challenge. As a first step, the Government is pleased to announce that the Immigration Board will be directed to give favourable consideration for the grant of permanent residence to those most recent unsuccessful applicants for Caymanian Status who wish to make such application. It is our understanding that most of the documentation, that is financial statements, land registry records, et cetera have already been submitted with the application for Caymanian Status.

All that may be necessary would be a formal application and the necessary application fee. This is the format that we will be proposing to Immigration Board in order to simplify the process.

Altogether, the United Democratic Party Government intends to recommend the granting of permanent residence for up to 1,000 applicants. The Immigration Board will, of course, deal with each application on its merits giving consideration to the length of the applicants' residence as well as their contribution to our society.

The United Democratic Party Government is convinced the grant of permanent residence should include with it the right to work and as a result, the Government intends to introduce legislation to make this possible. This would relieve the need for a permanent resident to obtain a separate work permit as the situation now exists.

The United Democratic Party Government considers that this decision will impact positively on

the lives of those individuals and families who have long lived in, contributed to and consider the Cayman Islands their home.

Thank you very much, Madam Speaker, and I thank Members for their indulgence.

**The Speaker:** The Second Elected Member for George Town, is it your intention to ask a short question?

**Mr. Alden M. McLaughlin, Jr.:** Yes, with your permission, Madam Speaker.

**The Speaker:** Please proceed under Standing Order No. 32.

### SHORT QUESTIONS – STANDING ORDER 30(2)

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I wonder if the Honourable Minister for Tourism could say whether this decision in relation to the question of permanent residence will render unnecessary the preparation of the second interim report on immigration reform, which was required by a motion of this Honourable House and was to be carried out by the Immigration Review Team, who has just submitted its first interim report?

**The Speaker:** Honourable Member, I have listened to that and in my view it is seeking an opinion from an individual, but if the Honourable Minister wishes to reply, he can so do.

**Hon. W. McKeeva Bush:** Madam Speaker, the answer is no.

**The Speaker:** Are there any other short questions?

**Mr. Alden M. McLaughlin, Jr.:** With your permission, I would be most grateful as a member of that team if the Honourable Minister could expand upon his answer a bit more.

**The Speaker:** The Honourable Minister responsible for Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Madam Speaker, the Member asked a question about rendering unnecessary the report and I said no. I did not hear anything about a second phase if that is what he is asking. I would hope that it certainly stands. As far as the Government is concerned, once the report continues, we would not stop it. We would hope that it would delve further into the needs of Immigration.

**The Speaker:** Last short question.

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I was not seeking to pick a fight with the Honourable Minister. Three reports were required. The second report dealt with the issue or was to deal with the issue of permanent residence and Caymanian status, hence my question. As the decision has been taken in relation to the question of permanent residence, I was seeking an explanation from the Honourable Minister as to whether the remit of the review team has now been altered or changed in respect to that.

**The Speaker:** The Honourable Minister of Tourism, Environment and Transport.

**Hon. W. McKeeva Bush:** Madam Speaker, I think what I have said is very clear and unambiguous. I have said no. I think the Member ought to understand that.

**The Speaker:** Madam Clerk, the next item of business.

The Second Elected Member from the District of West Bay continuing the debate. I should wish to indicate that you have 50 minutes remaining.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

#### THE APPROPRIATION (2002) BILL, 2001

#### DEBATE ON THE BUDGET ADDRESS

*(Continuation of debate thereon)*

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker.

Madam Speaker, when we adjourned proceedings on Monday of this week, I had dealt with the critical policy matters that had been raised in the Budget Address of the Honourable Third Official Member. There are five major features that he had utilised to describe the past three decades of economic development in the Cayman Islands. I also looked at the five main principles under which the new Government would proceed.

In regard to economic development within the Cayman Islands, I also looked at the need for public sector reform and finally at the budget strategies, which is where I had left off on Monday. I made it clear that I would be dwelling much more on the overall policy statement the Budget seeks to make as well as at the revenue measures being proposed. I think I had made it abundantly clear that there is often a temptation to take the proposed Budget and to look at the minute details that are contained within specific Ministries and Portfolios, versus looking at the overall

strategy and the direction that the Budget seeks to take the country.

I made it clear that I would not have employed that strategy. I also, by way of background, looked at the financial industry. I also compared how it is that persons who conduct business in the financial industry in the Cayman Islands compare with other jurisdictions such as Bermuda. I looked at how the government in the overseas territory of Bermuda sought to raise revenue which had as key components a payroll tax and a social insurance programme, which were in addition to items such as health insurance and pension contributions. The latter two also exist within the Cayman Islands but the former, that is, payroll taxes and social insurance, do not.

With that backdrop, I wish to proceed with my review of the actual revenue measures package which would have been point eight on the ten point list that I had outlined on Monday. That was namely the state of the domestic economy; the Cayman Islands economic triangle; and taking a look back at last year's Budget Address; the impact of the prior year Budget; and the financial services industry. I also looked at what other Honourable Members and I had said in relation to the financial services industry during the last Budget Address and I am on point eight which was looking at the revenue measures. After that I will look briefly at the way forward in terms of the budget process and last but not least an item of great significance and that is where we hope to be once that review of the Budget process has taken place.

Madam Speaker, I looked at the revenue measures up to point nine on the spreadsheet which has been presented to all Honourable Members. It has dealt with the mutual funds industry and I now move on to item 10 which deals with the issue of insurance licences. The recommendation in the Budget that has come forward in terms of the proposed revenue measures are to seek to increase the licence fees paid by certain classes of insurance companies and to also increase the fees of insurance managers, insurance brokers and insurance agents.

In regard to class 'A' insurance licence holders, it is proposed that their fee will increase from \$20,000 to \$30,000 a year. In regard to both types of class 'B'—that is unrestricted and restricted licence holders—it is proposed that the fee be increased from \$5,500 to \$7,000 dollars. In regard to insurance managers, it is recommended that the fee be stratified on the basis of the number of clients that the particular insurance manager undertakes to provide managerial services to. It is proposed in the Budget that for those who manage one to ten clients, the fee would be \$15,000 from \$10,000; those who are managing 11 to 50 clients the fee would go from \$12,000 to \$20,000; those who are managing 51 through 100 clients, the fee would go from \$16,000 to \$25,000 and for those who manage over 100 clients it would go from \$20,000 to \$30,000. In regard to insurance brokers, the fee would be \$4,500, an increase from \$2,400;

and for agents, the fee would go from \$250 to \$400 dollars per annum.

Madam Speaker, as I outlined in my contribution on Monday, one of the things that we sought to do was to involve those in the governmental side of the industry, namely the Monetary Authority and other agencies that deal directly with the relevant industries within the financial services sector.

The next item is point 11 which deals with a new proposal which is to have certain professional service firms pay an annual licence fee in order to operate within the Cayman Islands.

Firstly, accounting and auditing firms. It is proposed that all these fees also be dealt with on a stratified basis. However, in this specific industry where there are varying sizes of firms, it was felt that the more appropriate basis to utilise the exercise would have been the number of professionals who are employed by the firm. To clarify that point, it would be the number of relevant professionals within the firm. I say that to mean, for example, within a law firm it would not be expected that they would include their financial controller for instance in their count of relevant professionals. That would not necessarily include information technology persons who have a professional qualification. The basis on this will be whether or not that particular professional is providing professional service firms with services to the firm's clients and not to the firm themselves.

Further clarification, Madam Speaker—in my earlier examples, indeed the financial controller would be the controller for the firm itself and so would not be providing services to the firms' clients and would not be an income earning professional for the firm itself. I think that point is a very relevant and a very specific one because, certainly, some of the firms would employ, in fact all the firms would employ, other professionals who are not within their specific discipline.

However, if an accounting and audit firm, for example, had set up a trust company which was directly a part of the entire group, then those professionals would have to be included in the firm's count of professionals, in regard to their annual trade licence. If, for example, the firm provided liquidation services and had set up a separate and distinct company to provide those services, then, indeed, that specific company's professionals would form part of the count in regard to the actual trader licence fee. This specific stratification based on the number of professionals deals with the group of companies. In other words, if you have an individual firm that has a number of companies that form part of the overall group and they provide services, then all the professionals would be included. However, those professionals who provide services directly to the firm's internal purposes such as their accountant, if it is a law firm or an architecture firm, they would not be included in the count because they would not be a professional who directly impacts the revenue capability of the professional services firm.

It is proposed in regard to accounting or audit firms that if the firm has one to five accountants and other professionals qualified in other disciplines that impact directly on the revenue capability of the firm, that specific firm would be exempt from any trader licence requirement. The reason for the exemption is primarily due to the fact that the Government believes it necessary to encourage those Caymanians who wish to start their own practices to do so. This exemption seeks to give them that capability in the early years in which they seek to grow.

In other words, Madam Speaker, if a single lawyer were to desire to go out and practise, he would not have to pay any trader licence fee. What would happen is, as his firm continues to grow, up to five lawyers would be exempt. The same would be for accounting firms. For six to 10 accountants and for other professionals directly related to the group, the fee would be \$15,000; 11 to 15 persons it would be \$30,000; 16 to 20 would be \$45,000; 21 to 25 would be \$160,000; and 26 and over would be \$300,000. In regard to law firms, the bands would be one to five lawyers would be exempt; six to 10 lawyers would be \$50,000; 11 to 25 lawyers would be \$150,000; and 26 and above would be \$300,000.

In regard to other professional firms, which include any professional association of firms who work together and are required to have some specific professional designation in order to carry out their duties such as architects, engineers, actuarial or any such professionals, again one to five professionals would be exempt from the annual trader licence fee requirement. Six to 10 would be required to pay an annual fee of \$15,000; 11 to 15 would be \$25,000; 16 to 20 would be \$40,000; 21 to 25, \$50,000; 26 and above would be \$100,000.

Madam Speaker, I think it is fair to say at this point, that certainly within the Caymanian economy, over the years professional service firms—in particular accounting, law, architecture and engineering firms—have enjoyed the ability to practise within this country without having to contribute to the running of the country in what we would believe to be a real and tangible way. There would be those who get up and argue that they pay work permit fees. However, every person in this country who employs a foreign national has to pay a work permit fee. Certainly, the persons in those industries have provided indirect contributions to the Caymanian economy, but indeed so has everyone else.

I want to make it abundantly clear that this Government seeks to encourage profitable firms, firms that have positive growth potential. We seek to work with those firms to ensure that we would be open to any necessary legislation and policies that need to be made, because we recognise that they are the ones that are out there practising and oftentimes can provide invaluable insight as to how, by natural extension, their specific firms can grow.

When we look at the Overseas Territory of Bermuda, with whom we often compare ourselves, we see they have a system of direct taxation. That allows their Government to balance their budgets, to operate as a country and to maintain the infrastructure so vital for good tourism and financial services products. It allows them, Madam Speaker, to invest the necessary money in the people in terms of education, to provide local persons with the opportunities and the abilities and the skill sets to make their way into these specific industries, to be employed and to contribute to those companies.

I think it is fair to say that over the years here in the Cayman Islands there has been what I would term a virtual free ride for many firms within the professional industries, within the financial sector. It is so funny how we will have individuals who come to these Islands from countries that impose a direct form of income taxation, see the situation and some of whom would seek to say that this or any Government would be unreasonable to expect them to contribute their respective share to the running of the country. That is somewhat laughable. I believe that when the great majority of persons within these industries look at the current situation in the country and at the good of the country, they would recognise that as a government we could not continue to go down the road of spiralling debt which in itself will give great concern for long-term sustainability.

When you have a country that is debt-laden and seeks to tax itself in this indirect fashion, we have to be extremely cautious. Countries that have direct forms of taxation can in some tangible way predict their revenue streams and see how they are going to pay off or service their debt. This country is currently paying substantial amounts in regard to the repayment of debt. We know—those of us who have taken the time to look at the White Paper, the Partnership for Progress and Prosperity—it is rightly stated in black and white that the United Kingdom views all Overseas Territories as contingent liabilities. Therefore, Her Majesty's Government is not going to sit idly by and watch her Overseas Territories not manage their fiscal affairs in a prudent manner. I said on Monday that having the United Kingdom Government send an economist to work with the Financial Secretary in his office was a step backwards for us here in the Cayman Islands.

However, if we look at our recent financial performance as a Government, one can rightly understand why Her Majesty's Government would take this decision at this point in time. It would be blind and ignorant of us to sit here and try to tell the people of this country that that move was simply done to help us. It was also done, with all due respect, to ensure that Her Majesty's Government's contingent liabilities within this territory do not continue to escalate. It was done to ensure that we practice fiscal prudence, that we prioritise our spending and to ensure that we come up with sustainable economic plans. We boast about be-

ing the fifth largest financial centre in the world; yet we cannot manage to balance up until now in a real tangible way a \$300 million dollar budget.

We have just come out of a general election in which there was no person, party or group who came forward with a tangible economic plan for the country. How is it that we expect to enjoy all the benefits that come along with the development we have had so far, yet also expect to not have ourselves organised? We expect to have proper planning and to focus on that long-term planning. We want to ensure the electorate recognise that it is fine to make good and sound promises and to say what it is that you are going to do, but recognise at the end of the day that it is Government's budget, fiscal capability and capability to raise the adequate revenue that is the premise and base upon which all those promises have to be delivered.

I now turn to the issue of parking fees. The fiscal advisory group made a recommendation to the Government that the Government should seek to derive some revenue out of and from the properties that it owns here in central George Town. For many years the parking behind the Public Library and the parking along the sides of many streets here in George Town have been provided for free. This current Government proposes that there would be a fee charged for the usage of those parking facilities. It is also the intention of the Government to utilise existing machinery in order to make this specific item a reality.

There is a proposal before the Government to have a system that is tested and tried in another territory to actually administer the parking system. There would be parking tickets which would be sold to the public from the Department of Licensing that would allow the public to display within its windshield its ticket for any specific day. The tickets themselves, will be really easy to use, will be extremely user friendly and will allow the public to be able to utilise its pre-purchased parking tickets without having to go through the process of having to carry around things like small change that would be required if a decision to have a parking meters had been approved. Further details on the specifics of this plan will be rolled out in due course.

What is of interest is the projected revenue regarding this system. A study was undertaken by a professional within the public service who actually specialises within the area of roads and traffic engineering. An account was taken of all the available parking spaces within the Cayman Islands and the actual rate was applied to those parking spaces on the basis of a seven and a half hour day. So, in other words, once we get outside business hours as is the case in many other countries and many other territories, parking becomes free of charge.

Moving on to Health Services fees, it has been known for many years that there has been a dire need for an increase and an introduction of specific charges within the Health Services Department. In

fact, there are some 600 procedures not currently specified on the fee schedule of the Health Services Department, for the vast majority of these revenues were not, as I understand it, actually being collected.

There has also been a review of the specific fees to ensure that the fees are being charged at the cost that it actually costs the Health Service Department to provide those services to the public. This item goes quite well with the current review taking place regarding the Health Insurance Law. It is envisioned that in the future, the fees charged will become standardised somewhat across health services providers. It is also envisioned that the Health Insurance Law will seek to ensure that insurance companies do not just give our citizens, in some instances, an inexcusable run-around regarding paying out on claims. This is a critical and necessary element to this proposal because, it would be unacceptable to not only the public but to the professionals in this department, who over the years have been criticised when in fact they themselves cannot come down here and vote for fees. So, we must ensure that the cost it takes the Government to provide services is indeed recouped regarding the fees that the Government charges.

There is one item that I did omit and I will just go back quickly to item 12. I apologise for that. There is a proposed annual licence fee for company management firms, which will also be similar to the insurance company managers and stratified according to the number of companies they actually manage. For one to five companies under management, there will be an exemption; six to 10 companies there will be an annual fee of \$1,500; 11 to 15 companies under management, a fee of \$2,500; 16 to 20 companies under management would attract a fee of \$3,500; 21 to 25 companies under management, a fee of \$5,000; and 26 plus companies under management—a fee of \$7,500.

Madam Speaker, it is also envisioned that the actual companies which are under management would see a fee increase per annum in regard to their payment to the Government of \$20 to \$50. A fee in respect of each company that has a registered office in the Cayman Islands would be introduced and that fee would be \$25 per year.

I think that there is wide support within the Chamber for ensuring that the financial services sector does pay its fair share in regard to the running of this country. As is with all policies, more than likely, there will be disagreement on how we go about doing it. I believe that this is a step in the right direction. Obviously with these things, there is never a perfect solution and indeed they are nothing more than a work in process. I think it is fair to say also that the proposed fees, especially in the area of the banking industry, would be seen to be fairly stationary for the years to come. We do believe that this is a realignment necessary for the good governance of the Cayman Islands. At this junction in our history, we believe it is critical that the country is able to raise the revenues that will

allow us to run it in a manner so vital and necessary, for us to continue to enjoy the lifestyle and to sustain the infrastructure that is also vital for our economic prosperity.

Lastly I would like to turn to table 2 in the actual Budget document and say that the format of this table has been changed. It has been changed to allow clarity; to allow the ordinary man to be able to see in the table what the proposed financial position is after the Budget. For many years, this table has been used and in fact I think it was about three or four years ago that this table was actually changed. That change made the interpretation of surplus and deficits much more confusing. This table now is a key to open and transparent government. The table clearly outlines the country's recurrent revenue, the recurrent and statutory expenditure and therefore the surplus or deficit.

In the case of this Budget, it is proposed that the revenue would be some \$335 million. The recurrent expenditure would be \$269.85 million. The statutory expenditure would be some \$49.79 million creating, an operating surplus of some \$15.43 million, a capital acquisition expenditure proposal of \$5.03 million, leaving a net operating surplus of \$10.4 million. Madam Speaker, that is the surplus or deficit statement of the Budget; clearly, there is nothing commingled in there that should not be such as borrowings. Now, I believe the country can clearly see where the Budget is seeking to take it financially.

It then continues on to show the uses of that net operating surplus and naturally once you include in this, as has been done, the brought-forward General Revenue Fund position, we are then able to show what the accumulated balance in the General Revenue Fund will be at the end of the year. So, it transitions in a very clear fashion from the impact what the Budget will have on the current year and then transcends into what is projected to be in the General Revenue Fund of the country at the end of that year. Under this Budget, it is envisioned that there would be, as I said earlier, a net operating surplus of some \$10.4 million.

There would be the financing of a forecasted General Revenue Fund deficit as at 31 December 2001 of some \$8.05 million; a transfer to the General Reserve Fund of some \$1.5 million; a transfer to other reserve funds of some \$0.73 million – that would be \$0.23 million to the Housing Reserve Fund; \$0.1 million to the Student Loan Reserve Fund; \$0.4 million to the National Disaster Fund, amounting to the total of the \$0.73 million. Additionally, there is a transfer to the Capital Development Fund of \$0.1 million which comes down to \$0.02 million positive existing in the General Revenue Fund of the country as at 31 December 2002.

It should be noted at this point how it is that table 2 relates to table 2B which I spent some time dealing with on Monday. Table 2B has shown that for the year 2001, there is going to be an accumulated carry-forward deficit of \$8.05 million. What is of inter-

est is the fact that some \$7 million from the General Reserve Fund will be utilised to fund the projected deficit. So, if that \$7 million was not utilised, the carry-forward deficit would have been some \$15.05 million. Included in this was a brought-forward deficit of some \$10.18 million from the year ended 31 December 2000. This year, the \$8.05 million is funded by the projected net operating surplus.

Madam Speaker, there are indeed some systemic problems in the way we carry out this Budget exercise. There needs to be a greater emphasis on timing, ensuring that this process starts much earlier in the year in a real tangible way. Broad based involvement in the development of the Budget must happen. There is a great need for additional information to be a part of the development of the Budget.

It is envisioned that a comprehensive database will be constructed commencing in January 2002 with relevant statistical information regarding the various sectors of the Caymanian economy. There has been a difficulty for years in obtaining information from various firms within the private sector. I say to them that if there is going to be a partnership between themselves and government, and if the Government is going to be able to prepare a budget that is indeed the best possible budget, we must have greater access to information.

**The Speaker:** Honourable Member, I should wish to indicate that you have five minutes remaining.

**Mr. Rolston M. Anglin:** Thank you Madam Speaker.

Over the years this has been an inhibiting factor to past governments. We must ensure that when we develop a budget, we do proper sensitivity analysis and that we have the information to do this.

I must admit that there are numerous persons in the public service in particular in the Monetary Authority, who can give great guidance in this area because they live in these industries day to day and from year to year, so they know how specific sectors will react. However, we must build on that positive and we must ensure that, in the future, this process is one of priority and the Government is committed to ensuring that this happens.

I would lastly just like to say that the Budget before us is one that takes political will. It is one that we believe is in the best interests of all citizens of these Cayman Islands. We must ensure what the Cayman Islands have toiled and worked so hard to build does not fall apart simply because the Government does not have the courage or knowledge to raise the revenue required to run the country and would seek to continue the upward debt spiral. It is clear from this Budget, the first Budget of the United Democratic Party, that would not be the route taken.

Lastly, I would like to thank a lot of people who were so involved in this Budget. They include: the Honourable Third Official Member; Mr. Peter Gough who is the Manager of the Budget and Management

Unit; Mr. Ken Jefferson, the Assistant Financial Secretary; the Honourable Linford Pierson for his leadership for developing this Budget; my other Honourable colleagues on the Backbench Budget and indeed all the Members of the United Democratic Party. Lastly I would like to wish all the persons and residents of the Cayman Islands a happy and prosperous New Year, and a safe and blessed Christmas. I believe that the majority of the citizens in this country can go into the holiday season knowing that the Government is proposing a responsible budget.

I thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Member. At this time, I shall suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 12.08 PM

#### PROCEEDINGS RESUMED AT 12.33 PM

**The Speaker:** Please be seated. Proceedings are resumed.

Does any Member wish to speak? Does any Member wish to speak? Does any Member wish to speak? Last call, does any Member wish to speak?

The First Elected Member for George Town.

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

In addressing this issue of the Budget, I think perhaps, for me, the first step, the first situation that needs to occur and maybe for the information of the public, is the process, as I know it, in a nutshell needs to be explained. When it is time for the preparation of the Budget to begin, the first thing that is done is the strategic policy statement, having been agreed by Council, is sent out to the Ministries and Portfolios for the chief officers to disseminate to the Heads of Departments. That document, as I know it, is called the Budget all circular and the strategic policy statement. That becomes the guideline for which the preparation of the estimates of expenditure and whatever revenue is to be collected from the various departments is collated together.

When all of that is done in line with the guidelines which are set out in the statement, then each of the various Ministries and Portfolios start to gather all of this information in line with the reality checks necessary. The Budget and Management Unit comes on board meeting with the various Heads of Departments and goes through the various items to fine-tune it as best as possible.

When all of this is then collated, and you look at what are the various targets, what your expenditure and revenue levels are at that point in time, and you see where the differences are; you then do whatever is necessary at that point in time to bring about a balanced situation. Perhaps my perspective would be a little bit different from what may have been or what will be said but I think it is important from my position, to

be very clear about where we were and how we got to where we are.

Before receiving the draft estimates and before hearing the Honourable Third Official Member deliver the Budget Address, the knowledge I have regarding where we were was the Budget Management Unit had just about completed meeting with the Permanent Secretaries and Heads of Departments and collating all of that information together. On Thursday, 1 November, while speaking with the Honourable Third Official Member about another matter concerning a meeting we were going to have the very next day, he mentioned to me that the first draft had been completed and the targets were set. When all the expenditure was totalled out, it was approximately \$12 million over the target. Those targets had been set at 5 percent below the 2001 revised estimates.

I had not actually seen the completed document. I did find out on the Monday morning that it had been circulated because he did say to me that he would have been discussing the matter in Council the following Tuesday. So, I did not really know what the revenue was like and from a conversation with him, I only got to understand where the expenditure level was.

Now after all of that is done the Budget review committee, which by standard is usually comprised of the Members of Executive Council, would then have perused the first draft and made the various decisions with regard to what could and could not be done. Following that, Council would have to take a look at the capital expenditure, decide on what the priorities were and what level of expenditure could be dealt with. Of course, there would have been discussions at that point in time with the Backbench Members of the Legislative Assembly because then they would have seen the complete picture and everyone else would have known the whole situation. Fortunately or unfortunately, depending on how and through whose spectacles it is being looked at, that is exactly where we were at by Friday 2 November.

Having experienced the process to that point, I just wish to make it very clear that since then I know of nothing other than the documentation I have received. I therefore, had to begin my contribution to the debate by explaining it all so that the perspective I may bring, will be clearly understood.

Madam Speaker, to go back again to set the stage correctly, the Budget was prepared in March this year because it was an election year in 2000. It is customary that the Budget for the following year is not dealt with until the March Sitting. When that was being done, those directly involved were finding out information as we went along. Given the situation with revenue it was obvious at that point in time, that there was going to be almost an impossible task, well not almost, but literally an impossible task, to create a balanced budget.

Now there were long and arduous attempts to try to cut the recurrent expenditure down to the best



acceptable level possible without interfering to any huge degree with the level of services that were deemed necessary to be provided by the Public Sector. Those attempts were completed and we looked at what we thought were possible revenue measures at the time.

One of the discoveries made during that time, which helped to make the shortfall as great as it was, was the fact that some duties were taken off a list of items and this was done on the same day that the previous Budget—that is the Budget for 2002—was being delivered. While there are no statistical sets of data to specify exactly what that amount equated to, the closest estimate that the Customs Department could come to was somewhere between \$10 and \$14 million.

What had transpired then was that the revenue estimates had been prepared based on the duty remaining on those items. The fact that they were taken off on the day of the delivery of that 2000 Budget meant that revenues had not been adjusted downwards accordingly. Therefore, we had the revenues left as they were but the duty taken off and basically without any real knowledge, there was an immediate setback of somewhere between \$10 and \$14 million with regard to the revenue that was projected for the year 2000.

Having made that discovery and understanding the serious financial position the country was in, it was decided that for some of those items the duty would have had to be put back on, which was done. That was not something that I think anyone of us wish to have to deal with but it was something that given the circumstance, it was impossible to deal with otherwise.

The majority of the other revenue measures which were dealt with came close to \$9 million. That was not all of the additional revenue measures but close to some \$9 million of increase in fees were also dealt with within the financial industry. However, this was with the full knowledge for year 2001, I think it is safe comment to say just about nearly, if not all of that revenue, would not have been realised because the Budget was done in March and the majority of these fees are paid by the service providers at the very beginning of the year.

Therefore, we knew we would not realise that additional revenue during this year 2001, but we still went ahead and did that with the expectations for 2002 and also to inform the financial industry. I am using the term financial industry in the broad sense, the service providers, not just the financial institutions but the corporate bodies and the accountants, lawyers and those other institutions that fall into that category. We let the financial industry know that we would have had to look at a phased approach over the next three years to bring the revenue stream in line and certainly they would have had to be contributing more than they had been.

To retain the indirect taxation status we had, fair contribution to central government would have been expected in order to provide the services, the necessities to run the country and to maintain the social harmony and stability. It was going to be totally necessary to be able to do so without entering into a continuing deficit spiral. So, we were aware of what the situation was from the very beginning. Of course, coupled with that, it was very obvious to us at the time that the revenues from the ongoing fees and duties which Government depended on were going to fall. This was due to the state of the world economy, (of which the Cayman Islands was no exception), leaning towards a trend that was downward and certainly there were no expectations of any increased revenue in those areas.

There is a point right here that I think needs to be clearly understood. There was no situation that could have rectified the total borrowing of some \$55 million including the borrowing for capital expenditure even with the same mind that the present Government has claimed as “a Government with courage to do what is necessary”. The point has been put forward, regarding the revenue measures that are here now, to say that they will rectify the situation and either by inuendo or otherwise it seems like that should have been done then. As I have explained, the fact is those fees which make up the majority of the revenue measures being put forward now, most of them are always paid within the first 30 days and probably all of them, within the first 60 days of the year. So, that would have not made any difference with the financial position at that time.

When we compare the year 2001 estimates and the end results with what is being proposed now for 2002, it would have not have made any difference whatsoever. I just want to make that point very, very clear. You see again, it just depends on whose eyes are looking at the situation and how their perception is. So when it is said that table 2B presents a horrific picture, if the statement is left on its own I have to agree with it. The points of debate lean towards there being plenty of different options, so that is why I draw the comparison and try to make the point very clear.

Therefore, having realised where the country was at, there was a position that had to be dealt with and it was basically a simple position. To accept that successive administrations did not perceive it as necessary at the time and had not paid great attention to the fact that while revenues naturally increased due to Cayman's boom years, an increase in consumption; additional companies being registered and so on; it was paralleled by the Public Service with an increase in expenditure which was outstripping the revenue.

If you look at any one individual year over the past ten years, it probably does not show anything significantly alarming. However, if you look at each corresponding year and look at the recurrent revenue compared to the recurrent expenditure, it is quite easy to understand that recurrent expenditure was on the

rise at a level that was much higher than recurrent revenue. So, that is how we found ourselves in the position that the country was in.

Those of us who were here before the 2000 elections will remember clearly that from just about every corner on the Backbench, there was the cry to look at that because it was a problem. Some people on the Government Bench took the view at the time that it was nothing to worry about because everything was still going smoothly and finely. Nevertheless, there were several of us who could see the trend and to continue to point that out.

We had to accept that was the position we found ourselves in and to look very carefully at expenditure from the point of view of Central Government, as to how we could marry the creation of certain efficiencies along with curbing expenditure to bring that down or to (as has been termed prior to this), stop the runaway train. I think there is no argument from anyone that that was something which had to be addressed. At the same point in time, in the same breath, we had to look at increasing the level of revenue. This was more important because of the fact that natural circumstances were causing existing projected revenue streams to lessen. That was what I think in a nutshell the country faced then, and probably will face for a while to come, because it certainly is not over yet.

If we accept those premises that I have basically outlined and we move forward during the course of the year, then perhaps we have to be looking at the specifics of these areas. I see your signal, Madam Speaker, perhaps that is what I will begin with after the luncheon break.

**The Speaker:** Thank you Honourable Member. At this time, we will now suspend until 2.30 pm for the luncheon break.

#### PROCEEDINGS SUSPENDED AT 1.03 PM

#### PROCEEDINGS RESUMED AT 2.40 PM

**The Speaker:** Proceedings are resumed. Please be seated.

The First Elected Member for George Town continuing the debate.

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

When we took the luncheon break I had just taken a few minutes to outline a little bit of what had gone on up to the point of 2 November and perhaps now I may spend a few minutes on the actual Budget Address.

When the Honourable Third Official Member delivered his address, some specific areas were pointed out, which perhaps require a little bit of comment and the previous speaker made mention during his contribution. The Honourable Financial Secretary spoke to summarising the economic development ex-

perience of the Cayman Islands over the last three decades. He spoke to five major features that could be used to give summary. The third of these features was when he spoke to substantial levels of public and private sector collaboration. He mentioned that this has been very effective in promoting economic development but he asked the question about collaboration of the social and environmental sectors. I want to point out that as early as December of 2000, there was some discussion regarding environmental and sustainable development.

Madam Speaker, I trust you will bear with me because some bright soul may think what I am going to say is irrelevant. However, I am confident in what I am saying and the relevance will be borne out.

In all that we speak to regarding budget matters, implementation of policies, we need to perhaps appreciate the difference and similarity; independence and the interdependence of the Civil Service and the Executive Branch of Government. Unfortunately for us, with all of the good things that have happened in the country, I think a fair comment is that we have arrived at a point now where it is fairly obvious that the interdependence (although there is a clear independence of each from the other) is very important if we are going to be able to deal with the issues facing us in a meaningful manner, without having to engage in shock treatment perpetually.

We have to be looking at revenue and we will probably have to do so for as long as any one of us is here, even the ones who have just arrived here and if they stay for a long time, it is just the nature of government. You may face a situation where, if all concerned are not with the same mindset, you run into the problem of the implementation being (perhaps for lack of a better way of saying it), the sole concentration of a certain arm. There will not be enough regard for the blend that has to be made between being able to implement the policies and execute the provision of services. Bearing in mind that there are always tenuous limitations to the resources, you still have to be able to provide the services.

I think through no individual's fault, but simply because over the years the system just evolved into that, that too has been a problem we had to face in the country. I believe that one of the very important ingredients to bring about any meaningful strides forward is going to be continuation of getting a common mindset to all concerned. I also believe that it is fair comment to say that this is something that is happening now. I cannot say that has been happening for a very long time but it has been happening and it is certainly going to make a difference if we can continue to accomplish that.

However, in doing so we also have to ensure that we provide the individuals with the right framework from within which they can achieve their goals and we also have to ensure that they have the right tools to work with. Those tools are not necessarily pens and computers but also extend to training, train-

ing and more training. Every time you look at what you need to make it happen right, there is a cost; there are limitations to your recourses, so it is always a juggling act to make it happen. While these items that I refer to may not seem to be ones that are exciting to talk about and make a real big difference in a presentation, the fact of the matter is that these are the basic ingredients we have to be looking at if this is going to happen.

The Financial Secretary in his delivery made mention of the recent Bill that was passed in the House, the Public Management and Finance Bill. While that does not address all of the personnel issues that are involved, it certainly takes into account the majority of issues that are relevant to achieving this goal of efficiency, fiscal responsibility and fiscal planning for the country. However, the human resource issue is very, very important and I simply make mention of it because it is not something that can be taken for granted.

I spoke a few minutes ago about some of the problems that have evolved when it comes to providing the services that are being demanded by the citizens of the country and the continuing juggling act regarding the cost. The purpose of that was to speak to the fact that we definitely have to have an in-depth look at the structure of the Civil Service and certainly the tools that they would have to work with down line based on the looming changes in the way Central Government will do business.

*[Pause]*

**Mr. D. Kurt Tibbetts:** Madam Speaker, I am sorry about that. The Honourable Third Official Member goes on in his address to speak to the urgent need of rethinking our approach to the longer term development of these Islands and it has been said that this Budget bears that in mind. I want to take a minute to look at this without being very specific, because I know that a Bill will be coming regarding the revenue measures and we will have ample chance to give our opinions during that time. In an effort not to be repetitious, I would not be making any attempt to go through them one by one. However, in looking at rethinking our approach to the longer term development of these Islands, again the money factor is always in play. Speaking to the revenue measures that are there, it is I believe, true to say, as has been said before, that the majority, if not all the Members of this Legislative Assembly, hold fast to their particular view. That view being that part of the broadening of the revenue base of Central Government would have to involve the financial sector and service providers contributing more via the fees that they are charged to be able to do business.

In considering that, Madam Speaker, I want to put forward a view which tells us why, even given the circumstances that the country faces, we still have to be careful of the manner in which we go about in-

creasing the fees. I want to make it absolutely clear to the Members of this Honourable Legislative Assembly and the listening public, that my position on this matter has no bearing to any association with any one individual or any group of people whatsoever. I think by now everybody knows me like that. Regardless of the amount the fees are raised, when ever it is done, those who it directly impacts are not going to be pleased. That is the nature of the beast. Regardless of which sector it is, people are going to grumble. I take this position having no regard for any grumbling. I am just trying to look at the situation with simple clarity as to the logic that needs to be employed.

Speaking to these specific revenue measures that are here now, there was between \$8 million and \$9 million of revenue measures that were in the miscellaneous fees 2001 which would not have been able to be collected because the payments would have been made before the Law came into effect, but anticipated to be collected for 2002. Of the \$54.9 or close to \$55 million worth of revenue measures that are here, I think that it is pretty close to between \$36 million and \$38 million that directly relates to the financial sector. When we add to that the fees that were increased in 2001 (but which will only be able to be collected in 2002), then we are looking at between \$45 million and \$47 million at one time.

If you were purely working out the cost to run the country, one might proportion out the benefits of the country's existence to these service providers because of the money they earn by being able to operate in the jurisdiction and also say that of your recurrent expenditure, that is fair. I do not think any one of us has the actual exact formula that you could come up with a precise answer for that. However, I do not think that it is a question of what the total amount is or as to how it is done, whether there is collaboration or whether it is simply imposed without knowledge, on everybody who hears it just like the rest of us do.

Regardless of what may be said about the buoyancy of that industry the fact of the matter is, we are in a very competitive world. Mention has been made earlier of Bermuda, a jurisdiction that might be termed similar to us. It has been made known that they have a payroll tax; they have some type of social insurance which individuals pay who live and work in the country and that their recurrent revenue is almost proportionate to ours if you look at the per capita comparison. I am not so sure that we were very clear on the differences between the two financial sectors when we make comparisons.

When we speak to some 500 and more banking licences for the Cayman Islands, I am not 100 percent sure as to how many there are in Bermuda. I do not want to stick my neck out too far but it is not impossible that we might be able to count them on two hands. I am not sure, but I know that is not the concentration of their financial industry. They are insurance based. I am not quite sure how the fees are levied but the dynamics of the two vary to the point

where you might speak to some direct fees on the citizens which are not duties but basic taxes on the citizens or the businesses that operate there and there is a difference in the make-up of the industries. So, it is not that easy to simply look and speak to the fact that what has been done regarding the revenue measures should not have been with a bit more consultation or perhaps more intense thought, as to whether or not this puts these service providers in the Cayman Islands at a disadvantage compared to other jurisdictions.

One of the things that we have to remember also, Madam Speaker, is many of these service providers have linkages to a lot of other jurisdictions and they interact with business with their associates in those other jurisdictions. The simple reason for that is another jurisdiction may be geared towards a certain type of activity and is more conducive to do that type of business through those channels. While the Cayman Islands may be geared towards a certain other type of activity and the laws and regulations may be more conducive to certain types of businesses here. So, people have learnt that secret quite a while back and have strategic locations and they interact on a daily basis.

Whether or not the indirect result of these measures causes certain types of businesses to be done in other jurisdictions is a question that I cannot truthfully stand here and answer today, but I think it needs to be answered; not just by saying, '*No big thing, no problem*'; the facts have to be known about that. If the facts are known I would love to hear them because I do not know the facts. However, I think that is one of the questions that has to be asked because it makes absolutely no sense to speak to a balanced position today if the volume is not going to be there tomorrow, and regardless of what the measures are that you put in place, the revenue still drops because the volume is not there. I raise the question simply because it is only natural for that thought to occur.

There are other considerations and it is almost at a level where some people may take it for a joke. However, some of us have already been called by local employees of these institutions about not receiving a bonus this year-end. One might quickly retort and say, "*Oh that is just how they figure out to react to stop you from doing it.*" I do not know. However, those considerations are there and they simply cannot be shoved aside.

I noticed in the front page of the *Compass* today, where one of our local attorneys spoke to the fact that budgets have already been prepared and the new fees as of 1 January were going to throw many things out of whack. You see, Madam Speaker, it is a fine line to balancing, you know, because you can quite rightly make a broad statement and say that many of these institutions are making tons of money so they should contribute their fair share for being able to operate within the jurisdiction and earn that type of money. As a general comment—it is not an unfair

one. However, even making that comment and believing it to be true at certain levels still calls to question certain points regardless of how you structure those fees, such as being tiered in certain instances. That is, you have to be very careful that what you do is sound and able to play out as you anticipate and that your projected revenue for the end of 2002 in this instance is really what you have on paper. I do not make these comments to suggest for a minute that any Government should allow the simple and obvious scare tactics to prevail so that you do not address the issue. I am not suggesting that. I know better.

However, Madam Speaker, up to the point where I had knowledge of interaction with private sector along these lines, I am not afraid to tell you or any one else where the position was. I had one opportunity with some of my other colleagues to speak to them. What was said to them was basically: "*We are looking for \$15 million from your sector. We are asking you to go back and sit down and talk with the players and come back to us and tell us and how best to distribute the restructuring of the fees in order for us to accomplish that.*" Of course, we knew that what they would have come back with was not going to be what they were told. Still, that is the starting point. You go from there and you say, "*I hear what you say but this cannot work.*" Perhaps that view is considered by some, the wrong way to go about it. Of course, I do not know what transpired in the middle of all of that because I am here now and I do not know exactly what has transpired since then. I do not know how these figures were arrived at and what level of consultation took place. However, I hear the Government encouraging the private sector to work in partnership and suffice it to say that sometimes a partnership is exactly that if it is going to work. A partnership indicates more than one. It cannot be one-sided.

I believe that there could perhaps be some fall-out and the fall-out may not be necessarily where one might think is obvious. The truth of the matter is that the fall-out may at the end of the day affect the same people who we say we are trying to protect and do not want to increase any duties or fees for them to have to pay. Now I sincerely hope that is not the case. Nonetheless, I find it very difficult for a board of directors to find unplanned costs and those costs not passed on somewhere along the line. Now if we speak to some of these fees as have been mentioned before, that will be passed on to clients who, in many instances are not even based here.

So again, Madam Speaker, one might say '*No big thing.*' However, given this global village that we all speak to and we are saying it is a very small world nowadays, are we sure that those discerning clients might not make comparisons with the cost to do business in other jurisdictions and find it more conducive to do it elsewhere? I do not know and I trust that all of this has been taken into very serious consideration.

The point I just mentioned is one of the usual obvious points that has been made to me from the

other side and I am not talking about in this Legislative Assembly. I mean when it comes to fees that Government wish to collect and the service providers having to sit and talk about it. That point that I just made, one of the first points that is thrown at you is that you have to remain with this competitive advantage. So, when I make the point, I am not just jumping on it to strengthen a point that I wish to make. All I bring to bear is; are we sure that that is not the case? We will have to create if we do not have it, and I think the Monetary Authority has the ability in that area. We have to create a situation where at all times we know where we are at with what the other comparative jurisdictions are doing; not only about the fees, but about the type of services provided; the legislation in place, and all the other issues. That is really nothing new.

However, that is not something that you can leave today and figure that you are up to date. It is something that you have to work on all the time because this is an ever changing industry and tomorrow what was there today does not exist. The day afterwards, what existed tomorrow would not exist; that is just the nature of the beast.

Regardless of what the needs are it remains to be seen how well thought out the situation has been and only at the end of the day will there be the proof of the pudding, as to whether the revenues that are anticipated and projected in these estimates from these sources will materialise. I just want to throw a little word of caution and again, perhaps, the Government has known this risk and is willing to play it out for a time to see what re-adjustments have to be made. I think we have to be extremely careful with all of these measures as to the level that we go within very short periods of time and exactly who and how there will be any negative impacts.

I daresay, Madam Speaker, others may come behind to speak of the assessment (that I do not know about) and conclusions with regard to the logic behind doing this. However, the only true answer as to exactly what will materialise is going to be at the end of the day. So with that one, I think that we simply have to wait and see.

**The Speaker:** Honourable Member, is this a convenient time for the afternoon break? We shall suspend for fifteen minutes.

#### PROCEEDINGS SUSPENDED AT 3.21 PM

#### PROCEEDINGS RESUMED AT 4.06 PM

**The Speaker:** Proceedings are resumed. Please be seated.

The Honourable First Elected Member for George Town continuing his debate.

**Mr. D. Kurt Tibbetts:** Madam Speaker, I cannot quote verbatim and I have not had an opportunity to get a

copy of what was said, but I feel fairly confident about the gist of what was said. It was said earlier on in the debate by the previous speaker that the country finally has a government with the courage to do what should have been done with regard to these revenue measures and fees. Madam Speaker, by inference or innuendo, if I am to interpret that at any point in time, it suggests that I was part of a government that did not have the courage to deal with it, then perhaps the definition of the word courage is a very relative one. I hear it stated across the Floor that I got it right.

Madam Speaker, let me make this very, very clear. When it comes to what is called courage, I believe that it has to be mixed with logic and looking at the specific circumstances which obtain at any given time. If it is thought any dealings I had with that same financial sector was not the way that it should have been dealt with, then perhaps it is quite easy for them to follow the course that they have taken because they now have ample opportunity to do so. Although I did not get the opportunity to prove them right or wrong, one way or the other, this time around I have had a bit of tenure and a better understanding of the situation.

However, not just to defend myself, but I do believe that regardless of where it comes from or where it is going, nothing should be dealt with at that level of Government without proper consultation. I know there are things that individuals would not agree with via how things are handled and that is the way life is. I live with a level of acceptance for that because it is the nature of the beast. Everybody differs in their approach and sometimes in their thoughts and how they expect to achieve the objective. However, again I say, regardless of what they might think and what that objective is, I believe then, and I believe now that consultation is required. This is because while you want no one or no entity to hold you over the barrel, at the same time you have to ensure that decisions made are coming from the most informed position that is possible. I am getting a much clearer picture as time goes on as to how this thing really is and I certainly would not be foolhardy to not want to do it in the way that I just explained.

Madam Speaker, life has a funny way of manifesting itself. Again, when I look at those revenue measures and get a better understanding of certain things, perhaps it is not wise at this point in time to go too much further. But, suffice it to say, time will tell as to what was, is, and will be the best way. There is one thing that I can be absolutely sure of and that is I would never participate in a decision-making process which puts such a pivotal stance on any circumstance without making sure that I knew all of the answers.

Perhaps there are those who may think that in taking that way forward, nothing would be achieved and perhaps that is what is becoming clearer as time goes by—such a real pity after the fact that maybe I did not know all of that and some of that I would not know unless I was told, but life is like that.

Madam Speaker, I understand that you have to leave and it is approaching 4.15 pm. I would go on to new things and I certainly would not like to have to break in the middle of it. So, perhaps if it is convenient for you, you would deal with the suspension.

**The Speaker:** Honourable Member, would you be able to conclude the new topic in five minutes?

If that is the wish of the House, can the Leader of Government Business then move the appropriate Motion for the adjournment, or the Deputy Leader?

### **ADJOURNMENT**

**Hon. Linford A. Pierson:** Madam Speaker, I move the adjournment of this Honourable House until 10 am Thursday.

**The Speaker:** The question is that the Honourable House be adjourned until 10 am tomorrow, Thursday, 13 December. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The House is duly adjourned until 10 am tomorrow morning.

**AT 4.16 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 13 DECEMBER 2001.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**13 DECEMBER 2001**  
**10.26 AM**  
*Fifth Sitting*

**The Speaker:** Good morning.

I shall call on the Honourable Minister for Community Services, Youth and Women's Affairs to grace us with Prayers.

**PRAYERS**

**Dr. the Hon. Frank S. McField:** Let us pray.

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

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

Let us say The Lord's Prayer together:

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

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

**Proceedings resumed at 10.29 am**

**The Speaker:** Please be seated. Proceedings are resumed.

Item number 2 on today's Order Paper, Administration of Oaths or Affirmations.

I would ask Mr. Samuel Bulgin, to please come to the Clerk's desk to take the oath.

Would all Honourable Members please stand?

**ADMINISTRATION OF  
OATHS OR AFFIRMATIONS**

**OATH OF ALLEGIANCE**  
*(Administered by the Clerk)*

*By Mr. Samuel Bulgin*

**Mr. Samuel Bulgin:** I, Samuel Bulgin, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and successors according to Law, so help me God.

**The Speaker:** Honourable Member, I welcome you to this House; please take your seat. Please be seated.

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

**APOLOGIES**

**The Speaker:** I have received apologies for the late attendance from the Second Elected Member for West Bay. The Honourable Second Official Member responsible for Legal Administration will also be absent for the period 12 December until 9 January 2002.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**The Speaker:** The Third Elected Member for West Bay.

**QUESTION NO.129**

**No. 129: Capt. A. Eugene Ebanks** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs if there is a policy for the destruction of drugs being held by the Royal Cayman Islands Police Force.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Yes, authorisation for the destruction of drugs is given by the Commissioner of Police on the advice of the Detective Chief Superintendent in the Criminal Investigation Department. The policy guidelines are as follows —

- All drugs pending destruction are to be kept in a specially designated storage area.



- The process must be witnessed by a Justice of the Peace and documented. The Justice of the Peace shall verify the document to be a true account of the destruction of the drugs.
- An original copy of the documentation must be forwarded to the Commissioner of Police for preservation.
- Found drugs in excess of fifty pounds for ganja and one pound for any other drug must be destroyed within seven days unless otherwise directed by the Commissioner of Police on advice of the Detective Chief Superintendent Drugs Task Force.

The method of destruction shall be incineration or by other means approved by the Commissioner of Police.

### SUPPLEMENTARIES

**The Speaker:** Are there any supplementaries?

The Second Elected Member for Cayman Brac.

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker. I would like to thank the First Official Member for outlining the policy. I would ask, is this policy complied with, especially the particular section that reads "found drugs in the excess of fifty pounds for ganja and one pound for any other drug must be destroyed within seven days unless otherwise directed by the Commissioner of Police on advice of the Detective Chief Superintendent Drugs Task Force".

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. My understanding is yes, this policy is complied with.

**The Speaker:** The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Madam Speaker. I wonder if the First Official Member could say why the cocaine that was found in the Brac was not destroyed after, as I understand it, two months or so, if it was not being held as evidence.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I made a statement in the House following the loss of that cocaine and I explained that the policy at the time was that certain quantity of drugs was accumulated before it was incinerated. It was a matter of the very high cost of incineration. However, what I have just outlined in answer to the Parliamentary Question is a new policy that is in place and this is adhered to.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Recently we saw publicised the destruction of certain drugs. I wonder if the First Official Member can tell us when the previous destruction of drugs was prior to that.

**The Speaker:** The First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Madam Speaker, it is my understanding that the previous destruction of drugs had taken place about three months before that. However, I should add that in the statement I made in the House, which had been prepared for me by the Commissioner of Police, it indicated that at times when there were small amounts of drugs, the interval between destruction of drugs would have been a bit longer than that. With the new policy in place we hope to not let that happen again.

**The Speaker:** Do you have a follow up question, Elected Member for East End? Please continue.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the First Official Member can tell us when this policy was instituted.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. There was an investigation carried out into the disappearance or the theft of the drugs and this policy was instituted shortly after that.

**The Speaker:** Please continue with your follow up, Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. The policy seems to say that they must be destroyed within seven days. Can the First Official Member say if any drugs found have been destroyed under this new policy?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Madam Speaker, there was a quantity of drugs found recently but it was the subject of an investigation and the drugs of course have been held. I am told that the investigation has not led to any arrest and it is expected that those drugs will be destroyed possibly as soon as tomorrow.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker.

In a substantive answer that we received, we got a little part of the policy, the new policy that has

been implemented since the incident that is so vivid in all of our memories. It says that all drugs pending destruction are to be kept in a specially built designated storage area. I am just wondering if the Member could say whether that storage area now has adequate security facilities to protect the controlled drugs that may be confiscated.

**The Speaker:** The Honourable First Official Member, it is my understanding that there is a similar question coming. If you wish to deal with it at that time you may so express that at this stage.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I will respond to that later.

**The Speaker:** Fourth Elected Member for West Bay, did you wish to rephrase or ask another supplementary? If not, I will allow one other supplementary.

The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Madam Speaker.

I wonder if the Honourable First Official Member could say why it was necessary to move the cocaine in question from where it was previously being held to the obviously less secure area and who authorised the movement?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. Ironically, the drugs were removed from one area to another in preparation for destruction the following day. There was a lack of space in the main area hence the reason for its removal and it was authorised at the correct level. It was authorised by the Chief Superintendent.

**The Speaker:** The Fourth Elected Member for West Bay.

#### QUESTION NO. 130

**No. 130: Mr. Cline A. Glidden Jr.** asked the Honourable Minister responsible for the Ministry of Planning, Communications, Works and Information Technology are there any Laws or Regulations that regulate the quality of commercial or residential properties?

Madam Speaker, the question was sent, and as far as we know, it was supposed to say commercial or residential *rental* properties. However, I am not sure what exactly was sent to the Ministry, so I will understand, depending on his answer.

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker.

Madam Speaker, the answer will be against the question that is on the Order Paper which was; are there any Laws or Regulations that regulate the quality of commercial or residential properties? If I am able, Madam Speaker, on a supplementary to provide other information I will do so.

The answer to the substantive question: The Development and Planning Law, Regulations and Building Code are various pieces of existing legislation that provide for the Central Planning Authority to administer the compliance of minimum standards to which new (including commercial and residential) properties can be developed. The Development and Planning Law also provides that nothing in that Law shall derogate from other related legislation such as the Public Health Law and the Mosquito (Research and Control) Law, which might also provide for certain quality measures. The Central Planning Authority is also authorised to act where there is existing property with old and dilapidated buildings and can require the owner or occupier to make remedy of the situation.

Government is also currently in the process of evaluating two draft pieces of legislation which could potentially help improve on the quality of design and construction of commercial and residential development as well as help protect consumers, i.e., homeowners. One proposal seeks to license contractors and the other provides for the registration of architects and engineers. This draft legislation has been put forward to Government by the private sector and they are currently being reviewed by a committee comprised of representatives from the Planning and Public Works Departments.

The Department of Planning has also produced a Land Development Guide that is available to the public and is particularly useful for developers, architects and designers. The document includes illustrations and design guidelines and discusses aesthetic quality and traditional architectural features. This document could be developed further with input from the public and possibly become Design Regulations as used in other jurisdictions such as Bermuda.

#### SUPPLEMENTARIES

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker. First of all I would like to thank the Honourable Minister for his detailed answer to that question and I am wondering if he could provide any information on any Laws or Regulations that could regulate the quality of commercial or residential rental properties?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, I would be happy to give the undertaking to the Honourable Member that this matter will be looked into.

**The Speaker:** Are there any other supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. In the substantive answer the Minister said that Government is in the process of evaluating two draft pieces of Legislation. One of those is to seek to license contractors and implement the registration of architects and engineers. I have seen this before but I just wonder if there will be licensing of draftsmen because we have a lot of small, young draftsmen in the country who are young Caymanians and I wonder if they will be included in there also?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. I am reliably informed that they will also be included in the draft regulations.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.  
Madam Speaker, I wonder if the Minister could tell us what section of the private sector has put forward these proposals?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. The answer: the Contractors Association for the contractors and the Cayman Association of Architects and Engineers for the architects and engineers.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you. Madam Speaker, I wonder if the Minister could say if those same draftsmen that I spoke of earlier have had an opportunity for input in these proposals?

**The Speaker:** The Honourable Minister responsible for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, we are not in possession of that information but the matter

will certainly be looked into and if this has not been done it will certainly be done.

**The Speaker:** Are there any further supplementaries? If not we will move on to the next question.

The Second Elected Member for George Town.

#### QUESTION NO. 131

**No. 131: Mr. Alden M. McLaughlin Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what efforts are being made to remove the alleged Afghan refugees from these Islands.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Ever since the three alleged Afghans arrived in the Cayman Islands, the Immigration Department has been attempting to have them returned to their country of origin. These efforts included obtaining travel documents from an Afghan Embassy in New York and attempting to arrange for travel to Afghanistan or bordering countries via a third country.

The three Afghans have since applied for political asylum but their requests have been denied by the Chief Immigration Officer. These refusals are now the subject of an appeal and, until this is resolved, efforts to remove them from the Cayman Islands are on hold.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I wonder if the Honourable First Official Member can say what is likely to transpire in the event that the appeal is unsuccessful. Are they then to continue to be the responsibility of the Cayman Islands Government or is Her Majesty's Government prepared to assume responsibility for them at that stage?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. In the event that the appeals are unsuccessful it is anticipated that the Cayman Islands Government will repatriate the Afghans to their own country. His Excellency the Governor has discussed the matter at very high level in London when he was there couple of months ago. I also discussed the matter with the Head of the Overseas Territories Department, Mr. Allan Huckle, when he was in Cayman recently. It is the responsibility of the Cayman Islands Government to repatriate them but we hope that this will happen very soon.

I should say to the Member that I guess we all watch what is happening in Afghanistan and we hope

that there will be a government in place and we will be able to repatriate these individuals to that country.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I wonder if I am correct in understanding the Honourable Member as saying that the issues of identity and nationality in respect of these three individuals have now been satisfactorily resolved. Is the Cayman Islands Government now as certain as it can be that indeed they are Afghans?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. In regard to the identity, knowing the events that have unfolded in recent weeks in Afghanistan, it has been impossible to verify the identity of these individuals through that country. However, we arranged for an Immigration Officer from the United Kingdom who spoke the Pharisee language, the language of the people in Afghanistan, at least in the Southern part of Afghanistan, and that individual came down and interviewed these three persons and has stated that she is satisfied that they are from the southern section of Afghanistan and she was able for a number of reasons to verify this. So I believe as far forth as we can, their nationality has been established. You will understand the actual identity or the verification of their identity has been virtually impossible.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, thank you. I would like to thank the Honourable Member for his comprehensive response to the Supplementary Questions thus far. I would just close Madam Speaker, by asking him if he can give some indication as to when the appeal will be heard and determined.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I am at this stage unable to comment on when the appeal will be heard. I know it has been filed but at this stage I am unable to say when that will happen.

**The Speaker:** Do you have a follow up Honourable Second Elected Member for George Town?

**Mr. Alden M. McLaughlin, Jr.:** Yes, Madam Speaker, with your permission.

**The Speaker:** Please proceed.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I wonder if the Honourable First Official Member can

say to whom the appeal has been made and what is the nature of the tribunal?

**The Speaker:** The Honourable First Official Member. Perhaps the Second Elected Member from George Town could repeat that question.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. The question was: to whom has the appeal been made and what is the nature of the tribunal that is to hear and determine this issue?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. The appeal has been filed with His Excellency the Governor but there is currently no legislation in place for him to hear the appeal. Assistance has been sought from the United Kingdom and perhaps I would be speculating to say more than that because at this stage I do not know what the nature of the tribunal will actually be, although I suspect that it will be a tribunal set up. However, I prefer not to speculate on that, Madam Speaker.

**The Speaker:** Are there further supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Madam Speaker, thank you. I wonder if the First Official Member can tell us who is paying for the keep of these Afghans and where are they housed?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. It is my understanding that first of all, by order of the Grand Court, they were released and their upkeep was to be paid for by the Social Services Department. I believe an arrangement has been worked with a guest house for a fairly reasonable rate for their upkeep.

**The Speaker:** I will allow one more supplementary.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Madam Speaker, I wonder if the First Official Member can tell us what they are doing. What are their activities? Are they working or are they just lounging around at the expense of the Cayman Islands people?

**The Speaker:** The Honourable First Official Member. It is my view that part of that is asking for an opinion. Should you wish to answer it in part? If not, please indicate.

**Hon. James M. Ryan:** Madam Speaker, I believe that, that is very far from the substantive question and

I can only say one thing they do, that is to report daily to the Immigration Department. That is daily Monday to Friday and on Saturdays and Sundays they report to the Central Police Station.

**The Speaker:** That will conclude Question Time.

## STATEMENTS BY MEMBERS OF THE GOVERNMENT

### UPDATE ON CAYMAN AIRWAYS LIMITED

**The Speaker:** Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

Having recently been assigned the responsibility of the National carrier Cayman Airways, I have undertaken to review the status of the airline in terms of its leadership, business plan and funding. I deem this as a logical and necessary step as little was known about what, if any, progress had been made since the July 2001 report produced by NCB Consulting or subsequent to the events of 11 September. It was therefore necessary to re-examine the airline to ensure that there is a proper assessment of the challenges and adequate and appropriate plans of action developed and implemented.

Going forward, every aspect of the airline will be examined to realistically gauge what is necessary for the airline to succeed and to communicate and reinforce the message that the status quo cannot and will not be maintained. To this end a new Board of Directors was appointed under a new governance model developed by the Ministry of Tourism, Environment, Development and Commerce.

The new model for the Board establishes specific areas of responsibility for each Director and thereby broadens the overall functioning of the Board. Each member's contribution is directly linked to key management functions for which he or she is directly responsible for providing oversight and direction. The governance model establishes a direct relationship between the board's leadership responsibilities and the airline's core management requirements. This is significant, Madam Speaker, as the Ministry understands that the leadership provided by the Board is every bit as vital to achieving a turnaround as other components such as efficient staff and reliable equipment.

Madam Speaker, the following individuals have been appointed to the Cayman Airways Board.

- Mr. Roy McTaggart - as Chairman
- Mr. Don Seymour - Director for Financial Matters
- Mr. Wilbur Bing Thompson - Director for Operations
- Mr. Moses Kirkconnell - Director for Sales and Marketing

- Mr. Ian Wight - Director for Strategic Resources
- Mr. Harris McCoy - Director for Staffing and Human Resources
- Mr. Olivaire Watler - Director for Legal Affairs
- Mr. Alan Potash - Director for International Corporate Relations
- Ms. Pilar Bush - Director for International Aviation
- Mr. Charles Clifford - Director for the Ministry of Tourism
- Mr. Michael Adam – Ex-officio Director
- Mrs. Sonia McLaughlin – Ex-officio Director.

Madam Speaker, I am pleased, very pleased with the high calibre of persons we were able to attract to the Board. Many complex and difficult decisions lie ahead and I have full confidence in the Board's ability to lead, make informed decisions and provide crucial direction and support.

I would also like to take this opportunity to very sincerely thank all others, all those other Directors, who have in the past served on the Board of Directors and have made contributions towards the development of Cayman Airways.

Under the new governance model for the current Board of Directors, responsibility for managing the members of the Board falls with the Chairman who according to the model would preferably have had prior experience in running both corporate and governmental boards. As Chairman this member is the official spokesman on behalf of the Board.

The Director of Sales and Marketing is to be the second official Board spokesman and will represent the airline at all revenue and sales enhancement functions. A significant aspect of this position also will be management of revenue, sales and marketing strategy and product review definition.

The Director for Financial Matters will be the principal financial advisor to the Board. This individual will also oversee financial relationships with banks, guarantors and venture capitalists and the sourcing and management of capitalisation.

Assistance in the area of flight operation, maintenance, aircraft acquisition, if any, management and airworthiness, will fall to the Director of Operations as well as in-flight services and airport relations.

The Strategic Resource Director will act as a key support to management in areas of strategic business development. This Director will be instrumental in building relationships with key strategic alliance partners.

Board representative for staff relations management will be the Director of Staffing and Human Resources who will also provide advice on good practice in that area. Compensation and staff retention will fall under this Director along with any necessary organisational restructure and design. Both Cayman Airways staff and others have expressed concern that this human element is often overlooked when senior members are making strategic decisions about the airlines. Therefore recognising the importance of preserving a motivated and capable workforce, the re-

sponsibility for human resources was also seen as a priority under the governance model.

Cayman Airways Director for Legal Affairs will serve as the Board's principal legal advisor.

The Director for International Corporate Relations is responsible for advising the Board on international corporate partnerships. Identifying channels and areas of opportunity will be an important aspect of the position.

The primary responsibilities of the Director for International Aviation will be to provide advice on strategic aviation policy and guidance on international developments in the industry.

The Director for the Ministry of Tourism is the official liaison between Government and the Board and will provide guidance to the Board on related Government policies impacting the national flag carrier.

The newly formed Board, Madam Speaker, took up its duties on the 4 December 2001 when it convened for the first time. I would like to take this opportunity to thank those who have risen to the challenge and agreed to serve on the current Board of Directors. I also wish to recognise the staff and management of Cayman Airways who have made and are committed to making the necessary sacrifices for the airline to succeed. However, I must emphasise the time for commenting on the potential of Cayman Airways has passed and it is time that together the Ministry on behalf of the Government, Board of Directors, Management and Staff must realise this ample opportunity by enhancing operations and revenue while controlling and reducing cost.

In terms of the Business Plan, Madam Speaker, when I took over responsibility of Cayman Airways, there was no Business Plan and yet a course of action had been set. There was a consensus by the Board that the course of action needed to be re-examined to ensure it considered and addressed our current realities and our anticipated future challenges.

The services of a local consulting firm, NCB, had been acquired by the previous Minister with responsibility for the airline. It is important to note that while this relationship has existed for almost a year, it is based upon a verbal understanding and no formal written commitment exists on either side.

The informal nature of this arrangement has presented serious challenges in terms of accountability and organisational structure. For example, while NCB reported directly to the previous Minister and payments for these services were authorised by his Ministry, it was Cayman Airways which was responsible for the payment. In the past year, a sum of just over \$100,000 was paid by Cayman Airways on instructions from the Ministry even though Cayman Airways management and Board had no direct links or authority for the consultant. This placed all parties in a difficult situation. For the avoidance of doubt, Madam Speaker, let me make it clear, there was an absolute absence of role clarity.

As efforts are being made to resolve those issues, another pressing problem which requires immediate attention is the questionable applicability of the earlier NCB proposals; the post 11 September realities for Cayman Airways. In response to a request from my Ministry, NCB has prepared a business plan with assistance from Cayman Airways. The Board is currently considering the document which it received at the beginning of December. The Ministry is awaiting the Board's recommendation on this matter before proceeding. As it relates to consultancy, Madam Speaker, my Ministry and the Government need to establish whether there is a need for consultant service and if there is a need, who is the most qualified with experience in the airline industry to provide this service.

While the discussion on equipment has tended to dominate the deliberations on Cayman Airways thus far, in the future, Madam Speaker, focus will instead be given to business fundamentals such as agreement on the airline's mission, goals, target clients and funding levels. Let me be absolutely clear on this, the equipment must facilitate the Business Plan and not the other way around. I will venture to say, that even the cursory review of the fundamentals demonstrates that the small regional jets, which have previously been discussed, are not consistent with the demands of our main clientele, Caymanian travellers. Nor is this type of plane likely to allow us to better compete with southbound tourist traffic, which is dominated by the United States carriers to this destination. Therefore, Madam Speaker, it is not my intention to pursue this model of plane, if and when a decision should be made to purchase any equipment.

Finally, as it pertains to the funding of Cayman Airways, Madam Speaker, the situation remains dire. Cayman Airways is still projecting an estimated loss before subsidy of approximately \$14 million at this year's end. This does not take into consideration the Government subsidy of approximately \$5.5 million.

In addition, Madam Speaker, the airline will have to account for the equipment's depreciation – the loss in the value of the equipment. In the year 2000, the equipment experienced depreciation of approximately \$3.1 million and also lost its value to the tune of approximately \$6.8 million due to the fall in market value. This accounts for a total loss in the equipment value exceeding \$9 million. It has yet to be determined following 11 September, what the loss in value will be for Cayman Airways equipment at this year's end.

Looking to 2002, the airline already anticipates it will require hundreds of thousands of dollars above what has been budgeted to cover both increased insurance costs and security fees.

Madam Speaker, and Honourable Members, I met with the staff of Cayman Airways earlier this week. I told them exactly as I will tell Members of this Honourable House, this will be the recommendation to the Government and that is, if the status quo contin-

ues, Cayman Airways will not. The Ministry, Board of Directors, Management and Staff of Cayman Airways have determined to give our very best efforts to turning the airline around. However, Madam Speaker, the airline must turn around.

We have a tremendous amount of good staff willing and very able to assist us and I found that out at the staff meeting. We will keep the staff informed because I believe this needs to be done at all levels. Thank you and I thank Honourable Members, Madam Speaker.

**The Speaker:** Can we have a motion to suspend Standing Order 46(1) to enable the following Bills to be read a first time?

The Honourable Leader of Government Business.

### SUSPENSION OF STANDING ORDER 46(1)

**Hon. W. McKeeva Bush:** Madam Speaker, I wish to move the suspension of Standing Order 46(1) in order to take the First Readings of the Traffic (Amendment) Bill, 2001, and the Notaries Public (Amendment) Bill, 2001.

**The Speaker:** The question is that Standing Order 46(1) be duly suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 46(1) has been suspended.

**AGREED. STANDING ORDER 46(1) SUSPENDED TO ENABLE THE TRAFFIC (AMENDMENT) BILL 2001 AND THE NOTARIES PUBLIC (AMENDMENT) BILL 2001 TO BE READ A FIRST TIME.**

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

##### THE TRAFFIC (AMENDMENT) BILL, 2001

**The Clerk:** The Traffic (Amendment) Bill, 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for a second reading.

##### THE NOTARIES PUBLIC (AMENDMENT) BILL, 2001

**The Clerk:** The Notaries Public (Amendment) Bill, 2001.

**The Speaker:** This Bill is deemed to have been read a first time and is now set down for a second reading.

## SECOND READING

### THE APPROPRIATION (2002) BILL, 2001

#### DEBATE ON THE BUDGET ADDRESS

*(Continuation of debate thereon)*

**The Speaker:** The First Elected Member for George Town continuing his debate.

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

Madam Speaker, as I continue dealing with the Budget Address I will perhaps add a little more perspective to the increased fees in the various sectors before I move on into the address itself. It sort of puts everyone in a slight quandary because if one is to be pragmatic and basically get to the bottom line of things, it is an obvious fact that the revenue stream for Central Government has to be enhanced. So, the premise is already accepted. However, there is always this nagging question of how you do it; how best do you achieve it; and how do you minimise any negative impacts.

What I pointed out yesterday, Madam Speaker, were certain questions that were not absolutely sure to be answered. Not wanting to be part and parcel of any additive to any problems the country might face, I have made some discoveries that already there are some institutions who are doing some shifting arrangements. Simply because they have said that they love to do business here but the cost of doing business here is simply getting too high.

I thought I heard the Second Elected Member for West Bay in his contribution say that there was support from the industry for these measures. I do not know how widespread that support is. While obviously a difficult one, I believe that it is something the Government needs to be very careful about. I also see the trend: If there are any views which may differ from the position that the Government has taken with regard to the revenue measures, the slant is already there. That is, if these views vary or differ from the Government's then to let it appear that those representatives who may have different views may not be taking into consideration the ordinary man on the street.

I have been here long enough to understand how it is and what a slant is when it comes. However, I think we have to be totally honest with ourselves and understand that in so far as we play the game in that fashion, regardless of where we levy any taxes, once there is any affiliation with that burden to the residents of this country, then the cost of those additional fees is going to be passed on to the people of the country. We will find that there are going to be new and innovative ways and means for these institutions to recoup that extra cost and for them to do so, someone has to

pay. As couched as it may seem, if you really go into it, it will be found that we all pay no matter how we set it up.

We, therefore have two risk factors involved. If the costs are not passed on to the local residents then the costs where it applies are going to be passed on to the overseas clients. The risk there, as I have stated before, is do they have other choices which when they make comparisons are more conducive to them continuing to do business, or to be attracted to do business, in this jurisdiction? Those are questions which have to be taken seriously into consideration. One has to be very sure before he moves ahead.

I have chosen not to jump at it to say how wrong it is, Madam Speaker, because I think we have to find a method to really find that out. I know that we really cannot simply depend on what we hear from certain quarters because as we all know, not excluding ourselves, we say what we say to build our own arguments once we take any position.

Madam Speaker, perhaps it is irony coming from me because obviously I am not one of the individuals that the Government might wish to listen to at this point in time. So, regarding the revenue measures — I would caution them to be careful in dealing with this matter. I do not know if their position is fixed; I guess it would have been fixed because the Budget has been presented and for the Budget to have remained as it is with the projections, then these projected revenues must remain. However, I think that is a decision they will have to make, Madam Speaker.

Moving on, I notice in the Budget Address with regard to national development, the Honourable Third Official Member states that the Government will establish a growth management bureau within the Ministry for Development. This bureau will promote balance including full consideration of economic, environmental and social issues in the development of the Cayman Islands, co-ordinate the implementation of vision 2008 and regularly update the plan as well as oversee the formulation of a growth management strategy for the Islands.

Reading through this, I just have a little bit of difficulty. I tried to find out a little bit more this morning but no one could explain exactly what the situation is; so I guess I will have to raise it on the Floor and perhaps it can be explained afterwards. The question that comes to mind when I read this structure being proposed, is the very close connection with Growth Management to Planning.

As memory serves me thus far, what was approved and in the works thus far, is that in January it was decided that the current DAB — the Development Advisory Board — would be disbanded and that the Development Planned Review Committee would be considered as a trial run for a new Growth Management Board. Once the Development Planned Review Committee had completed its work, which was projected for mid next year, then this trial run would have

been assessed and that would then determine the future of the Growth Management Board.

Now, Madam Speaker, if this Growth Management Bureau is a separate unit, there can easily be some logistical problems. I am not one hundred percent sure how the situation could gel, but it seems to me that the Planning Department and the Central planning Authority certainly play the role of the guardian. I certainly believe at this point in time they are best equipped to deal with any growth management that may be planned for the country. If memory serves me right, in the long range planning section of the Planning Department there is an individual who already, by way of the established post, holds responsibility for growth management. So I think that they will have to think this one through to see exactly how it is going to work.

I can see where the attempt here is being made to align growth management with the area of development and where it says at the end to oversee the formulation of a growth management strategy. Again, Madam Speaker, I ask the question because I am not quite sure how the mix will be and how the fit will be. I think it has to be looked at very carefully to ensure that the efforts made so far in this area are not just thrown aside and also that the whole situation can gel properly. Perhaps they will be able to have a look and see exactly how best that can work. I thought I would raise it because of what I know is already ongoing, Madam Speaker. So I guess we will see exactly how the plan is to deal with that.

I have not had the benefit of seeing the written version of the statement made by the Honourable Minister responsible for Cayman Airways this morning so I am perhaps not in a very good position to respond as that will have been part of the Budget Address. As is fairly obvious, Madam Speaker, I have been around long enough to know how the game is played so perhaps if I am not in a position to answer immediately I will have to do so at another time.

Madam Speaker, I would be moving on to another topic now, perhaps if you are prepared to take the morning break?

**The Speaker:** Certainly, we will now suspend for the morning break for 20 minutes.

#### **PROCEEDINGS SUSPENDED AT 11.41 AM**

#### **PROCEEDINGS RESUMED AT 12.19 PM**

**The Speaker:** Please be seated. Proceedings are resumed.

Continuing the debate, the First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you, Madam Speaker. Perhaps now is as good a time as any, to refer briefly to the Budget Address where the Honourable Third Official Member refers to a focus on the attainment of



greater efficiencies in Government and business operations and not just on growth and under that sub-heading he speaks to the rationalisation and the restructuring of Cayman Airways. By coincidence, Madam Speaker, or by design either one, I am not quite sure, there was a statement made this morning by the Minister for Tourism who is also now the Minister responsible for Cayman Airways.

In his statement the Minister—and you will pardon me if I am fumbling a little bit, Madam Speaker, because I have not had full opportunity to carefully read the statement—refers to the fact or what he considers to be a fact and I will quote him that “. . . in terms of the Business Plan, when I took over responsibility for Cayman Airways there was no Business Plan”.

**The Speaker:** Honourable Member, perhaps if you could so direct as to—

**Mr. D. Kurt Tibbetts:** Page 7 of his statement, Madam Speaker. I am sorry.

**The Speaker:** I am grateful. Please continue.

**Mr. D. Kurt Tibbetts:** I will again quote from the statement on page 7, the Minister says: **“In terms of the Business Plan, Madam Speaker, when I took over the responsibility of Cayman Airways, there was no Business Plan and yet a course of action had been set. There was a consensus on the Board that the course of action needed to be re-examined to ensure it considered and addressed our current realities and our anticipated future challenges.**

**“The services of a local consulting firm, NCB, had been acquired by the previous Minister with responsibility for the Airline. It is important to note that while this relationship had existed for almost a year, it is based upon a verbal understanding and no form of written commitment exists on either side.**

**“The informal nature of this arrangement has presented serious challenges in terms of accountability and organisational structure. For example, while NCB reported directly to the previous Minister and payments for these services were organised by his Ministry, it was Cayman Airways which was responsible for the payment. In the past year a sum of just over \$100,000 was paid by Cayman Airways on instructions from the Ministry even though Cayman Airways management and board had no direct links or authority for the consultant.”**

Madam Speaker, we need to just catch up on a little bit of history here. We will go back first of all to the Cayman Airways issue. I will, with your permission, read from certain documentation which is relevant.

**The Speaker:** Honourable Member could you identify, the documentation?

**Mr. D. Kurt Tibbetts:** I will go along if that is all right, Madam Speaker. This is a letter dated 24 November 2000, from NCB consulting. It was addressed to me, re: Cayman Airways’ proposal to act as Chairman of the Board. That was how the situation started originally. I will quote from the letter if you are in agreement with it.

**Hon. W. McKeeva Bush:** Madam Speaker—

**The Speaker:** Let me hear your point of order, Honourable Minister.

**Hon. W. McKeeva Bush:** I am wondering, Madam Speaker, whether the Member would table the document he has in his hands.

**The Speaker:** Honourable First Elected Member for George Town, is it your intention to so table the documents that you wish to refer to?

**Mr. D. Kurt Tibbetts:** Madam Speaker, I can easily do that but I am with absolute certainty that the files which the Minister took over will have these documents in them and I can table them. I do not have a problem.

**The Speaker:** I should be grateful if they were tabled so that I too could be privy to what you are saying.

**Mr. D. Kurt Tibbetts:** That is not a problem.

**The Speaker:** Thank you, I am grateful.

**Mr. D. Kurt Tibbetts:** On 24 November 2000, Madam Speaker, regarding Cayman Airways’ letter addressed to me. When I am through with everything I will table the documents. The letter is addressed to me re: Cayman Airways’ proposal to act as Chairman of the Board.

Madam Speaker, before I start the letter, I just remembered something. The way the statement reads, it states, **“The services of a local consulting firm NCB had been acquired by the previous Minister with responsibility for the airline.”** Now I think most of us understand the Queen’s English. The way I understand that, Madam Speaker, is that I single-handedly went out and hired this consultant. That is the way I read it. If it is not intended to be understood like that, I will give way for it to be clarified.

The letter, Madam Speaker, says, **“Further to our recent discussions regarding the above, I have set out below what I believe is the most appropriate approach to the proposal for me to consider acting as Chairman of the Board of Cayman Airways.**

"Whilst I am honoured that you would place this level of trust and confidence in me, I believe it would be more prudent for me and Cayman Airways to a lesser extent, to engage me to do an independent review of the state of affairs and operations of the company and report back to you as the Minister responsible of my findings and recommendations for the future of the company.

"Please understand that my recommendations will be based on the analysis and the reviews that I will conduct under the name of NCB Consulting Ltd of which I am the sole shareholder and director. My findings and recommendations will form the basis for you to put the financial status and operational affairs of Cayman Airways to Government and to the people of the Cayman Islands if deemed to be appropriate.

"I believe this approach (which allows me to be independent and unbiased in conducting my review) will better serve Cayman Airways than Chairman of the Board at this time. Once I have completed my review and made my recommendations, I will then meet with you and the Government to discuss my recommendations, any further involvement with the company, and the position of Chairman of the Board.

"Although I do appreciate the urgency of the matter, my present consulting engagements will disallow me from commencing any work before the first week in December. Unless there are delays in information being provided by the company to me, I would expect that I may be able to report my findings and recommendations to you on or before January 31, 2001. However, this is largely dependent on the cooperation and assistance that I receive from the present Chairman, Directors and staff of Cayman Airways.

"As discussed, I am prepared to waive my hourly charge of US \$500.00 per hour to Government except for out-of-pocket expenses including the use of up to two professional accountants seconded by me to produce detailed analysis and documentation for my review and report. These costs will be billed to Government on a monthly basis by NCB Consulting Ltd.

"I trust you will find this approach acceptable and we can meet in the very near future to formalize this engagement."

Madam Speaker, when I received this letter from Mr. Naul Bodden and signed by him as the sole owner and director of NCB Consulting, a paper went to Executive Council on 8 December 2000. This is a copy of a letter from the Ministry of Planning, Communications and Works addressed to Mr. Naul Bodden and it says:

"Dear Mr. Bodden,

**"Re: Cayman Airways – Independent Review**

"Your letter dated 24<sup>th</sup> November 2000 refers.

"I am directed by the Governor-in-Council to advise that approval has been granted for you to carry out an independent review of Cayman Airways.

"The Chairman, Acting Chief Executive Officer, and the Executive Management Team have been briefed and you can expect their full support and corporation in conducting this important exercise.

"Thank you for your assistance.

"Sincerely,

"K. S. Gomez, MBE, JP,  
"Permanent Secretary."

So you see, due process did take place.

You know the other thing which is kind of baffling, and I can see where it is headed . . . I can see what the intention is and I will have to decide my own life. However, hear this, Madam Speaker, the name Naul Bodden was suggested by the now Deputy Leader before I or anyone else thought of anyone.

Madam Speaker, I hear the Leader of Government Business saying that has nothing to do with this.

Listen! This statement has intentions behind it and I can read and I can understand and anyone can say what they wish to say, however they wish to say it, but I have been around long enough to understand. They know that I understand correctly.

When other people were speaking, I sat, listened and I did not say a word. The new Honourable Minister responsible for Planning, Communications, Works and Information Technology has just said if I mislead the people he is going to stop me. Madam Speaker, he need not fear that because, that is not something—

**The Speaker:** Honourable First Elected Member may I ask you to please take your seat for one second?

Honourable Members, to this extent in the debate I have been extremely grateful for the very high calibre and the way in which we carried out our debate. I believe that there are tremendous, important matters at hand. It would serve us, as well as the country, for Members to carry out their debates without making any imputations or any infringements with the relevant Standing Orders on the side of the debater.

Likewise, if persons on the receiving end could do so by way of what is provided in the relevant Standing Orders on points of order for elucidation, we can conclude the country's business at hand and move into Finance Committee so that the new Government as well as the Honourable Members of the

Backbench could see this country move forward which I am sure is the desire of all Members.

Please continue, First Elected Member.

**Mr. D. Kurt Tibbetts:** Thank you, Madam Speaker. My whole intent here is simply to clarify the matter; nothing more. Now, the statement speaks to a verbal understanding and no formal written commitment exists on either side. I just read the letter which explains the original engagement. The Minister also speaks to nothing being made known since July of this year. On page 1 of his report he says, **"I deemed this as a logical and necessary step as little was known about what, if any, progress has been made since the July 2001 report produced by NCB."** On 15 August Finance Committee was held. The resolution that was approved unanimously was to allow the Cayman Islands to provide a guarantee in respect of the monthly lease payments in connection with the intended lease of two new aircraft over a five-year term, the total guarantee not exceeding \$33 million.

Also at that meeting, it was resolved that the existing guarantees that were in place—and I am going to explain this in my own language, I am not quoting a resolution here—at Royal Bank which totalled, I think, \$32.8 million that Government varied the terms of those guarantees to allow for the refinancing, restructuring of Cayman Airways. I also think it included the deposits on the proposed two new leases of aircraft at that time.

Madam Speaker, that was on 15 August. Then came 11 September at which point in time we had not signed any agreements. It is being said that nothing at all was known but that fact was known. It was also known when this happened that we put everything on hold because the whole world was upside down. So while there is that resolution that has been approved by Cayman Airways with regard to leases of aircraft, let it be clearly understood that nothing has been acted upon thus far.

I just want to make sure that is clearly understood because in some other forum I heard it said about this \$60-odd million which if one takes it literally, based on the resolutions that were passed, those two amounts do total that. The \$32.8 million is the existing guarantees at Royal Bank which were allowed to be varied. The other amount which is not to exceed \$33 million—nothing has been done about that. So the Government has not been made responsible for any of that action up until when I had responsibility for the airline.

It says in the statement that **"...in terms of the business plan, Madam Speaker, when I took over the responsibility for Cayman Airways there was no Business Plan and yet a course of action had been set."** I have in front of me, a document which on the cover reads "Cayman Airways Business Plan 2001-2002, October 12 2001 Strictly confidential."

Now, the truth is that after the approval at Finance Committee there was supposed to be a contract drawn up between the relevant parties. This would have gone beyond the original engagement by the Government of the Cayman Islands of NCB Consultants. Every single Member of this Legislative Assembly was privy to that process. When we went to the Legal Department to have one done, unfortunately but not unusual, it became a long drawn-out affair and certain terms and conditions in that agreement were unacceptable to the consultants. With regard to certain types of liabilities, the consultant himself was not part of a huge consulting firm or accounting firm and the type of insurance that would have been required of him to accept certain liabilities was just not reasonable. The cost of that insurance made it totally not viable to be able to engage in what he was doing.

Remember, Madam Speaker, at this point in time, until an arrangement is made, the purpose of that contract was to speak to remuneration. As of now there were no charges to NCB Consultants themselves. The only fees to be paid would have been paid for any use or outsourcing to gather information and that was what was done.

Madam Speaker, the statement reads, **"The informal nature of this arrangement, has presented serious challenges in terms of accountability and organisational structure. For example, while NCB reported directly to the previous Minister and payments for these services were authorised by the Ministry, it was Cayman Airways which was responsible for the payment. In the past year ..."** and this is where it is important Madam Speaker, **"... a sum of just over C.I. \$100,000 was paid by Cayman Airways on instruction from the Ministry, even though Cayman Airways Management and Board had no direct links or authority for the consultant."**

It is not what you say sometimes, Madam Speaker, it is how you say it. I do not have copies of the invoices with me but I am certain if the Minister in charge so chooses to check, he can have it checked. Regarding every single cent that is spoken to in his statement, it can be shown where not one penny was paid to the individual involved or certainly not to me.

Madam Speaker, I can only say, and I say this truthfully that I do not mind when certain things happen. Most things once I understand them, even when they do not go in my favour, I can accept. However, I am going to tell you something, when I feel what I feel from a statement of this nature, it is the wrong road. Perhaps, there are some of us who thrive on certain types of engagements because that is the only way that they can see what they think as progress. Unfortunately for me, and it is unfortunate for me, because I have had to live with that for a little while now, I really am not built like that. Everybody is different and even that I accept.

**The Speaker:** Honourable Member, perhaps if you could return to paragraph 3 where you were dealing with the greater efficiencies in Government, as it related to Cayman Airways that would be good.

**Mr. D. Kurt Tibbetts:** Yes, Madam Speaker, I will. Surely, Madam Speaker, even in doing that you will not deny me the privilege of speaking how I feel about the issue at hand and that is what I was coming to. I will not test you; have no fear; have no fear.

This business report was approved by the Board of Directors with all of the events that have transpired, including and post 11 September, there had to be a new look. I would have thought that is almost totally expected because the whole world changed, not excluding but certainly more so in the airline industry than in anything else. Perhaps that is not quite fair but certainly the airline industry had a whole new life to look at, if there was a life to it. So, the way that it is spoken to about no information being received, was simply the fact that when this thing happened, then the whole new look had to take place. By the time everybody regrouped and decided on a course of action, that was only perhaps 30 days at most before the other event happened.

I just want to make it absolutely clear that while I accept the difficulties with Cayman Airways, I never tried to hide them from the very beginning. However, certainly no attempt should be made now to let it appear as if it almost did not matter to me. That is what I was coming to with what I was saying. I am not trying to bend it up or anything like that, Madam Speaker, but I think it should be made very clear exactly what the situation was. The situation was not as this statement (that was read this morning) alluded to.

#### POINT OF ORDER

**Hon. W. McKeeva Bush:** Madam Speaker, on a point of order.

**The Speaker:** Let me hear your point of order, Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, the Member is questioning the veracity of what I said in this House this morning and what he is imputing is improper motive. At least, he is attributing something to me that did not take place. The statement I made is the facts and nothing but the facts and nothing that the Member has said has cleared up anything. If anything is being read into it, the Member is reading into it because it is certainly not what I said. Nevertheless, I will have an opportunity, Madam Speaker, but I do think it is a point of order.

**The Speaker:** Honourable Member, under Standing Order 35 subsection (4) it says that, "**No Members shall impute improper motives to another Member.**" I would ask you Honourable First Elected Mem-

ber to be extremely careful in the way you so structure your statements. I have given you the liberty and I will continue to give you the liberty to defend yourself as I will all Members, but let us take the debate on, please.

**Mr. D. Kurt Tibbetts:** Madam Speaker, I am not hard to get along with and I want to make it very clear this is not to make your life difficult; this is to make it very clear. I want to make it very clear that I did not have any intention to impute improper motives. What I simply said is that there were areas in the statement that were not factual and I have the documentation to prove it. I just proved it, Madam Speaker, I am not trying to impute an improper motive.

#### POINT OF ELUCIDATION

**Hon. W. McKeeva Bush:** Madam Speaker, if the Member would allow me to elucidate.

**The Speaker:** Will you Honourable Member?

**Mr. D. Kurt Tibbetts:** Sure.

**Hon. W. McKeeva Bush:** Madam Speaker, the point I am getting at is his statement; he just varied it a little bit which suits his position now, but when I called for the point of order he specifically said the statement was not factual. He has, as I said, varied it a little bit just now. However, Madam Speaker, for instance, where the Member is talking about whether a Business Plan was there. What this statement is saying is that NCB did not produce any. The statement that the Member holds in his hand was the one that Cayman Airways had to produce to be able to get the funding. It was Cayman Airways that produced it. As far as I am concerned, that is not a Business Plan.

**The Speaker:** Honourable Members it is now seven minutes to one, I think it is the most appropriate time for us to take our luncheon break. We will suspend until 2.30 pm.

#### PROCEEDINGS SUSPENDED AT 12.56 PM

#### PROCEEDINGS RESUMED AT 2.44 PM

**The Speaker:** The First Elected Member from the District of George Town.

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

When we took the luncheon break, I was almost finished with Cayman Airways and I think it is probably just one or two more minor points in that area; so I will not be very long with it.

In the back of the Business Plan dated 12 October that I speak to (which is to be correctly termed an interim Business Plan), there is also a letter dated 24 September. Bearing in mind the events of September 11<sup>th</sup>, which is addressed to the General Manager

of the Royal Bank of Canada "Re: Cayman Airways Ltd. restructured finance". It reads, "**Further to our previous discussions, we have set out below the funding requirements for Cayman Airways in accordance with a loan restructuring plan presented to Finance Committee and approved by them on August 15<sup>th</sup> of this year;**" and it outlines the total funding required and speaks to the guarantee and the repayment terms. In the very last paragraph the letter states, "**In view of recent events, an interim plan for the next six to twelve month period is being completed and will be forwarded to you in due course. In the meantime should you require any further information, please let me know. Thank you for your attention to this matter. Sincerely, Naul C. Bodden.**"

So, Madam Speaker, the letter of 24 September, simply indicates to the Manager of Royal Bank the intention to produce this interim plan and that is the plan that I speak to and have a copy of in front of me.

Now it is said that that plan was prepared by Cayman Airways. However, like all of the other interim reports that were done during the course of the year, it was something that was done in conjunction with the Chief Financial Officer of Cayman Airways who obviously would have had to be an integral part of preparing that. He would have been the person with all the necessary information about the facts and figures of the operational side of the airline. So, Madam Speaker, suffice it to say that the report we are talking to is an interim report not solely completed by Cayman Airways, but one that was done in conjunction with—

#### POINT OF ORDER

**Mr. Lyndon L. Martin:** On a point of order.

**The Speaker:** Please state your point of order.

**Mr. Lyndon L. Martin:** Under Standing Order 36(1) relevance the Member is debating the statement that was read this morning and not the Budget Address.

**Mrs. Edna M. Moyle:** He is doing it in conjunction with the Budget Address on Cayman Airways. He said that already.

**The Speaker:** Honourable Members, I have listened to it and I have kept the Budget Address duly open based on the premise that the Honourable Member did say he was dealing with paragraph 3 subparagraph (b) which reads as follows. "**Thirdly focus on the attainment of greater efficiencies in Government and business operations and not just growth...**" and the particular section, "The rationalisation and restructuring of Cayman Airways." I am listening very carefully to ensure that he keeps it within that ambit and I have taken note of your concern.

**Mrs. Edna M. Moyle:** Good, Madam Speaker!

**Mr. D. Kurt Tibbetts:** Madam Speaker, perhaps it would be best for me to go on to something else. I think that I have explained the position with Cayman Airways, the restructuring and the rationalisation as I referred to from the very beginning. The fact that I used the statement this morning to deal with certain aspects certainly, Madam Speaker, as you have ruled it was not out of context.

Generally, with the Budget Address and the Budget that has been prepared, when we go into Finance Committee we will have an opportunity to bring some clearer light on certain issues in the estimates themselves and we will be able to deal with that. I perhaps will not find it necessary to deal with any other specific areas of the Budget Address itself and I will probably just wind up my debate now.

I can see the way the situation is being played out and if that is the way of the new Government and the United Democratic Party Government, then so be it. I have no real desire for continuing acrimonious debate but let me just make it very clear from here on in. I am very much alive and however they wish to deal with it, it is entirely up to them. However, they must understand that depending on how they deal with it, it is going to be *tit for tat*, whether it is one or all.

I also think that you will allow me to just clearly state that I believe that it is not the desire of this country to have a one party state. So, perhaps they will understand while they have been able to draw on resources and put together a party, those of us on the Backbench and are also good representatives of the people of this country. We will not just fall away but will be doing what we have to do in order to ensure that the business of this Honourable House is conducted in a manner that affords real good governance.

Finally, Madam Speaker, I noticed yesterday that when the party had their announcement they spoke to some commandments. I think you will be able to bear me out that one of God's Ten Commandments is, "Thou shalt not bear false witness against thy neighbour." Outside of the Floor of this House, there have been many things going on and a lot of things have happened that people perhaps are bitter about. Perhaps on each side of the fence, people may think that the actions of this person were not the right ones and then go back and forth. I think that when it is all said and done, we need to somehow find it in us to be a little bit more conscious of the existence of others around us.

I am not trying to put myself in a position where I am different from anybody else because as was obvious in November of 2000, certain things happened that did not please other people and all kinds of things went on and at the end of the day there was displeasure. I would like us to be able to put all of that behind us and get on with the business of the country.

Madam Speaker, I quoted that commandment to you because it is a different matter when one disagrees with certain positions but no one should lose sight of the fact about another person's existence and speak to situations that they say occurred when in fact they did not occur. I have been told by several people that I was supposed to have made a certain phone call on Saturday, 3 November speaking to—

#### POINT OF ORDER

**Hon. W. McKeeva Bush:** Madam Speaker, on a point of order.

**The Speaker:** Please state your point of order, Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, I think that all Members of this House need to take cognisance of the time of the year we are in and the work we have to do. The matter that is before us is the Budget and has nothing in it concerning 8 November or what happened at that point. I do not think the Member should be getting into that and the point of matter that I am bringing to the Chair is relevance.

**The Speaker:** Honourable First Elected Member, are you in your summing-up phase now? There is still quite a number of hours remaining, I am not trying to stop you. I am just inquiring as to where you are.

**Mr. D. Kurt Tibbetts:** No, Madam Speaker, there are other things that I would have spoken about within the Budget but as I said I saw the trend and I did not want to engage in all of that. Perhaps, on the Minister for Tourism's point of order regarding relevance, maybe you should simply make your ruling and move on.

**The Speaker:** Certainly. My ruling in this instance Honourable Members is that it has strayed somewhat outside the ambit of the Budget Address within the last few seconds. I was allowing an element of discretion because you did indicate you were summing up. If that is not in fact the case, then please indicate whether or not you are summing up and stick as much as you can to the subject before you.

**Mr. D. Kurt Tibbetts:** Madam Speaker, if I am to be truthful to you what I was going to speak to really had no bearing on the Budget itself. To keep my word, I will not bother to test the situation right to the minute. However, let me just make it very clear that as I said before, I have no desire for continuous acrimonious debate but it is entirely up to how they wish to deal. I know there is security in numbers but it is not going to faze me.

The good order and the well being of the Cayman Islands has always been and remains my utmost and what I term, passionate concern. Nothing that has happened that will change anything in that

regard in any shape or form. In fact, the truth is it will only serve to fuel desire to continue to contribute in a positive and meaningful way to the future of our Cayman Islands.

Now having said all of that, Madam Speaker, let me just finish off by saying that for all the lessons that all of us may have learned, one thing I can assure the public of this country, is that the lessons that I have learned will be put to good use on their behalf. While there may be those who would say, 'Well, I should deal with certain things a little different at this point in time', something way down tells me to do it the way I am doing it now. We will see how life goes from here, we will see what transpires in the days and weeks and months ahead.

The Members of the Backbench here, the five of us, will be playing the watchdog role as I stated before about myself and we will continue to do what we should be doing as representatives of the people of this country. The manner in which it is obvious it is going to move on from here is going to be different from how it was and we will see whether that is bad or good and we will see how the new Government moves the country forward.

I trust that as we move on we are somehow able to find the ways and means to do what we think we have to do and still maintain what we should be doing as representatives of the people. Thank you.

**The Speaker:** Thank you, Honourable Member.

Before I call on any other Member, First Elected Member for George Town, I should wish to draw your attention to Standing Order 31 which gives any Member a right to do a personal explanation. Does any other Member wish to speak at this time? Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Minister responsible for Community Services, Youth and Women's Affairs.

**Dr. the Hon. Frank McField:** Madam Speaker, in rising to speak to this Budget 2002 and following the contribution made by the First Elected Member for George Town, I would just like to be allowed to briefly read from an election bulletin which I printed on 18 September 2000. It says that Caymanians must come—

**Mrs. Edna M. Moyle:** Madam Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** Please state your point of order.

**Mrs. Edna M. Moyle:** What does the reading of that have to do with the debate on the Budget Address?

**Hon. Linford A. Pierson:** Madam Speaker, is that really a point of order?

**Mrs. Edna M. Moyle:** I think it is your right to rule on my question not the Deputy Leader of Government Business. Thank you, Madam Speaker.

**The Speaker:** Honourable Members, I would wish to draw everyone's attention to Standing Order 39(d) which states that "**Members present in the Chamber during a debate shall . . . (d) in all other respects conduct themselves in a seemly manner**", and I would expect no less. Suffice to say I will rule provided ample time is given. Otherwise I shall have no choice but to suspend and allow Members time to cool down, perhaps have a drink of water, because we shall proceed these proceedings in a very expeditious and timely manner.

Having said that, I would have to be given an opportunity to hear what the Honourable Minister has to say. I would ask him to ensure that he keeps within the ambit of Standing Order 36, scope of debate, which deems it prudent for relevancy to be a part of all debate.

**Dr. the Hon. Frank McField:** Madam Speaker, thank you very much.

I think there is such a thing as an introduction to a debate. I just wanted to read what I printed at that particular time and it reads, "**The significant challenges which face the Cayman Islands today cannot be solved at the same level of thinking we were at when they were created. We must now more than ever before choose leadership which will create the conditions whereby we can live out our imagination instead of our memory. Our leaders must tie us to our limitless potential instead of our limiting past. They must begin with core values firmly in their minds. Only then will these Islands be able to face with integrity the challenges posed by immigration, crime and unbalanced development. Only then will leadership become proactive rather than reactive. Only then will leadership be able to fight the presence sense of meaninglessness and emptiness which prevails in our society. Leadership must begin to provide you, the people, with a political culture that is driven by values that are clear.**"

Madam Speaker, the reason I read that is because when you get ... I am quite willing to table this because I think it is something perhaps that might be best kept in the archives of the Legislative Assembly.

**The Speaker:** Is that a request Honourable Member for so tabling?

**Dr. the Hon. Frank McField:** Yes, Madam Speaker.

**The Speaker:** So ordered.

**Dr. the Hon. Frank McField:** The reason I thought it was very appropriate to read that is because in debating the Budget Address, the First Elected Member for

George Town mentioned the fact that there were certain companies that seem to be no longer willing to remain in the Cayman Islands. The Islands have become too expensive as a result of the revenue measures which this Government is now bringing in this Budget. I feel that we need to be clear about the positions that we hold politically so that people understand the message that we are communicating to them. *Like people talk is like people think; like people think is like people is.*

I think it is necessary to be proactive rather than reactive in terms of the kinds of problems which now face this country. For too long, Madam Speaker, we have been reacting to one crisis after another. I think that the Second Elected Member for West Bay clearly stated in his Budget debate the reason the Budget for 2001 had all the borrowings of that particular period, despite all the attempts to blame it on the previous Government. At the end of the day regardless of who we blame we are still caught in the situation. What is important is not the conditions but the response to the conditions that we face. We do not have the control over the conditions but we certainly have control over how we respond to those conditions.

Leadership must be proactive. It must come up with solutions because it is not very easy for any country in this day and age to find a balance; between what we might consider to be selfishness on the part of some of its citizens, with the need to make sure that there is infrastructure for proper education, medical facilities, and social policies.

Madam Speaker, it is not very easy in a world that is divided, one opinion here and one opinion there, to take up a position and say, "*This is what we should do, this is what will be best*". We must have at least the foresight and the vision to make decisions. The response to whatever problem we have in this country lies with us the representatives. The persons who say they are or were elected to lead the country.

I am speaking as the Minister responsible for Community Services, Women's affairs, Youth and Sports but I am recently elevated to that position. While this Budget that we now have before us was being composed, I had nothing to do with how it was being formulated. As a matter of fact, from the point of view of the pluses and minuses, I have nothing at all to do with those in my Ministry's Budget. From the point of view of the expenses that we will incur, I had nothing to do with that. The Members who are now on the Backbench, trying to call themselves watch dogs or Opposition Members or whatever it is that they will finally have the time to decide to call themselves, were part and parcel of the formulation of the same Budget that I am here to defend today, the expense part of that Budget.

I think it is important to remember that they created the pluses and minuses of my Ministry and the majority in my Ministry is one that does not have very much to do with raising revenue. We spend

money on programmes that we believe will assist the country in remaining stable, because we believe that social stability is essential to economic stability and economic progress. We know that the Cayman Islands have been economically prosperous due to the social fabric of the Cayman Islands. It was one which allowed the integration of foreign elements, values, businesses, people, and institutions.

The Cayman Islands also had in its native original fabric that possibility for integration, so that economic and social progress was able to happen here at a pace that did not happen in other countries. However, there was a price at the end of the day for this. The social fabric began to suffer from traumatic types of difficulties, such as problems of alcohol and drug abuse, domestic violence, the lack of ambition and the lack of care and attention to the elderly. All the kinds of social problems that we see manifested in other countries became apparent to us here in the Cayman Islands as far back as some 20 years.

It is important that we understand that in dealing with these social issues, there is also a need for the cure, prevention policies and strategies to be financed and that can only be financed with revenue.

We cannot use the minuses in these instances to run those particular services. The Minister responsible for the portfolio before I assumed it questioned whether or not I should read into this particular debate. The fact is that leadership must be clear, play a different role, and we cannot solve the problems that we have today with the thinking that we had yesterday. I believe that those people who are on the other side of the aisle in the majority, represent the thinking of yesterday. It is not clear thinking. It is not an analytical thinking. It is not a precise thinking. It is not a committed thinking, Madam Speaker. What this country needs most of all at this particular point, is clear, dedicated, disciplined, analytical thinking; that is the relevance of my reference.

I think it is very appropriate that we understand that I was not put into this position by the Members of the Backbench with whom I sat, simply because I am good looking. It was because the way I speak, is the way I think, is the way I am. The clarity of my thoughts, the fluidity of my expression indicates how I think, the pace at which I think and the depth to which I go in analysing and dissecting and looking at the issues.

I believe that although I did not put the Budget together with regards to the minuses, what we will spend on our social rehabilitation, youth and sporting programmes, I have brought clarity already to that portfolio. That will give a multifaceted, multidisciplinary approach to the whole issue of social development and social stability. No longer do we have to believe; no longer do we say that we are doing social good simply because we as a state are altruistic. We are doing it because it entails the very strategy of survival for the State which has the core responsibility to provide its citizens with security. One of the primary prin-

ciples of why we gather together as human beings is to provide each other with security. If the State fails to do that, then the whole social covenant, the whole social contract becomes absurd. It is not worthwhile.

Therefore, social development, social services must have a new meaning in this country. It is not that we are interested in handing out cheques to people without them understanding their obligation to also uphold the values and moral order of the society. So when we have the minuses there, in doing these programmes like providing a shelter for women who are being abused at home and who need some place to stay, it costs the country. When we have our good conscience, we need the revenue in order to be able to create the materials and human conditions to ease those problems which we already know are related to other problems of violence which exists among our youth and among our society.

Therefore, when we adopt a multifaceted, multidisciplinary approach to solving social problems, we cannot solve the problems of the women in crisis without solving the problem of the prisons in crisis. We cannot solve the prisons in crisis if we are spending all the money on negative behaviour and no money on pro-social behaviour. Madam Speaker, we have to learn how to balance between those who are pro-social and giving those who are anti-social the type of corrective help and assistance which is needed to bring them back into pro-social behaviour.

There cannot be a country with all the abundance that we have, all the abundance that we see ... Just today, I was recording a *Public Eye* show and I was talking about how we went to South Sound during Christmas time to get pine trees to make our Christmas tree and how we took the paint can that was abandoned and how we put the silver paper around it and we put sand in the paint can and we put up our Christmas tree. Perhaps I could not go there and cut a Christmas tree today. I could not go there and I, probably could not even catch any fish for Christmas. I would probably have to go and buy.

Conditions have changed. Those persons who could freely fish, use the earth and environment they live in, to gather what they need and to fulfil their human needs of shelter and food, now have to earn by working for wages. That in itself creates an imbalance in the society. Government needs to create a balance in the Budget to try to balance the kind of envy, animosity, jealousy, social and political turmoil that will lead people to not trust one another and to hate one another.

So, the fact that Government must raise revenue coercively sometimes is not a surprise. It is not new and the whole issue can be traced back to Roman times when people first said you had to pay something. Madam Speaker, can you imagine what some of those tribes back in those days would have been like if there was not somebody who could say: "*Look, I am going to be the King, I am going to be the Government, I am going to raise the army, I am going*



*to defend the people, I am going to tax, I am going to raise revenue, I am going to harness the resources in order to make the army strong, and do so in order to make the State strong, to give the people the kind of protection they need?"* If they did not have that there would have been no centralisation.

There would have been no society because without centralisation it is hard for me to accept that there would have been a civic society. So the logic of some kind of centralised approach to these issues is important. I know that my style of talking is different from a lot of others but like I said, I am here in spite of the fact that people have laughed at me and that people will continue to laugh at me. I do believe there are those who do appreciate the way I approach certain issues because they understand me.

The Cayman Islands have gone from a fishing village to become the so-called fifth largest financial centre in the world. What it could charge yesterday to manage the issue of security and what it has to charge today is totally different. It does not necessarily mean that the people who could get away 20 years ago by charging peanuts are any better than those of us who feel that we have to charge a little bit more today. We who have to make the difficult decisions of saying, "I believe that this group or that institution should contribute a little bit more to the general revenue in order to preserve that which makes all of us benefit". In order to preserve the general good, we have to make changes in terms of how we make demands on different individuals and different institutions.

What is new about that? Who has ever liked paying dues or tithes or taxes? It has always been seen as a burden on man but man, with all his burdens, has come forward to this point with great progress, prosperity, ambitions and great dreams. Man has not been broken. Man stands at a time when he can really look backwards and say, "*We have come this far to realise that it is only when we know how to share and to utilise properly all of our resources; not just our physical environment but our human environment as well.*"

There are those who believe that a mangrove is more important than the little boy down in George Town who we know is going astray because he started smoking ganja at nine years old. As long as we do not do something with him, as long as we do not get involved, not just as a society but also as a State, it will cost us later on. That child's mind that is lost will become more expensive to contain, to incarcerate and to dedicate prisons to for the rest of his life.

I believe sincerely when I started to campaign in 1996 that the financial community in this country had prospered. However, there was not enough consideration as to the social consequences of this particular type of growth. It is not enough to just be able to help a few seamen who are in need; to help a few ex-service persons who need medical attention; to pay to design a prison that looks like a chicken coop

but we cannot physically do the kind of work that needs to be done.

It is all right, Madam Speaker, to put the prison at the bottom of the priorities but we have to spend millions of dollars that we have not yet started to spend. We are getting behind in our sporting, youth, women's programme and our entire social programme. We drag our feet and say we do not have the funds to be able to put an effective social policy in place. We have still not dealt with the issue of housing in this country and yet we believe that what we ask for today in terms of revenue is unfair and unjust.

I have spoken to the persons who must now participate more fairly in giving us the opportunity to solve some of these issues. We have had these issues piling up behind us for all these years, that should they want to run the country, let them run the country. However, let them go into the areas that I go into and see the poverty, the anger and the frustration. Let them! Then tell me what the solution is to these problems. However, as long as I am the one who must do this, I must say the revenue the country has been able to collect so far has not been enough.

My friends tell me all the time that government is a waste of time. It is too big and is spending too much. I can see the inefficiencies in government myself but because I recognise the weaknesses in myself, it does not mean necessarily that I can make the transformation from the weaknesses to the strength all of a sudden. Neither can we do it in government. Nor can they do it in the private sector. How can there really be a thriving, prosperous private sector when governments are wasteful and no good?

Some of the same people who are complaining about the Government should go to Nigeria. They should go to some of the real Third World countries and see how people live. We live as persons that represent this Government, this country. We, all 15 of us live as some of the most fearful, frightened people because we have no protection and no respect. There is no gratitude; there are only threats such as; '*Wait until the next election, we will get you. You did not give me what I want; you did not break the rules for me.*' Yet, they do not understand how much we actually put out.

We are very conscious of the fact that there need to be changes. There need to be changes in the Government bureaucracy to make it more efficient and how many of us have not told our cousins and our friends, when they come to look jobs, that we cannot really help them. Probably all 15 of us have told the old lady that we cannot help her; have said to the seaman that he is working and although he is only making \$800 a month, he still cannot get the \$400. The Social Service budget has gone down in terms of what it will spend this year over what it spent last year. However, there is need for more money overall because we need to shift from rewarding people simply because we feel they deserve it, to rewarding people because they need to have.

Revenue is the issue here because each government department, each portfolio has cut or postponed and said they will not hire. Nevertheless, what happens when you need somebody or something? It might be a definite position that we need more prison or police officers but we cannot hire. Your prison is falling apart and you cannot hire because there is no money.

**The Speaker:** Is this a convenient time, Honourable Minister, for an afternoon break?

**Dr. the Hon. Frank McField:** Thank you, Madam Speaker.

**The Speaker:** I will suspend for 15 minutes and Members, please let us try to get back within the 15 minutes. I thank you.

#### PROCEEDINGS SUSPENDED AT 3.32 PM

#### PROCEEDINGS RESUMED AT 3.56 PM

**The Speaker:** Please be seated. Proceedings are resumed.

The Honourable Minister responsible for Community Services, Youth and Women's Affairs continuing his debate on the Budget Address.

**Dr. the Hon. Frank McField:** Madam Speaker, thank you.

While considering the need to raise revenue, there are not many individuals or institutions that go out to assess the needs, cost and how those needs will be dealt with. Government is the only institution, in fact, that has done this consistently over a period of years. It is sometimes difficult for persons who have their own individual private sector enterprise to accept that. Although, I am one who believes that we should take advice, it is nevertheless important for us to realise that the decisions to be made must be made by the Elected Members for only they will ultimately be held responsible for those decisions.

With all due respect to those persons who advocate the consultative process, one has to also realise self-interest is always involved here. There will be very few people who are going to give up something freely because we have to understand the nature of our financial industry.

Our financial industry was founded upon discontent by persons who owned a lot of money. They came here in order to escape certain types of responsibilities in their own countries. They also came because they felt in some other Caribbean countries, there were things going on there that would eventually cost them to pay a little bit more than they would have to pay here. Their partnership with us was based upon the concept that they, as partners were in control of the partnership. The day they decided they no longer wanted a partnership because of the way we were

operating, they could extract themselves from it and leave.

Therefore, our attempts to raise revenue in this country have always been coerced by that understanding, not always implicit but mostly explicit. They would tell you that first of all they did not want the Cayman Islands to mature politically because that would create certain types of problems. Our political maturity was looked at as important with regard to what we would be bold enough to do in relationship to the partnership. Also those persons were some of the most active in terms of collecting information about individuals, political leanings, thinking and relationships. Those persons would report to their clients on the political climate in the Cayman Islands. A docile, political climate in the Cayman Islands was seen as something that was positive because that way there would be no group of people strong, firm or cohesive enough to actually be able to demand from them a rethinking of the partnership.

So, we can see why some people are upset with the emergence of the United Democratic Party. I must say that the Budget that I am defending at this particular point is the United Democratic Party's first budget. I have not had the same kind of experience as the Honourable Minister responsible for Planning, Communication, Works and Information Technology, the Deputy Leader of Government Business, in terms of looking at the mathematical parts of the Budget. However, from a conceptual point, I can say that we as a group were very conscious that the country had exhausted its ability to find new revenue. So much so, the 15 Members of this Legislative Assembly – and I do believe that I can include you, Madam Speaker, in that – felt that some type of exercise was necessary to be done to see where we might get additional revenue without taxing any more the little man or the poor man or the working man. As the Second Elected Member from West Bay had argued in his contribution, that particular part of our community had suffered.

Now, Madam Speaker, you remember that I brought a motion to remove the duties from foodstuff and although the Government in which you were a part of at that time did not go along with all the schemes that I had, you at least removed the duties from certain food items. As soon as the past Government, the Government between your Government and this Government got in, they put those duties back on the foodstuffs. In addition to that, they went out and borrowed. However, they would not confront the same persons that this new Government, the United Democratic Party Government, is willing to approach.

We are unified to say the truth of the matter is that we have the opportunity to look at some of the ideas that have been looked at by the past Government that was in place between 2000 and November 2001. There were some ideas in there with regard to revenue enhancement measures that I have to admit have been used. So it is no wonder that the Members on that side are partly here with regard to the revenue

measures because the revenue measures grew out of a process that the Government between 2000 and 2001 put in place. I think that is very important to remember. Now, I am not saying that all of that is the case but the exercise of trying to raise the additional revenue desperately needed started, not in November of this year, but after the Budget in November 1999.

I think that everybody in this Legislative Assembly is concerned with how to raise revenue and how to make it possible for Government to actually be able to deal with all of those infrastructural needs that it needs to deal with. Now, the issue is that we were so much united on the idea that we had to work together to find new revenue measures to which 15 people concurred. If the same Government that was in power between 2000 and 2001 was here today, they either would have had to borrow more money and put the country in a worse state from the point of view of stability or they would have had to use certain revenue measures that were available to them. I am quite sure that in all of their sensitivity and wisdom they would not have gone back to tax the little man any more than he had been taxed over the years.

So what are we talking about, then? We are talking about the fact that certain people do not like the fact that we are raising revenues from them. They are on that side and therefore, they find it possible to say, *. Yeah, we will take the side of the persons who are against these revenue measures that you have brought because we cannot benefit from being on your side and agree with what you do. So we will say yes, we agree that what you are doing is unfair.*

However, the question is if there is no revenue, how can there be implementation of policies? How can these gentlemen and lady expect that the needs for their communities can be fulfilled without revenue?

Can it happen after they get up and criticise the revenue measures without any alternative suggestions as how we would raise revenue at this particular time without borrowing money? How do they expect the programmes which they believe should be provided to be funded? With what? It would be good, I mean it would be such an ideal position to say, *'On the one hand, I disagree with you but you know what? Let me get some of that too so I can do something and look good.'* That is not the way it should be because what is being done is being done collectively for the good of everybody. Everybody is supposed to participate.

I think that when people actually pass judgement on this Budget, they should pass judgement fairly, objectively and not because certain persons are not pleased with the fact that we are asking them to contribute to the General Revenue more than they have contributed in the past. The Honourable Financial Secretary mentioned where we are going to have a tripartite approach to national development involving the active participation of the public, private and social sectors. If this approach would promote sustainable

development, greater inclusion, balance in development and business opportunities for local residents, then all the social partners have to become responsible, play their part and not continue to threaten us about what they are going to do if we pass these revenue measures.

The difference today is that there are some of us who are stern, confident, have vision and understand domestic and international economics sufficiently to be able to say to them, *'Look, where are you are going? Why would you even want to go?'* We have been playing to protect the financial community here.

With the OECD (Organisation for Economic Co-operation and Development), we have done what we have had to do. We have spent money, where we had to spend it; hired expertise where we had to in order to understand better what is going on internationally and to protect the fifth largest financial community in the world.

People say to us, *'Oh, you are the fifth largest financial community in the world; yet you have no money to spend on affordable housing for your people, on your youth or sporting programmes? What is happening there? Is that a reality? Is that an illusion that you are the fifth largest financial community in the world?'*

What do we mean by being the fifth largest financial community in the world? Does that mean there are just buildings on our soil? Buildings that have a separate sovereignty from our sovereignty? Do they have sovereign jurisdiction over all the moneys here simply because they will not integrate their economic system into our domestic economic system? We can also derive the benefits from that instead of having our people work for cheap wages and cannot afford to buy into the very same soil that they owned? Madam Speaker, when we say the 'fifth largest financial community in the world', does that mean that all that has happened here is a system to deprive other countries of taxes and to deprive us of revenue?

I think that it is important at this particular juncture in our development for us to think seriously about what we can maintain and sustain. When we talk about sustainable development, we must talk about sustaining the social and educational systems as well as the environmental issues. We are not just talking about sustaining the physical development. We have to talk about the human aspects as well. To sustain that will only become possible when that 'fifth largest financial community in the world' begins to give some real concrete benefits to the Cayman Islands' people. That would mean passing on, as freely as possible, revenue to the Government which is not greedy, extravagant, corrupt, or spending money on Mercedes Benz cars, big palaces, servants and all of those things but to a very humble Government of the people. We come from the people who are saying, *'We believe that we provide you with a very important*

*business environment where you can make profits and as a result of that we need to . . .'*

Madam Speaker, I know that the Elected Member from North Side is not a clown. I know she is not a comedian and I know that the First Elected Member from George Town is definitely not one. However, I do not understand why that Lady continues to behave the way she is behaving in relationship to me in terms of the signs she is making to me when she knows that I am trying my best to concentrate to make a speech here.

**Mrs. Edna M. Moyle:** Madam Speaker, could he explain what sign I was trying to make to him because I was quite interested in his debate?

**The Speaker:** Honourable Minister, can you please clarify?

**Dr. the Hon. Frank McField:** Madam Speaker, the Lady Member knows and maybe all I am saying is that she knows what I am saying and I will just go on.

**The Speaker:** Thank you.

**Dr. the Hon. Frank McField:** There exists here a situation whereby our development has had to go forward from the point that once you have businesses located in your country, there will be needs because no longer can the people be employed by using a pick-axe and an axe and a shovel. People have to have the tools to be able to survive in industry. People can no longer go and pick their whelks, conchs and fish; if there is anything left, it must now be maintained for tourism. So, people are allowed only to exist from the salaries and wages they earn.

It is important that we have money to build schools and to keep our education programmes up-to-date. It is important that we have money to be able to assist those persons suffering so that they can be re-integrated into the work systems, where discipline and achievement are best accomplished. It cannot be done without money and as a result of that, the more people that we have, the more the need for the Government to increase its revenues in order to keep up with those demands.

So, I do not believe that we are going to hear good messages from certain persons in the financial community but the good thing about it is that I have never taken advice from certain people. I have never *gone on* to be their colleague or their friend. Their approval of me is not even important to me.

I am not going to be swayed by anything other than my conviction. My conviction in fact, is the benefits the financial community receives in this country are great and the benefits which the Cayman Islands' people receive are small. The smaller person you are, the more you understand that.

There are some of us, of course, who have made it good, who have always made it good; who

have been the tokens and who have been rewarded but the majority have not. That we need to address some issues with regard to how wealth is distributed in our country is nothing strange. However, when we attempt to do this, for someone to say that somehow we are driving them away, is unfair. For somebody to give the people the mixed message and to bring that fear back to them is almost like going back to one particular Member we had on this side at one particular time. I do not believe that we need to go that way.

I believe that the Budget from the point of view of the revenue has tried to accomplish something that was difficult. It is a balanced budget without a tremendous amount of borrowing and I know that part of the issues that caused the United Democratic Party to come into existence had to do with budget issues. Although, I was not in the circle, I know that because I know to certain people: how money is spent, what money is spent and where you get that money to spend, is important. There is a younger group of people in here who are very professional and they do insist upon certain types of standards.

How a budget is composed is a very important part of the sovereignty and the right of a government. If we are going to say that simply because people having private wealth exist in our society and there is not a point at which we all share certain things, then we are no longer living in human society. We are living in something definitely different.

The same police that protects you is the police that protects me. We have a 200-plus police force. If you are living on this Island, you cannot say that you are not responsible for it. If you have a business here, you cannot say your business is not being protected and, therefore, your business is not benefiting from all of that.

Someone who has a business here cannot say they have no responsibility towards the prison where we send people because otherwise they would become harmful to society. Even if all one is paying is for the business licence, they are still able to enjoy certain benefits. Although their business is not here, they are still deriving the collective benefits that we all receive in the Cayman Islands. We know as Caymanians that we do pay taxes. The cost of living is the result of taxation in a particular direction. Who would want to see the cost of living get any higher by continuing to flog the poor man, the little man, the working man? The rich and wealthy, God bless them, are not contributing to the level that some of us believe they should.

I believe, Madam Speaker, that the greatest asset this country has is its social order. I continue to insist that in order to balance it out and make it work; it must move from a spontaneous mechanical type of blessed social order to one that is planned and regulated by social thinking, by social analysis and by the application of funds to be able to solve the problem. To interdict, to intervene and to prevent, all cost money.

However, when somebody comes to this country and they see a person who has a mental problem on the road or they see somebody with no house sleeping in a public place, or they see people going around and robbing or doing things like that, that all affects the value of the social order which in turn affects businesses. Therefore, they cannot make the kind of profits that they should be able to make and cannot live in the same kind of peace that they should like to live in.

Raising revenue is one of the most important rights of any government. If a government cannot raise revenue, then it is impotent, powerless, and is supporting and advocating anarchy. The citizens of a country cannot take the Government seriously if it does not even have sufficient access to revenues in order to do what it should – which is to secure the lives and the property of the individual citizens.

Madam Speaker, raising revenue is an important thing in every other jurisdiction. Without the sovereign rights of governments to raise revenue occasionally for the upkeep of the country, the countries would collapse. Nobody would have any respect for them. So governments here might say, *'Yes, we do have social partners and yes we will consult them and yes we will try, as long as possible, to turn over backwards to please them so that they do not have to pay anything more this year than they paid last year.'* However, what is the point of telling them that we need less simply because we are hiding our needs; because we are not honest about our problems or about social disorder in our society?

The problem of social disorder is the greatest problem which the Cayman Islands faces today. If a lot is not done to deal with these issues, there will not be very much left for many of us. The prison is a good example again. In terms of dealing with the security issue, we know the needs of the prison from an economic point of view, has not been dealt with sufficiently because there has not necessarily been a political Minister to represent the needs of the prison and show, as a whole, why imprisonment and incarceration are part of the social system and the social fabric of our society.

Madam Speaker, crime is natural, it happens in every modern society. It happened in each ancient society. It is something that does not necessarily have to make us weaker as a society. It can make us stronger as a society. Just like good and bad, the devil and God, Heaven and hell, it shows us the two levels of reality we have or the two points we have in the reality scale. We can go either way. When we go one way, we hit the fire and when we go the other way, we hit the glory.

Prison should not be a comfortable place but should be responsive to what persons need to rehabilitate themselves. However, there can be no true coercive methods in the prisons without the facilities to be able to carry out those coercions. We cannot control prisoners as long as they outnumber police-

men and guards. We cannot expect to have an order in prison that we do not have on the outside. We cannot just tell people to do something and expect that they will do it.

All these things take money and for too long the Government has not had access to the types of money necessary to keep social development on par with economic growth. Nobody really paid attention to it. Nobody was interested in showing persons benefiting and who are not necessarily social thinkers or not acquainted with our culture as we are that we need the monies to put the facilities together to deal with all of these problems.

However, at the end of the day I am not talking about prisons only. What is the point of having a prison if you do not have a society with the mechanism to re-integrate the people back into the society that come from the prison? What happens when you do not have the willingness? What happens when you do not have the probationary system to be able to parole people, be able to monitor them, get them to understand that they have not just broken the Law but the trust and the relationship with other people? The probationary system can get them back to the point that they become creative and productive human beings again, who are willing to obey the social order because they understand it.

Those persons that are breaking the Law are doing so because they think they can benefit from it. Therefore, it is important that we establish a prison system that shows that although the time might be short, it is intense. It must show the society is not only interested in rehabilitating you but also in convincing you that should you continue not to want to mend your ways, the society will punish you. There is no point in us believing that hell is so terrible and that is where sinners are going to go but if you send a person to prison, that it should be nice. We are talking about human rights. We are talking about being human. Well, then, those of us who believe in hell, how human is that? If you are given a chance, that is where the humanity is. Humanity is in giving the possibility to redeem oneself, to be born again and to change.

Humanity is not placating people who continue to do the same thing over and over again. That is not humanity. Humanity is not in providing them with the facilities to continue to offend. That is not humanity. Humanity is giving them a chance. However, when they refuse to take advantage of that chance, the state can only spend so much money because we only have so much money.

We live in a society where we need to offer these types of things, these types of security, but how can the state do so without funds? Tomorrow, if there was a real riot at the prison, what would happen? We have to think about all these things. The state cannot just be a crisis manager. The state must become proactive and put the mechanisms in place to prevent anybody from being in breach continuously of the social order.

Therefore, we believe, on the one hand, we must do something about the prison. On the other hand, what is the point of us sitting down and watching a five-year-old child become a delinquent, knowing he or she will be going to prison without doing something to aid that child? We know that the best medicine is prevention. Our preventative measures, Madam Speaker, will cost a lot but we need to continue to invest in those things.

Anyway, Madam Speaker, I notice that you are saying that I can sit down now. Thank you.

**The Speaker:** Not quite, Honourable Minister, I was quite intrigued actually.

Nonetheless, we have reached the hour of interruption. Will there be a motion, Honourable Deputy Leader, to suspend Standing Order 10(2) for continuation or, if not, a motion to adjourn?

### ADJOURNMENT

**Hon. Linford A. Pierson:** Madam Speaker, I move the adjournment of this Honourable House until 10 am tomorrow, Friday, 14 December 2001.

**The Speaker:** Thank you, Honourable Minister. The question is that the House do now adjourn until 10 am tomorrow Friday, 14 December 2001. Those in favour please Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The House do stand adjourned until tomorrow Friday, 14 December 2001.

**AT 4.30 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM FRIDAY, 14 DECEMBER 2001.**



**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**14 DECEMBER 2001**  
**10.18 AM**  
*Sixth Sitting*

**The Speaker:** Can we have prayers by the Third Elected Member for Bodden Town?

**PRAYERS**

**Mr. Anthony S. Eden:** Let us pray.

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

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

Let us say The Lord's Prayer together:

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

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

**Proceedings resumed at 10.20 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for the absence of the Honourable Minister responsible for

Planning Communications, Works and Information Technology. I have also received apologies for the Honourable Third Official Member who will be arriving late this morning.

**QUESTIONS TO HONOURABLE  
MINISTERS AND MEMBERS**

**The Speaker:** The Fourth Elected Member for West Bay.

**QUESTION NO. 132**

**No. 132: Mr. Cline A. Glidden, Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what the succession plan was for the positions in the Lands and Survey Department, and if all members of staff in that Department had been advised of these plans, including what is required of them to advance with the plan.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** On 6 April 2000 an organisation chart and succession plan was circulated to all staff in the Lands and Survey Department. It identified both existing and proposed future posts, together with the minimum educational and experience requirements. Its purpose was to make it clear to all staff what was required before they could be considered for advancement. It was also possible for them see the minimum requirements of every post in the Department so that those wishing to do so could understand the requirements for succeeding to the top posts. At the same time the opportunity was taken to revise job titles so as to better describe the core functions of a number of posts.

**SUPPLEMENTARIES**

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker. I would like to thank the First Official Member for that answer. I am just wondering if the Member could state whether there is some kind of understudy programme or succession planning in place that would allow qualified Caymanian members that are there to advance as the plan has been laid out.

**The Speaker:** The Honourable First Official Member.



**Hon. James M. Ryan:** Thank you, Madam Speaker. Staff are encouraged to be proactive in identifying possible courses of academic study to further their careers. This is particularly so with those aspiring for the post with a professional qualification attached. At the present time, one is pursuing a degree via the internet and another is presently studying in the UK.

**The Speaker:** Any further supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Some time during the last year, this Honourable House was told that a Caymanian would be identified shortly for the position of Director of Lands and Survey. I wonder if the First Official Member can tell us if that Caymanian has been identified.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I know last year the information was given that a Caymanian had been identified for the post of Chief Surveyor. I am not sure who gave information on the identification of a Caymanian for the post of Director of Lands and Survey but if that information is given, it is obviously not correct. However, the Caymanian who is identified for the Chief Surveyor's post has since been employed in that capacity.

**The Speaker:** Are there any further supplementaries?  
The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr:** Thank you, Madam Speaker. In the answer that was given, it said that certain members were undergoing training to reach their professional qualifications. Can the Member state whether we have any Caymanians in the department who have the necessary professional qualifications for the advancement as per the specified succession plan but who have not been able to be moved into those positions as yet?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. It is my understanding that there is no one in the department that has the requisite qualifications that is, as it were, waiting in the wings for promotion, although there are members of staff who are slowly working their way up by obtaining the qualifications. Once a Caymanian can be found that will certainly happen. I hope the day will come when we find a Caymanian to succeed to the post of Director. For a long time the post of Chief Surveyor was held by a non-Caymanian and we have seen that changed. I think there is a definite move to see more Caymanians succeed in the top posts once they achieve the professional qualifications.

**The Speaker:** I will allow one more supplementary if there are any further supplementaries. If not, we will move on to the next question.

The Elected Member for East End.

### QUESTION NO. 133

**No. 133: Mr. V. Arden McLean** asked the Minister responsible for Tourism, Environment, Development and Commerce what progress had been made on having the use of pressurised vessels and dive operations ceased on the Seven Mile Road Public Beach.

**The Speaker:** The Honourable Minister responsible for Tourism, Environment, Development and Commerce.

**Hon. W. McKeeva Bush:** Thank you, Madam Speaker. This matter has been debated for a number of years but no formal action has been taken to remove the dive operations from the public beach area. Honourable Members will recall I told this Honourable House in June of this year that no formal agreement exists between the Government and dive operators to permit this activity from the public beach. As I have said publicly before, it is a matter that my Ministry is addressing and which we intend to rectify in the near future.

Government realises that the service these dive operators provide is essential to our tourism industry, however, Government is not obliged to provide a venue from which to operate from, especially when this is to the detriment of the general public. Therefore, we must be satisfied that the dive operations have had a reasonable opportunity to establish themselves on alternative sites, before they are removed from the public beach. For the avoidance of doubt, I will say that it is my Ministry's intention to cause the dive operators who currently use the public beach to cease operations on that site.

### SUPPLEMENTARY

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

For the avoidance of doubt, I just want everybody to know that I have nothing against small businesses. I totally support them. However, my biggest concern with the operation on the West Bay beach, on any beach for that matter, is the filling of pressurised vessels in the vicinity of the general public, that is, the transportation of the main vessels which are then parked at the beach and from which the dive tanks are filled.

I know that is quite easy to stop. They just transport their tanks in as opposed to bringing the pressurised vessel in, so I wonder if the Minister could tell us what time that will cease.

**The Speaker:** The Honourable Minister for Tourism.

**Hon. W. McKeever Bush:** Thank you, Madam Speaker.

I have said that the intention of my Ministry is to cease the dive operations currently existing on the public beach. With regard to transporting those tanks, we are still taking additional advice from the Fire Department on regulations. Regulations will be put in place.

**The Speaker:** Are there any further supplementaries? If not, we will move on to the next question. The Second Elected Member for the district of George Town.

#### QUESTION NO. 134

**No. 134: Mr. Alden M. McLaughlin** asked the Honourable Minister responsible for the Ministry of Education, Human Resources and Culture, what the current status is of the writing of another *History of the Cayman Islands* that was initiated by the previous Government.

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Bodden:** The manuscript of the new history prepared by Dr. Michael Craton is now being edited. The editing process should be completed in the next two months. The text will then be reviewed by the author and decisions made about the maps and photographs, et cetera, that will be used to illustrate the work. At the same time, a suitable publisher will be sought following the normal tendering procedures in Government.

The process of producing the new history is being overseen by a monitoring committee comprised of recognised persons from our community, most of whom are Caymanian, including trained historians, educators and representatives from the National Archive and the National Museum. The committee has sought to ensure that the new history will be readable and accurate so that the widest possible audience—Caymanians, residents and visitors can benefit from it.

Readers will find that the book breaks new ground on many subjects, including the settlement of all three Islands, slave society in Cayman; emancipation; the creation of the first schools and churches; how isolation, necessity and the local environment shaped the Caymanian character; and the political, economic and social changes of the last 100 years. Publication is anticipated for December 2002. The book will be approximately 450 pages long, with about 50 pages of historical photographs, maps and other illustrations.

**The Speaker:** Supplementaries?

If there are no supplementaries, we will move on to the next item.

## STATEMENTS BY MEMBERS OF THE GOVERNMENT

**The Speaker:** Under the provision of Standing Order 30, I have received no statements for today's Sitting.

Before we move on to the next item of business, I should wish to suspend for 15 minutes as the next speaker is the Honourable Minister for Community Services, Youth and Women's Affairs, and I have received word that he is having an audience with His Excellency the Governor.

I understand that it is his intention to still continue debating and I would beg Members' indulgence to offer this for the next 15 minutes. Do I need to put it to a question? Okay. We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 10.35 AM

#### PROCEEDINGS RESUMED AT 10.47 AM

**The Speaker:** Please be seated. Proceedings are resumed.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

#### THE APPROPRIATION (2002) BILL, 2001

#### DEBATE ON THE BUDGET ADDRESS

*(Continuation of debate thereon)*

**The Speaker:** The Honourable Minister responsible for Community Services, Youth and Women's Affairs.

**Dr. the Hon. Frank McField:** Thank you, Madam Speaker.

I had the opportunity to listen to most of my debate last night on the radio. After listening to the debate I was of the opinion that what I was really attempting to do was give good reasons I thought essential for a government to be in the position to raise revenue for the general good of the nation, and why I believe that is a paramount sovereign right. I also outlined why I believed that governments of the past exercised this right very conservatively and I do believe that presently the United Democratic Party Government is doing this as well.

When we look at my Ministry—Community Services, Women Affairs, Youth and Sports which includes Prisons for instance—we see that the prison has cut its expenditure 5.4 percent from last year, which I regard as a more than tremendous accomplishment on the part of the Director of Prison and his staff. Nevertheless, prison is an area where we should

be spending more money. The reason we are not is because there is a shortage in revenue.

Now, there are those who continue to stress the point that our prisons are not harsh enough and are not acting as deterrents. However, for our prison system to act as a deterrent against those who commit crime, we will need the security in the prison well taken care of. If someone decides one day that they have nothing to lose and they challenge someone who does have something to lose, such as a loving wife, children, grandparents and parents, then what is the person who has everything to lose to do in relation to that person who has nothing to lose?

We have to give the persons who work in the prison system support, the kind of equipment and physical conditions to allow them to be able to implement the deterrent type of prison system that our population so desires.

When the new Director of Prisons came here to take over all kinds of promises were made about what would be done. When all those possibilities were thought of . . . I do not know what we were thinking about at that time because we are far away from ever achieving all of the additions promised to be made to the prison. Even if we continue to tax to the max for the next three or four years, we would not have sufficient money to make the types of alterations in the physical structure and infrastructure of the prison to allow it to act as a deterrent against crime.

One of the most important concerns I have is with regard to importation of illegal drugs into the Cayman Islands, especially from Jamaica. That has been a concern for many of us. We have seen the way in which drug abuse has affected our population. We are now at the point of feeling sympathy for drug users seeing their problem as a social illness. To deal with it, we have built the rehabilitation residential facility called Caribbean Haven and spent a lot of money on that.

However, what are we doing to ensure that our prison acts as a deterrent against importing drugs into the Cayman Islands to make places like Caribbean Haven always necessary and to make the job of its staff and those of other rehabilitative institutions even more difficult? As there are supplies easily available to people, they will turn to them.

The idea that a reduction solution is needed for the demand of drugs is ridiculous. The demand will always be there as long as the supply is there because the suppliers will make sure that the demand is there. Somehow, we have to deal effectively and efficiently with the suppliers. That is why I thought that we should have had, by now, at least a separate wing at Northward Prison that would be able to deal with importers of illegal substances into our country. They would get a message then because they are not getting the message from long prison sentences, which are not intense, taxing or uncomfortable enough.

So, although the prison budget is being presented to us down 5.4 percent from last year, it is not

a great accomplishment to come here and say that without telling you why it is down. Quite simply it is because we are not prepared or financed to do the task that the nation requires us to do, so that people can sleep peacefully at night and continue to prosper by having the necessary stability and social order.

How can we take the core function of the state to provide its citizens with security and push it to the back burner? Prisons are important because they exist in all societies. Just as hospitals are important for our physical health, prisons are important for the social health in our society. They ensure that our citizens remain compliant with the norms and values of society and uphold the Law, which is necessary for the social contract to function. Laws are important as instruments in continuing to protect, enhance and maintain the useful relationships among human beings.

We need to not only devise new strategies, but also to finance them to attack importers of illegal substances into the Cayman Islands. We need also to get the Police more active. We need to see the National Drug Council under my Ministry act as an essential instrument to co-ordinate with the different agencies concerned with preventing drugs from entering or being used in the Islands and rehabilitation of drug abusers. I believe that the National Drug Council can play an effective role in bringing the Police, the Customs and all the other agencies together to devise a strategy that will help to deter, interdict and avert the spread of this particular problem.

My great concern is that a lot of the canoes coming in from Jamaica are bringing ganja. We developed a culture here that somehow says it is all right to smoke ganja and that it is only crack cocaine that is affecting our people. However, we have to have a different position to this when we see nine-year-old kids developing behavioural problems simply because they have already become addicted to ganja smoking. The time that they should be playing football, basketball, baseball or some other kind of recreational activity, they are spending it chasing after trying to find the next smoke.

Madam Speaker, in our inquiry into social breakdown and violence among youth we have found that an astonishing number of persons committing offences have also been involved in using these prohibited substances. However, we learn how to use those substances simply as a result of thinking that they are all right. This is because people do not do things unless the values and the norms within their subculture, families, peer groups and community tell them that it is all right and introduce them to it.

We can see how individuals in our societies become victims, simply because it is so easy to create that demand. This is so when persons start at age nine and believe that when the police come into the neighbourhood to interdict and to prevent the sale of drugs, they are coming in there to do something bad to Caymanians.

I am appealing to young Caymanian men with young children, who smoke and believe that it is all right to smoke, to think about their children. Perhaps, they started smoking at age 15 or 16 after they were out of school, but what about the children who are smoking at nine and 10 years? Since they have a drug problem, they are unable to learn at school and as a result, my Ministry has to find money for a remand facility.

My Ministry has to find over \$1.545 million to support Cayman Islands Marine Institute (CIMI) to carry on a contract with Associated Marine Institute (AMI) to provide a rehabilitative model which we had hoped would assist us in modifying the deviant behaviour of many of our young children. However, it will be demonstrated later on that a catalyst for the bad behaviour in a small minority of problem-causing young people is their involvement with drugs. For this reason Caribbean Haven has to become more active. They need a bigger budget because the problem really is a multifaceted one. All of these factors are inter-related; you cannot isolate them or treat one facet alone.

So, while we are trying to improve the prison, we also need a remand facility for young people, even if it is only nine children. The recommendation was for Orchid House to be built at Fairbanks at the old Dr. Hortor Memorial Hospital [site] to remand a maximum of nine juveniles at a renovation cost of at least \$415,000. The cost to run the programme would be a minimum of \$600,000 per year. That would be \$60,000 per year for each child. When you look at that kind of arithmetic, when you look at that kind of economics, you wonder where we are in this world. How can people tell us the country can survive on the revenue that it has been collecting, when it has to pay out a minimum of \$600,000 per year just to lock up nine kids? That does not take into account that they probably will need additional counselling for substance abuse and other things. This is just a basic beginning to deal with a problem on a juvenile level.

We want and need to keep them in the school system because we have an obligation under the Education Law to make sure juveniles below a particular age get an education. Even when we lock them up, we have a legal responsibility to them. Where do we get the money for all the responsibilities we have as a civilised people? As soon as we tell people that we are going to increase punishment and are going to be more severe, they start reminding us about human rights and about the international standards of this and that.

However, how can my standard be higher than my means? I am stressing that we begin to bring our standards and our means a little closer together. We have to move each goalpost, not only the goalpost of standards, but the goalpost of means. Therefore, the new revenue measures are absolutely essential at the moment if we are going to begin to play catch-up. The new measures are needed not only in balancing the budget but in supplying those departments and

sections with exactly what they need to give us the results we so badly desire.

Madam Speaker, I have had people tell me that housing is not important. However, I have argued that when you live in a small house in today's world, your measurement of size is different than it was in my days, from the time I was born. When I was a young boy and I would swim out to the little cay at Hog Sty Bay I used to think that I had gone to Cuba. That is how far that was. The house that I lived in was small, but to me it was not that small. When I came back later on in my life and looked at this little one room hut, it was very small. Everything is relative. Although we can say that Caymanians used to live like that 20 to 30 years ago, everything is relative. So, the Caymanian who was living in the same size house that I lived in as a child will not necessarily feel the same way about himself and his environment.

Somehow we have to be able to assist those persons who are working for wages but still cannot succeed in owning a house within the so-called free enterprise housing market. Government has to see housing as a part of its social control strategy. That is where we get to the point of the deserving poor when we are spending our budget on the non-deserving and the deserving simply because they are struggling and they have not drowned yet.

We find that we will spend \$600,000 a year minimum on the nine children we would put at Orchid House. But what are we going to spend on the few hundred good children who want to play some football, basketball, tennis and swimming? What are we going to do to help to assist them? How are we going to balance this?

One of the ways my Ministry looked at this is by saying we need pro-social behaviour. We are willing to use some money as that carrot that will cause the enhancement of the status of those young people who are involved in pro-social behaviour. All we see happening is that the status of those kids is enhanced through their involvement in anti-social behaviour. They get '*big up*.' There is so much attention to '*them poor little things*.' However, we sometimes forget about those kids out there who are striving to show us that they want to be good.

For that particular reason, my Ministry has decided to stop the construction of Orchid House. Most importantly, we will save ourselves the \$415,000 and the \$600,000 for recurrent expenditure. We seek to live within our means by using what was the female prison at Northward Prison as a remand facility. It has some 20 cells and can hold 40 people. We plan to use at least eight of those cells to hold 16 juveniles. We will, of course, make sure that there is a wall and that there is a separation that is maintained physically and socially at all times.

Here we are trying to cut corners and live within our means. What assistance do we get from some of the private sector personnel who continue to say that we are acting like highway robbers and are

so cruel? I would like, Madam Speaker, for every member of the Opposition who has alternatives as how to raise funds to get some of these things done to tell me exactly where we are suppose to get the revenue from.

This is not a government that is not trying to cut corners, that does not understand the holistic approach to all of the problems we have; how they are interrelated and how we must go against those problems all at once from all directions.

We also feel that Government's contract with AMI (Associated Marine Institute), where we pay them over \$200,000 for a model, has to be cancelled. We will not be renewing that contract when it is up in December. That is to save the country money—money I believe should go to support national football players in this country. We will be recommending that the money which was to be paid to AMI for performing a contract should go to support a football academy.

The beginning of the concept of the academy is for the Sports Department and Youth Department to contract individual members of the football academy to be pro-social role models. We cannot continue to reward negative behaviour with positive reinforcements. We must understand that unless we can reward those kids who are out there trying to be good so that they can see the benefits at this particular point, if not rewarded, we will get into problems.

In my few weeks in Government, I have taken a holistic approach and, because I came in too late, I have not tried to get any more money for my Ministry. I can only compliment the past Minister for being able to reduce the budget by scrutinising as many of the issues as possible. I have not gone in there to say that I want to do this and that, therefore, my budget must be bigger. My budget is the same as it was when the past Minister was there. All I have tried to do is to see how I can cut corners here and there in order to make certain things happen.

The United Democratic Party Government believes that sports is important and has been somehow left to make its own way. We have to take up a position because we realise we have a lot of competing sports. However, it is my position as the Minister responsible for sports that football is our national sport. It should, at this particular time, be given the possibility to reach a new height, not just in terms of the proficiency of players, but also from the point of view of those players being our pro-social role models.

We know it is not as simple as it sounds or as we can put it on paper. However, it is worth a try. The Football Association (directly through our office) will be getting an additional \$182,000, or so, for the football academy. I believe it is a small beginning but the United Democratic Party Government was anxious to show that they have a deep concern for sports. Although they have recognised that all sports are important, we believe football is the national sport and at this time with all the budget restraints, we will be will-

ing to do this with football without, of course, increasing our budget in any way.

We need to seriously be together on the issue of revenue enhancement. We know that there might be some variations to this particular way of doing things. I have had people call me and ask *why are you charging law firms with the kind of methodology that you have; why not just raise the permit fees so that it would stop some firms from growing? It would not be something that would be a disadvantage to the smaller firms and the two bigger firms are able to get through.* Well, there are all kinds of variations and I am quite sure that this is still a discussion. We are presenting a view that does not necessarily have to be without possibilities for contributions from other persons that will cause us to see the same or see differently.

I am committed to whatever the majority is going to do. I believe that if we can find, according to some persons, a more just way of doing this, fine and good. However, there are a lot of people that jump out here with all kinds of solutions today but they did not have them yesterday. I ask people, did you not realise that the country had financial problems in 2000?

In November of 2000, there was a financial crisis in this country and I never heard anybody from the private sector or their messengers come to say to me, *'This is a way that you could do it.'* A sum of \$55 million was borrowed and we would have probably gone to borrow that or more again if we did not say we are not asking for anything more than for the private sector, that has the benefits, to now pay attention to all the social issues that Government must deal with in order to maintain the balance, harmony and in order to preserve the security of property and person.

I am very committed to working as many hours as I can to be a hands-on Minister because I do not believe that you should be anything else. That is, to roll up my sleeves and get out there and do what I have to do to make things work and to work for my salary. More importantly, it is not money that I am talking about.

I decided to make the choice of studying Sociology and writing a thesis on social control and racism in a British urban community, the community of Nottinghill, in London. I wanted to understand the way in which West Indian children were being socialised by the school, playground and youth club systems. It was also to understand how the housing systems were affecting the way in which Caribbean people—especially the young in those communities—viewed mainstream society and how that impacted upon their criminalisation, their ghettoization and their alienation from the mainstream.

When I completed my thesis in 1977, I did it because I felt that my country would need my expertise and I have never moved away from that position. I have never gone to try to study law or some other subject according to people's recommendation because I believe that, ultimately, I would have an op-

portunity to play my role. Money is not the question here. It is an opportunity to get in there and do what needs to be done. That is the reason that we have put these different subjects under the Ministry because we realise that from an inter-disciplinary approach, all these things are interrelated.

With regard to housing, we have an area called Scranton. A lot of nice people live in that area. From the days of Jim Bodden in 1980, when I ran for the first time in this country, I had housing on my manifesto. I would like to see that area redeveloped as an urban renewal project where those people are not pushed someplace else but are given the possibility to fill their land.

I would like them to have a land bank situation where they come together as a community as an extended family again and put their land in a bank and form themselves into a corps or whatever you want to call it and challenge Government to come in, help them to rebuild and make George Town look like it should. I would like to give those people an incentive, a stake in their George Town community, the possibility to have the room and the space to work with children that we would not have to pay \$600,000 a year to incarcerate. How could I propose to incarcerate one child for \$60,000 while their parents are not even making \$15,000 a year?

I am blessed to have had this opportunity to come at a time when the Budget could be balanced. Although I must work within my means, at least if we are able to get through this year, perhaps next year we will have some surplus and we might be able to actively begin to confront some of the housing issues. Too many people have been promising housing but there can be no housing without finance. If they are not willing to look for finance, they are not really telling people the truth about housing. We need to get the proper rates so that people can afford to buy into our system.

Madam Speaker, I thank you so much for allowing me the possibility to ramble in my special way on this Budget. Although I had great regards for the previous Speaker, he never always understood that my interdisciplinary approach to issues causes me to see six from column A, six from column B, then six from column C and column D and perhaps a few more columns.

However, I think I started in 1969 as a student to study the interdisciplinary approach when it was not even popular in most universities. I am quite happy that something I started back then with my professors has become something that is very popular today. People now say we must have a holistic approach. They say we must have all the sciences, all the different disciplines involved and I thank God that I have been able to benefit from that type of education.

I sit down now with the hope that when my colleagues from the Opposition continue their contribution, they will surprise me by showing me exactly how we can do right what we have done wrong. I

hope they will show me exactly where the treasures are hidden so we can get some of that special Caymanian gold to mend some of our people's souls.

**The Speaker:** Does any other Member wish to speak?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

The previous speaker, the Minister responsible for Community Services, said that he trusts those debating the Budget Address would surprise him and show the Government where the Cayman gold can be found so that we can get it and get on with helping our people. I have a couple for the new UDP, but I will get into that a little later on.

The Budget Address delivered by the Third Official Member was extremely lengthy, as usual. Therefore, it is necessary that I take a while to reply to the points raised. That is not to say that I will be lengthy but sometimes that happens.

From the word go, the Third Official Member articulated that when America sneezes, Europe catches a cold and the rest of the world comes down with pneumonia. However, when we go further on into the Budget Address we hear about how we are expecting good things to come, when we have tied in our economic situation with America to some extent (which is on the downward trend), but then we expect ours to come up. That, I would think, is wishful thinking.

In the last few days since the new revenue measures schedule was delivered I have heard so much from so many different people about our Budget. The comments have come from all quarters in the Cayman Islands. I have heard them from the little man on the street, from the financial industry; I have heard them from all over. Some of the comments include that the financial industry will fail as a result of these new measures to balance our budget.

In my reply to the Budget Address and Throne Speech for this year, I made it quite clear that no Government should come back here this year for 2002 and tax the small man again, or at least not to the extent that we did the last time with some \$19 million. Some of that certainly was not on the little man. I believe we equated taxes which went on to milk, bread and other food products to the little man. I noticed that some of my colleagues requested my debate on that and certainly I think the reason it has not been mentioned is because they did not get the right part of my debate. My debate went on over two days and they did not get the second part of it; maybe they need to double check that. However, I can remember what I said. There is no need for me to get mine.

Madam Speaker, I said the financial industry needs to step up to the plate too and I continue to maintain that. The financial industry must step up to the plate to assist this country as much as we expect

the little man to do. I understand the new UDP has taken that and maybe we have taken it a little too far.

I believe taxes on the little man must be staged and gradual. All my life I have said that government needs to have a medium and long term plan so that the country knows exactly what to expect next year and all the years thereafter. The plan will certainly lay out the major things to expect. Certainly, we do not expect any plan to remain the way it was originally crafted, but I believe that if we inform the people of this country in advance as to what is to come, then preparations can be made. I am not going to get up here and say that anyone is getting away with murder. I am not prepared to do that.

I believe that the financial industry is ready and is willing to step up to the plate but we also have to be reasonable in our approach. We should ensure that we understand it is not only the owners of these institutions who are being affected; it also affects the little man who works for those institutions. Madam Speaker, rightly or wrongly, we hear of Christmas parties being cancelled. As a matter of fact, I received a letter this morning, a petition to the Governor, which says that Christmas parties are cancelled, bonuses reduced, and pay raises for next year have been postponed. I cannot say that that is accurate because I am not a part of the institutions. But, certainly, we can appreciate that if an institution wants to stay in business, they have to plan. I guess the lack of planning means someone else suffers and it is not going to be the institution. Therefore, the trickle-down effect is that the employees and their extra benefits suffer.

I note in the Budget Address that the Third Official Member at point 6 says: **“The streamlining of multiple grants, waivers and reimbursements now given by government. For example, announcements have already been made on the Grant to Seamen and Financial Assistance. Other areas that will be affected include waivers and reimbursements to the various not-for-profit associations for import duty, stamp duty on land transfers and mortgages, and various other government fees such as planning, garbage and the like.”** These are some of the proposals by Government to streamline and receive new revenues.

Now, if the UDP wants a proposal on where to make money, sometime ago I was given, as a Member of this Honourable House, a list of individuals and businesses who receive concessions on duties. Some of those companies have been in existence for some 30 years and they too have made much money at the expense of this country. Some of those companies are the biggest companies in this country. If we had the list of the top 500 in this country related to Cayman, they would be in that too.

I appreciate that the not-for-profit associations will get waivers of import duties or stamp duties, et cetera. Now these not-for-profit associations obviously contribute back to the society by having such privileges. I would like to know what those companies re-

ceiving duty concessions contribute back to this country. Is it in lower costs of their product? I doubt that, Madam Speaker, I doubt that. I severely doubt that. I seriously doubt that. That is a way to raise funds. Certainly, a lot of those concessions came into being because these were new businesses, had never been in the country before and so under the pioneer licence they were given these concessions. However, 30 years later . . . and they still do not pay duties? Something is wrong with that.

I respect that we can continue to do that to start up the business to give the Caymanians an incentive. However, there comes a time when we have to shut it off. If we are looking revenue, let us look straight across the board and grab some revenue from those people also. I do not remember the exact number of companies but they were in the dozens. I trust that the UDP Government will look at those.

Nobody will claim that I have not tried to do my part. On 7 September 2001, I asked a question in this honourable House about sale of confiscated assets by the Drugs Task Force because I wanted to see if they were getting any money from these assets. That became quite controversial in this country. I believe, as a result of that, certain things transpired. I fear that my integrity then came into question, for questioning and doing the job the people of this country sent me here to do. Shortly thereafter, sometime in October, I received in the mail a document that has (in my opinion) some serious content. Madam Speaker, with your permission I would like to read that document and lay it on the Table, if you so choose.

**The Speaker:** So ordered.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I did not save the envelope so I do not know where it came from. It is from the Cayman Islands Drugs Task Force and it is to all DTF officers and staff from DCS Derek Haines, dated 11 October 2001, and its subject is Internal Audit. It says:

**“Dear Colleagues, Thank you for all the loyal support over the years and, in particular, the last week—”**

**The Speaker:** Honourable Member, may I enquire whether the document has “Confidential” or “Without prejudice” marked thereon?

**Mr. V. Arden McLean:** No, Madam Speaker.

**The Speaker:** Please proceed.

**Mr. V. Arden McLean:** Madam Speaker, perhaps I can now table that.

**The Speaker:** Thank you.

**Mr. V Arden McLean:** [continuing with reading] **“As you are aware, the DTF is at present going**

through an internal audit. I welcome these, and have suggested an annual inspection. (Up until now, we have supplied the COMPOL – which is the Commissioner of Police – and the Auditor General with an annual spreadsheet of accounts.) This would allow for external elements to ensure that the best practice is being conducted. In the dynamic business we are in, good ideas can sometimes come from the outside and help us to keep improving. However, the continual attack upon the reputation of the DTF and certain of its members, by certain parties is most unsavoury and unjustified. The attacks came from those who are small-minded or jealous, or both, and from those who possibly have reason to fear our success for whatever reason.

“We are the most successful anti-drug unit in the Caribbean! Annually, we are in the top three drug seizers in the same region! Compare our size to that of others! We also have self-funded ourselves, by our efforts, to an average of \$23,000 per year. We use assets valued at around \$200,000 that again we have won from the opposition. Our international efforts have attracted some \$500,000 worth of drug fighting equipment, not counting *The Protector*. A recent operation saved CAL a penalty in excess of \$2,000,000 and may reduce an earlier imposed penalty. We have also shown that we are willing and able to weed out corruption within our own ranks at whatever rank.

“We receive accolades from many quarters both locally and overseas so we should not allow the persons mentioned above to adversely affect us. On the contrary, make it POSITIVE. We must be hurting someone for him or her to be cursing us rather than praising. Let’s keep up the attack and hurt them even more.

“Again, thank you for your support and trust, thank you for your professionalism and thank you for your continued efforts. Now get out and catch some more.

“Yours aye,  
“Derek Haines”

In my efforts to try and do my job, I am a little bit concerned that this may very well . . . Madam Speaker, I now wish to lay this document on the Table of this Honourable House.

**The Speaker:** So ordered.

**Mr. V. Arden McLean:** As you can see, and as I have read, this can very well be questioning Members of this honourable House. I have questioned myself many times since receiving this document and wondered when anything would come to bear upon me. Since receiving this document I have had my fears just for trying to do the job that the people have put me here to do. The people of East End sent me here

to do a job and in my trying to do that, this is the result.

However, Madam Speaker, there are other Members in this honourable House, including your good self, who questioned the proceeds of assets. Madam Speaker, you and all other honourable Members were merely doing the job that they were sent to do. I have fears for my own well being and that of my family. However, we shall move forward.

**The Speaker:** Before moving forward, honourable Member, do you have in your possession the original copy of the said documentation?

**Mr. V. Arden McLean:** Madam Speaker, I can give you the one that I received, which I believe is also a copy of the original document.

**The Speaker:** If we could just pause briefly, I should wish to peruse that said document.

**Mr. V. Arden McLean:** Thank you.

[Pause]

**The Speaker:** With your consent, I should like for the document you received to be turned over to the chamber of the Attorney General, and I would ask them to diligently follow this matter up.

**Mr. V. Arden McLean:** Yes, Madam Speaker, that is entirely fine with me.

**The Speaker:** I am grateful. Please continue with your debate.

**Mr. V. Arden McLean:** Thank you Madam Speaker.

If anyone feels in this country that I have anything to hide because I am doing my job, let them investigate. That is fine by me but I think it is grossly unfair to any Member of this honourable House now, past or future when they question and go about the business of this country, to have such questions asked of them.

That is another way that the Government needs to look at, to ensure that all of those funds are made available for the social programmes that the Minister spoke of earlier because that should be the intent of the proceeds from confiscated and found assets. Nevertheless, we are doing an internal audit on it now. I am sure we will all find out where all the money went to and there will be more money in our coffers from here on in.

I will leave that one with the country and let them, my people, be the judge. Evidently I am doing something good too. It is not only the DTF that is doing a good job—all of us are doing a good job too. Therefore, if that is what it means to do a good job I will always be questioning in this honourable House. If anyone knows me, they know I will question.



The Government has also said that they are going to curtail all new services requiring additional budget expenditure. That was tried before. I trust that they have a much greater resolve now to control and to work with those in control of hiring.

I would like to briefly go back and look at the revenue measures again which are necessary for us to balance the budget. I think that I should and it is expected of me to comment on the realignment of garbage fees by calculating the fees based on bands of kilowatt hour usage. That is the proposal. It is expected that \$3.7 million will come as a result of that. I am sure the UDP Government is going to find that will be a logistic nightmare.

I strongly believe that we need to collect the taxes and also the garbage taxes that are due to the country; that is no exception. However, when we tie garbage to electricity consumption, it makes no sense. Let us consider someone or a family in a 3,000-5,000 square foot house, running air-conditioning 24 hours a day, watering the lawn twice a day, have a pool, security lights et cetera. How can we expect that family to be generating more garbage than a family of six or seven in a relatively small home and the electricity bill is \$100 or thereabouts and the previous one is some \$800 to \$900? That is impossible for those people to generate more garbage. We cannot tie garbage into electricity consumption.

I heard the Second Elected Member from West Bay talk about energy conservation and it will teach us to be more conservative and so on. No two buildings are identical and you cannot expect that you will get the same electricity usage cost to run those buildings. It is impossible. Construction details are different, the manner in which the construction was done is all different. We all have different habits. We do not and we cannot guarantee that a 1,500 square foot apartment right next to the other one—two adjacent 1,500 square foot apartments—are going to use the same amount of electricity. Impossible! You can put the same equipment in there, the same amount of people and you will not get the same bill. That has nothing to do with efficiency. It is the habits of the individuals.

When you have a person or a family in a house that is 3,000 square feet you can have one family not using electricity and the other one abusing the privilege of electricity because it is a privilege. We should not abuse it because it costs to abuse the privilege. However, we cannot tie garbage into electricity consumption.

Then it goes a little further. How are this country and this Government going to ask CUC to do that? I always thought that the relationship between a company and its clients and the information is confidential. Are we going to legislate a law which says that CUC must provide to the Government the information it has on every customer so it can collect its tax and at the same time, CUC will collect it? CUC is in the business of generating and selling electricity. That is what

they should be doing. However, I do not have a problem with Government collecting garbage fees. I recognise that the need is there. Why is it that Government cannot put the mechanism in place to ensure that all garbage fees are collected annually?

Madam Speaker, Government should not have to use an independent agency or company in this country to collect what it is due. I wonder how all the new taxes will be collected for law firms, accounting firms and other companies. Are we asking one accounting firm to collect all of that too? What will happen the day that a man goes to CUC and pays his electricity bill and refuses to pay his garbage bill because there is some controversy? Are we going to send CUC out to cut off the electricity of a family with young children? I trust not. That long arm of the law is reserved for CUC.

I think on the front page of today's or yesterday's *Caymanian Compass*, Madam Speaker, it says: "CUC: no agreement to collect Government tax." However, we hear that CUC is supposed to be doing it. Do we think CUC is going to do that for free? That is a private company.

I understand that much of the garbage fee collection is never done. However, I understand that Government has just created recently, I believe, or at least over the last year and a half or thereabouts, a debt collection agency at Treasury. Why are we going to look for CUC? Why are we going to look for CUC to collect our monies when we have set up the debt collection agency in Treasury and as far as I can understand it is very effective? What is causing all this is that government over the years has not invested in developing proper databases across government. All of a sudden we need the money. Now, let us go look for somebody who has already invested in it and use them. Do we really think CUC did not pay for that database or what? Somebody thought they did not pay for it. Have we negotiated with these people how much they are going to charge us to do this?

What I am saying is that I wish the Government well. I know the logistics nightmare it is going to cause for CUC. I was there and if anybody in here can talk about energy efficiency or electricity it is me, because I was a director of Power Smart Inc., which has been an international energy efficiency company, for many years. I can assure the Government this is going to be a nightmare and I do not believe that they are going to realise that if CUC agrees to do it \$3.7 million will have to be changed by the time it is in place; that is software et cetera. It will be easier to turn all this over to the debt collection agency in Treasury.

I agree that political Governments over the years have been penny wise and pound foolish. We have squandered the revenues of this country over many years on building our own castles in the skies and did not build up the infrastructure of government to support these things. Even today I do not believe the Government Computer Services would be geared

for this. The Environmental Health does not have the data base. It should be provided from the Computer Services. I just wonder if Computer Services Department is mechanically capable of providing these things.

Similar to the neglect of prisons that the Minister talked about, the Computer Services Department has also been neglected over the years; that was not important. Roads, buildings and financial assistance are more important and have always been more important. Now, when we need the money to support the roads, the financial assistance and so on, we cannot find it. We have no information available to us to be able to go in and to decide, from an informed position, where we can increase tax.

The UDP is no different from the other Governments that preceded them. They are reacting to a situation. We have services that we need to provide. You heard the Minister for Community Services say so. They are reacting to a situation. Now we need to be reasonable with that reaction; that is all I am saying. We need to become more efficient also as a government. Saying we are going to curtail all the new services that require additional budgeted expenditure is not doing the job.

Then the other side of this coin we hear people talking about privatising garbage collection. It is going to cost the country twice as much. You think anyone is going into any business and not make money on it? Of course, they have to make money on it. If you invest, you have to make money. It is easier for the Government to do it. Government needs to look at the cost to this country to collect garbage because as we subsidise that, we need to find the money elsewhere. Find out what it costs and put a reasonable cost per household, per building or whatever the case may be.

We are forever taking one step forward, two steps backwards. This country did not start today like that. I know the UDP will probably get up and say that is their objective—moving forwards instead of backwards. Perhaps, I need to drop in here also that the party system has finally emerged in our country, something that I expected a long time ago. I am a party man and always have been. I believe in parties. As a matter of fact, I hold a membership of a party called Team Cayman. I am a card carrying member of that too.

**The Speaker:** Honourable Member, is it your intention to lay that on the floor as well?

[Laughter]

**Mr. V. Arden McLean:** No, Madam Speaker, I am not going to lay it on the floor of this honourable House. I just want to say that in any country for a party system to work you need a minimum of two parties. One has already been formed, which holds many of my former

colleagues. In other words, they have crossed the floor.

I read recently in the *Caymanian Compass* editorial about the realignment of seats in the Legislature. Perhaps a lot of people do not understand that but I do. That is what parties are all about. I have said before that I recognise the Government is going to have its way. Unfortunately we did not get as fortunate as Trinidad recently, when it split right down the middle. Government is going to have its way, whether it is this one or another one.

However, I must tell this country that there will be at least two dominant parties—Cayman will not be run as a one-party state. As one UDP Member said to me, it is either that you are with me or you against me. It is one side or the other. That is how it works.

I notice that the Third Official Member in his address spoke much of the new UDP party. The new UDP party which is in control now is coming riding high, at least high in new taxes.

I can assure this country that from here on, there will be a choice that the people can make and certainly there will be independence and there will be other parties also, but we have to have at least two dominant parties. I just wanted to stick that one in there for the benefit of those in this country who felt that maybe there will not be two parties. It may also be noted that I have moved from my position of being out in the cold and it was not because I did not have a coat to put on. It was not because I have not experienced that in my relatively short life on this earth, but I needed to feel some warmth too. We all huddle under something.

If I may just turn back now to the Budget Address. The UDP Government is also proposing a—

**Mr. Lyndon L. Martin:** On a point of order, Madam Speaker.

#### POINT OF ORDER

**The Speaker:** Please state your point of order Honourable Member.

**Mr. Lyndon L. Martin:** The Member is misleading the House and the public. There is no such party as the UDP the party is called United Democratic Party.

**The Speaker:** I have listened to that and it is my ruling that it is a matter of semantics or scrivener's error and I would ask the Member to please continue.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I was just trying to decide whether I should reply to the Second Elected Member from Cayman Brac, Madam Speaker, but I will not dignify him with such a reply. What I have forgotten about party politics, he has not learnt yet.

I was going on to talk about the cost of fuel. It appears that we in this country believe that the only

way the little man will hurt is if we put increased duties on food—direct consumable goods. That is not necessarily true. The fact that we raise duties on fuel affects everybody; we are also affecting the little man who we speak so much of and try to protect. When we raise duty on fuel, the transportation costs increase. The same little man or little woman who has to travel from East End by bus because they do not have a vehicle is going to pay that 10 cent per gallon increase in increased costs to get on to that bus.

So, it all comes down to the same thing. I do not think it would be fair to the people of this country to just say we are charging the operators of the bus. The inherent cost of operating that business immediately goes up. Do we think that it is going to come out of the profits of that individual? Of course not; it comes from his customers. His customer is the little man who cannot afford a car, in most instances and rides the bus from East End or from West Bay.

Now, you may say that the man who can afford the car can afford an additional 10 percent per gallon. That is not necessarily so either. Then we say that Caribbean Utilities Company (CUC) is not subject to this increase. That is because CUC touches every living soul in this country and we may very well be trying to justify it on that basis. However, and I have said this before now, if we are serious about helping the little man, then we would reduce the cost of fuel to CUC by reducing the duties thereon. That is where we need to go.

There are cases where the cost of duty plus the cost of fuel make up 20 percent of the electricity bill. There are times when that is so when the fuel cost is high. However, for the benefit of the country, 50 cents on every gallon of fuel burnt by CUC goes back into government coffers and CUC burns anywhere between 20 and 24 million gallons of fuel per year. This is public knowledge; it is in their Annual Report.

It is my understanding that the cost of fuel to CUC right now is somewhere around \$1.12 per gallon. The base cost to CUC, as agreed with Government many years ago, is 0.79 cents per gallon. The base cost is what it costs to generate electricity per gallon, per kilowatt hour. That is just about 80 cents. If the cost is just about \$1.12 and then if we take 50 cents off that, we have already gone into the base cost to generate electricity. The provision is if the cost of fuel goes above 79 cents per gallon CUC can recoup it in the fuel factor. If it goes below, they have to return that to the consumer. Therefore, it will be a rebate on each bill. However, because the cost of duties of 50 cents is added on there, if you take the 50 cents away from the \$1.12, we have gone into the base cost that the people of this country should be getting in rebate right now. If we are serious in trying to assist our little small man then that is where we have to begin. Instead of talking about exempting them from this additional increase, which certainly helps, we need to go further and take it off.

When the Government is receiving some \$10 million to \$12 million a year from taxes collected or paid by CUC for all that fuel burnt, receiving 50 cents per gallon plus the rebate, part of that would be the rebate that the consumer should be getting now. It is not this Government's fault; they inherited it. This thing went on a long time ago; every government talked about taking it off. I remember the National Team—when it came into being it spoke of taking something off diesel fuel to help the poor man. It has not been done as of date. However, when Government is receiving some \$10 million to \$12 million per year in duties from one customer, it is difficult for any government to take that stand because then it is going to be worse for them. They really will not be able to budget. Nevertheless, that is how we make our money.

We talk about getting our reserves up to 90 days of recurrent expenditure. I do not profess to be an accountant, but my understanding of that is that it is somewhere in the region of \$60 million. That is how I calculated it. It is time we stop talking about that now in this country too. It is really time for us to stop talking about it. As far back as I can remember, that has been talked about and every government blames the previous government for not putting anything there.

I trust we understand as recurrent expenditure increases, so does the amount for 90 days. If we had started this many, many years ago and left it alone and balanced the Budget elsewhere, we would not be talking about it now and about the hard times. The UDP has now come on the scene talking about their resolve. That is all well and good. That is new; no dust has gone on that resolve as yet. How are we going to do it? We have the formula but we do not have the resolve to put it in and leave it alone. That is the same thing like social security. We put it in and we use it to build roads—anywhere in the world that happens.

We need to decide what we want. We keep talking about this 90-day recurrent expenditure. The Government of 2000 took monies from the reserve that was there. Now, the UDP took almost twice as much—one and a half times as much. The next Government is going to take until it is nought. I am fearful that we spend and we spend to our own demise.

**The Speaker:** Honourable Member, is this a convenient time for us to take the luncheon break? I shall now suspend until 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.42 PM

#### PROCEEDINGS RESUMED AT 2.24 PM

**The Speaker:** Proceedings are resumed.

The Member for East End continuing his debate.

**Mr. V. Arden McLean:** Thank you Madam Speaker.

As I move on, I would like to briefly touch on a section of the Budget Address which made reference to the recent tax agreement. It is unfortunate that as a representative in this country I had to learn of this agreement through the media. To get the agreement, I had to go on to the internet. Now, I know the Third Official Member called it a milestone in the development of our vital financial sector. If it was such milestone, I wonder why Government could not have informed all Members of this honourable House what was happening in the country. I was very concerned and I mentioned that situation to the head of the Foreign and Commonwealth Office, Mr. Alan Huckle, and his response was that in the interest of transparency, the Members of this Backbench should have been informed.

The fact that the Government is nine strong does not mean that the rest of us are not representatives also. The *Caymanian Compass* spoke of the divide that seems to be created in here. I understand that divide and I also understand the new Government is trying to portray the party system. There is nothing wrong with that. However, there are five other Members of this honourable House. They should not be left uninformed because those five Members do not think or have similar ways of doing things or are not a part of the Government. The Backbench Members are ready, willing and able to do the work of this country.

In the last Government we saw the formation of the team—the Dream Team, the FATF and OECD Initiative Team, the Negotiation Team—made up of Members across the aisle. While this is a House of politics, we must remember that we were all sent here to do a job and particularly, in the better interests of this country. On the issues relating to the overall interests of this country, both sides should be informed.

In the last Government, as I said, a Member of the Backbench was a part of that negotiating team, and rightly so. The Member is now the Minister responsible for Information Technology. I believe as a result of his contribution to such international initiatives and negotiation, he was even awarded the OBE (Officer of the Order of the British Empire). He worked in the interests of our country. That is what it is all about and I congratulate him.

**The Speaker:** Honourable Member, can you please state that is your opinion?

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I thought I said that, but I will since I did not—it is my opinion that was part and parcel of the reason why he was awarded for his contribution to this country. It showed the respect that the Government had for the current Minister's ability to go and discuss these things and negotiate in the interests of this country. I believe that as Opposition, Backbench or whatever we are labelled, there is much capability on this side also and it should be used in the interests of this country. We must not allow the editorial of the *Caymanian*

*Compass* of Monday, 10 December 2001, to become reality.

When a Member of this honourable House finds out about an issue relating to this country, an issue that can be considered a milestone in the development of our financial sector through no other means than the media then something is terribly wrong. That is wrong!

One may say what they may about the former Leader of Government Business, but no one can say that he did not inform the full House on issues relating to the international market, the international scene and how they related to the Cayman Islands. There were many issues relating to the Cayman Islands and the previous Government brought all Members of this honourable House together and informed them on these. I am sure all Members here can attest to that.

The new UDP has declared that they are a party of inclusion. They did not start off very well with that because I did not know anything about this new tax agreement, and I am sure other Members on this side did not know anything about it either.

*[Inaudible comment]*

**Mr. V. Arden McLean:** Madam Speaker, the Leader of Government Business is saying I had better get my information right. Well, I was told that other Members were unaware of it; therefore, that is the basis under which I am saying that.

When I look at the agreement—well what is called an agreement—I do not see any benefits derived by the Cayman Islands' people. I see the country on a whole giving information to the United States Government. However, there are no provisions when, for example, we have duty evasion we can demand invoices and records from any company in America. I thought we should have at the very least received that much from it. Again I am disappointed that at the very least we should have received the agreement—

**Hon. W. McKeever Bush:** Madam Speaker.

**The Speaker:** Let me hear your point of order.

#### POINT OF ELUCIDATION

**Hon. W. McKeever Bush:** Madam Speaker, on a point of elucidation, I wonder if the Member would accept that.

**The Speaker:** Honourable Member for East End, will you give way to the Leader of Government Business?

**Mr. V. Arden McLean:** No, Madam Speaker.

#### POINT OF ORDER

**Hon. W. McKeever Bush:** Well, Madam Speaker, since the Member will not give way on the point of

elucidation, I would like to raise the point that the Member is misleading the House and I would ask to state the reason for saying that.

**The Speaker:** Honourable Minister for Tourism, I was just about to ask if you could expound upon the reason.

**Hon. W. McKeeva Bush:** Madam Speaker, the Elected Member for East End just raised the matter of an agreement that was signed between the United States and the Cayman Islands by the United Kingdom, the Cayman Islands and the United States. He was complaining that nobody on that side knew about this agreement. I intervened to say (but not on the microphone) "I think you are being misled or you should try to find information," and he repeated it. That is what he was told.

Madam Speaker, the Leader of Government Business at the time, who was part of the negotiating team, and the Second Elected Member for George Town, who was part of the negotiating team, spent at least one day with the lawyers in Washington on that agreement. When the agreement came, it was completed so they had to know. The Member said, "The *five* Members on this side". He did not only say 'Members.' When I intervened he said, "At least that is what I was told." So, do not tell me that he was not saying that he was not told, because he said: "That is what I was told."

**The Speaker:** That is a point of order. I would ask the honourable Member from East End to withdraw that aspect, and if you wish to proceed and say that you were not told as a matter of fact, then you can proceed in that way.

**Mr. V. Arden McLean:** Madam Speaker, I shall bow to your ruling. But I would like to make it abundantly clear that I did not say "all Members" because I was very careful to say, "There are Members on this side of the House who were unaware of it."

**The Speaker:** Let us move on, honourable Members.

**Hon. W. McKeeva Bush:** Madam Speaker, on a point of order.

**The Speaker:** What is the point of order?

#### POINT OF ORDER

**Hon. W. McKeeva Bush:** I cannot allow the Member to continue to confuse and allow the whole situation to be muddled, and I really ask that this point be brought out. It is my understanding the Member said: "five Members on this side." Nevertheless, if that is not what he said, when I corrected him he said, "At least, that is what I am told." Who would he be referring to if he was told that? Furthermore, Madam Speaker, the

Attorney General and the Financial Secretary of this country took all Members into the Committee Room and informed us of that agreement.

**Mr. V. Arden McLean:** Madam Speaker, on a point of order.

**The Speaker:** Let me just deal with this one on the floor. I did ask the honourable Member from East End to withdraw that statement referring to all of the Members. I would like that to happen at this time. We will move on to the next point of order.

**Mr. V. Arden McLean:** Madam Speaker, I said that I would bow to your ruling.

#### POINT OF ORDER

**The Speaker:** I thank you.

Can I hear your point of order Honourable Member?

**Mr. V. Arden McLean:** Madam Speaker, the Leader of Government Business has just said that the Honourable Attorney General had all Members in this Honourable House in the Common Room to explain the tax agreement. That is not the fact, Madam Speaker, and he is misleading this House and this country because I was not invited to any such meeting.

**The Speaker:** I think the point has been made. Let us move on from this and continue with your debate honourable Member.

**Hon. W. McKeeva Bush:** Madam Speaker, on a point of order.

**The Speaker:** What is the point of order?

#### POINT OF ORDER

**Hon. W. McKeeva Bush:** Let me say, my understanding is that all Members were in attendance. As I recall all Members were in attendance, but if all Members were not in attendance at that meeting, then I withdraw it. Nevertheless, the previous Leader of Government Business and the Second Elected Member for George Town were two members on that negotiating team who met with the people who put the agreement together. In fact, I would think that as members of the negotiating team they assisted with the drawing up of that agreement. So if he did not know, when they usually refer to the *five* of them, they ought to understand.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, on a point of order.

**The Speaker:** Let me hear your point of order, the Second Elected Member for George Town.

#### POINT OF ORDER

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, the Honourable Minister is again misleading this House. The Honourable Minister knows full well that the then Leader of Government Business, the First Elected Member for George Town, and I left the meeting with the representatives from the United States to come to the fateful meeting that Friday afternoon which resulted ultimately in the ouster of the First Elected Member for George Town and the Member for North Side from Executive Council. He knows full well that no agreement was put together on that occasion and he is deliberately misleading this House. I certainly have seen or heard nothing, except what I have read in the press about this matter since that Friday afternoon.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, I think this is very important to get clear, because I do not want to mislead the House. I do know from what I understand . . .

[Brief pause]

**Hon. W. McKeeva Bush:** Madam Speaker, my understanding is that they were there the whole day during the discussions that led to the drawing up of those agreements. So they had their input into the substance of the agreement and that is what I want to get clear to this honourable House.

**The Speaker:** Honourable Members, I feel fairly confident that this matter has been sufficiently aired. There has obviously been a breakdown in communication, and I am not going to police as to who received it from who did not. I would ask the Elected Member for East End to continue his debate seeing now that there is cognisance and, if he wishes, he can refer to the agreement in concurrence with the Budget Address that is now before us.

**Mr. V. Arden McLean:** Madam Speaker, thank you and I would ask if I could request that the *Hansard* be provided so that I can have my own clarification on this matter.

**The Speaker:** Honourable Member, the procedure is fairly straightforward. Any Member may make a request to the Clerk's office for an unedited copy of the *Hansard*. I have made my ruling and that option is still available to all honourable Members.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

Again, I say that I, Vincent Arden McLean, Elected Member for East End, had no knowledge of any tax agreement.

I wonder what the objectives of the UDP are. I do not know what they are afraid of. Are they afraid that the country will know that they are not all inclusive? I sat here and I listened to at least two Members from the UDP debate, or should I say the United Democratic Party, debate the Budget.

Madam Speaker, I would like to draw to your attention that there is no quorum.

#### LACK OF QUORUM

**The Speaker:** I have directed that Members' attention be drawn to the fact that a quorum is necessary and we will wait a few moments for an additional person to come in to make up the quorum.

Please continue. A quorum is now present.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

This is another way of showing that the UDP is not all inclusive. I sat here and listened as the UDP Members expounded on this Budget Address and I said nothing because I believe everybody has his say. However, I guess when you are in the minority you are not supposed to have any say. Well, as long as I am here I guess there will be interruptions because I am going to say what I have to say—UDP, IMP, United Democratic Party, PNP, JLP—it makes no difference to me, Madam Speaker! If they so wish that I call it the United Democratic Party, that is how I shall refer to it.

I now move on to the domestic economy. I note that the growth of the Cayman Islands economy slowed considerably in 2001 and the Third Official Member said that a rate of around 1.5 percent is expected at year end compared to the earlier projection of 3 percent. The main factor influencing this down trend is slower growth of the United States' economy. Now this was delivered on 5 December. Since then, the United States Government has again slashed the interest rates to try to stimulate the economy. I saw, yesterday I believe, the United States President's brother, the Governor in Florida, doing another tax cut for Florida to try and stimulate the economy.

It is obvious that the Third Official Member is very cognisant of the need to stimulate the economy because further on he mentions that it is expected that the reduction in construction fees and development fees that was put in place earlier this year, will expectedly show results some time in mid 2002. Now, it is believed that when you reduce certain taxes, it is expected that you will get an increase in activity. However, I trust we know that if you increase taxes, it can also result in reduction of activities. Thus, what guarantee are we going to have when we hear that it is a balanced Budget? It is fine bringing a balanced budget to this honourable House but that is on paper and those are all projected.

There is much rumour out there that we will see mergers as a result of these increases in taxes. It is my understanding also that a number of the banks have multiple licences and they do not need all of those to be able to operate. So, we will see them cancelling some of these licences. I trust that that will not be the case, but it is a high possibility. Then if we see mergers in the financial sector . . . Madam Speaker, I think the Minister for Community Services is trying to catch my attention.

**The Speaker:** The Honourable Minister.

**Dr. the Hon. Frank McField:** Madam Speaker, I am certainly not trying to catch that Member's attention. That Member knows very well that I do not need his attention at this particular time—he needs mine!

**The Speaker:** Honourable Elected Member for East End, please continue your debate.

**Mr. V. Arden McLean:** Thank you very much, Madam Speaker. If he was not trying to catch my attention, he was trying to distract me.

You know, we complain in here all the time about other Members talking across the floor. Madam Speaker, I would bring to your attention the deliberate attempt by the Minister trying to talk across the floor.

**The Speaker:** Honourable Member, before you proceed I should draw your attention to Standing Order 39. If at any time you are aware that that is transpiring you have the absolute right to bring to my attention a point of order.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. That is exactly what I will do.

I was saying because of the fact that we increased taxes does not necessarily mean that we are going to realise them. It appears that may very well be the case with this revenue measure. I see a proposal for annual licence fees for company management firms. We have firms in this country ranging from having a few companies to having hundreds of companies registered with them. However, the firm that manages 26 companies is going to be paying the same as that which is paid by any firm that manages thousands of companies. If we are going to do this, I believe it should be staggered in bands of hundreds as opposed to bands of tens or fives. It certainly is not separating the big boys from the small boys when the difference between it is \$7,500 and \$1,500; that is no difference. I also see where the accounting firms with six to 10 accountants . . .

#### POINT OF ELUCIDATION

**Mr. Lyndon L. Martin:** Madam Speaker, on a point of elucidation, under Standing Order 34(b).

**The Speaker:** Honourable Member, will you give way to the Second Elected Member for Cayman Brac and Little Cayman?

**Mr. V. Arden McLean:** No, Madam Speaker.

**The Speaker:** Please continue.

**Mr. V. Arden McLean:** Accountants six to 10 is \$15,000. Then we jump to law firms: six to 10 lawyers: \$50 thousand. I do not know the distinction for such a difference in these, and I certainly have (without any intention of defending anybody) friends on both sides of those professions. I just wonder why that is. I am sure the Third Official Member in his reply will give us that.

Regarding, work permit fees: if we are giving a thousand residents residency with work permit exemptions as proposed recently, I trust the Government understands the outcome is that we are going to receive much less money from work permits. I see that as a simple calculation. If you exempt the work permits, then your projections for revenue off work permits will not be realised. I wonder where that will be made up. I did not say that I was against it. I just need to know so that I can be better informed as to where the next tax item will come from.

I also see where the bill of lading and courier airway bills will increase. Certainly it can be argued that comes from the companies and maybe it is justified. I wonder how many jet skis are licensed in this country now. I notice the revenue expected in 2002 is zero because there has been no incremental increase. Maybe an area we need to ensure is that all jet skis in the country are licensed.

It is my understanding that a number of the banks in this country can operate under a B class licence but they have an A class just to have it and they will be turning them in. That is going to be bad for us. I hope that something can be done to assist the country and the Government in getting their fees. I wonder why the Government did not, as I said before, stagger these fees over the next two or so years. However, since it is done in this manner and there is so much opposition to it, maybe the Government can consider staggering the payments of these fees over the next year because banks, law firms, accounting firms and management firms were not aware of it.

Perhaps, it would be a good idea for Government to give them the opportunity to pay in instalments because we certainly do not need the money at the end of January. We, however, have the remainder of the year and we certainly will be needing money during that time. I am talking about the increased fees on these services.

I notice that construction has slowed down. Yes, it has always been considered the measuring stick in this country and yes, I believe there are firms in the construction industry that are trying to help. However, there are rumours of many more companies

who are doing nothing to help. Maybe Government can assist the country by having discussions with these companies to reduce staff on work permits and keep the Caymanians on board. However, it is my understanding that the work permit requests have not slowed down either.

When earlier this year, this honourable House approved the reduction in development fees, it was said that the real estate agents were also making a proposed reduction in their fees. I notice that the Third Official Member has mentioned that in his address. It would be interesting to see by how much. It would really be interesting to see how much that has been reduced by.

When we move on to the Tourism Industry, I noticed that the Third Official Member has said that a million dollar television advertising campaign in eight cities in the United States and Canada focusing on cities with direct non-stop air services to the Cayman Islands is in the making. While I support us advertising what we have, I believe it is necessary to ensure that the attractions in the country are much more attractive than they are. We constantly spend this money to attract tourists to our shores but very little is being done to enhance the attractions that we have here.

I think of sites such as the Blow Holes and the Wreck of the Ten Sails Park in East End, which have much to offer to tourists. I recently acquired a propeller and a lead keel—a propeller from a ship that went ashore in 1962 or 1963 in East End and a lead keel from a yacht that went ashore around the same time which are now prominently displayed at the Wreck of the Ten Sails Park. It has caused quite a stir amongst tourists. However, that was not Government doing that. That was based on my own initiative to try to attract more people to the district of East End. We also have businesses there. With or without the help of Government, the Wreck of the Ten Sails is going to be a very attractive attraction in this country.

I believe what Government has to do on the local scene is to identify people within the districts who understand these historical sites and work along with the Museum or the National Archives and they develop them. Although, I do think the National Museum would be a better bet. Government should earmark monies for these sites. For instance, there is a district council in East End which can deal with this. I know there is a council in Cayman Brac as well which should be able to deal with this.

Give them the monies and let them get out there and volunteer some of their time and use the monies to develop the attractions in the individual districts. It needs to happen! How many times have we not heard tourists come to this country, and residents, say, *“There is nothing for the tourist to see or very little.”* It is not only the Seven Mile Beach we have to offer. We have much to offer on the eastern side of this Island also. These are the things we need to promote. Instead of spending all of the money overseas,

we need to spend a little of it here to get the visitor to come back the second time.

The other thing which I have always supported is a Town Manager with a full complement of staff for George Town. Madam Speaker, for the last year, the town clock has not worked. Is that not a symbol of this country? The landscaping around the Court House is a disgrace. We need a Town Manager who has responsibility to ensuring the town is kept presentable. The tourists walk through here and there is very little for them to enjoy. However, we want them here—well, we need them here, but more importantly we need them to come back the second time. Why would they come back when all that they see is a few trees planted around the Court House? We need to have some manicured gardens in the middle of George Town,

We need a Town Manager to oversee it with a full complement of staff; we need the town clock painted; we need the Government buildings painted and we need a Town Manager to co-ordinate with other proprietors in George Town to beautify the sidewalks. If we are trying to create and ask people to come here and promote ourselves out as the premier tourist destination, we need to do something about George Town. We really need to do something about the capital of our country.

**The Speaker:** Honourable Member, is this a convenient time for the afternoon break? I shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 3.23 PM

#### PROCEEDINGS RESUMED AT 3.47 PM

**The Speaker:** Please be seated, proceedings are resumed.

The Elected Member for East End continuing his debate.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I would like to move on to another area of new revenue measures and that is the Health Services fees. On 5 December when this Budget Address was delivered, I wrote one word next to the \$9,485,434 that is expected from the new fees. That word as I look at it is *‘ambitious’*. Outstanding at the Health Services is some \$40 million and we expect to get \$9.5 million more. That has to be ambitious because much work has to be done to collect what is now outstanding as it is and if we could, we certainly would not need the \$54 million that we currently are looking for.

I know there is a substantial portion of the money outstanding that is not recoverable because again the lack of proper systems in place and the lack of a good data base have prevented us from collecting the fees owed to the Health Services. It appears like nothing is being done to try and correct it. Again we



have the Debt Collection unit at Treasury and I believe the Government has now set up a Debt Collection Unit at the Health Services. How successful that will be is yet to be determined. At the same time, I understand the fees for services provided do not match the cost of providing those services.

Madam Speaker, to say the very least—I must be a magician because I just got the Health Services fees and Charges Regulation 2001. Certainly, the new Minister in whose ability I have every confidence has a real big task ahead. I am sure the Second Elected Member for West Bay will agree with that, because of our association on the Public Accounts Committee and our knowledge of the Health Services problems.

I really trust and hope that this \$9 million can be realised because when I look at the insurance licence, the new increase for that is \$1.3 million and some of the outstanding amount at the Health Services comes from insurances not paying up. I hope that because the Second Elected Member for West Bay has some experience in what has transpired, he will ensure that the UDP make sure a lot of these monies are collected now. Ambitious is the word for that.

On the parking fee it escapes me how we are going to charge the proposed \$2.50 per hour for a parking spot in George Town when we can sell that same parking spot to quite a number of people. Certainly, if someone buys a parking spot, we can only sell that for one day and we should only be selling it to one person. I do not know how many parking spots there are along Albert Panton Street and Shedden Road, et cetera, that government can charge, and how many there are behind the George Town Library. However, I understand tickets are going to be issued to the individual who purchases this parking spot.

Now, Madam Speaker, I see a little bit of road rage as a result of that or maybe we should call it parking rage! If you are not allowed to park on the side of the road, if you have not bought the parking space, you then have to drive around until you can find one in somebody's private parking. You should not be allowed to park in the private parking unless you are using the building. Are we absolutely sure that the number of government parking places in town will be subscribed to? If they are, what are we going to do with the remainder of the cars?

If I go and pay \$2.50 per hour, I want a designated parking on the street in George Town. No one should be able to slip into that when I leave because when I go around the block and come back, I expect to find one spot someplace, if not that one. If that has been sold to someone else, then we will eventually have a problem.

The Minister for Community Services wanted to know where we can get revenue. Well here is one way: I believe that the land up around the cricket field in George Town is all owned by government. I understand that it is in the flight path but, certainly, the planes fly over cars driving along there. I have always

contended that government could turn that into 2,000 or 3,000 parking spaces, purchase half a dozen buses that move every five minutes to and from town to transport the people to central George Town. I believe it is called satellite parking and we would have resolved the problem of parking in downtown George Town.

Prohibit parking on the street in George Town; you drive through to the satellite parking and you pay \$1 a day or \$5 a day or whatever the case may be to park. That is a lot of money because I am sure we can accommodate at least 2,000 cars on that piece of property. Let us say it is 2,000 cars and we charge \$5 a day, that is \$10,000 a day and for five days a week, that is \$50,000 a week. Now six buses and perhaps 10 persons to manage that operation, six to drive and the other four to manage the parking lot, cannot cost us much. That is big profit for Government. They wanted proposals and I am putting them forward. It would be much more than \$1 million per year.

I have always believed, like I said earlier about the Town Manager, we need to spruce up the middle of George Town and make it more attractive. That is one way that we could resolve some of the congestion in the middle of George Town. I am sure people would prefer to go up there, as opposed to driving into George Town and getting into traffic jams, particularly in the evenings. Besides, how many places have we not visited in the world where airport parking is right in the flight path of the airplanes? It is six of one and half a dozen of the other. Whether you are parked or driving by at 5 o'clock in the evening, when a plane is coming in it makes no difference.

If we are talking about risks, then we risk the chance with them driving. It is not going to cost the Government that much, I believe, to prepare that piece of property. A lot of it is already prepared. I think the now Minister for Communications (when he was a former Minister) prepared part of it for the taxi and bus dispatch in that area and it is simple. Reconfigure it, fill in and prepare the rest of the property and use it as parking. This way you prevent parking in the middle of George Town which will certainly be more aesthetically pleasing.

Regarding time shares, I note that the time share tax is \$10 per room per day in respect of each occupied room. When this particular proposal (I think it was a little different) came to this honourable House earlier this year, I think the proposal was \$10 per person per day. I opposed it then on the grounds that if there were no provisions put in place to ensure that the money was collected it was futile to propose it. Until Government could assure me that they had put the mechanism in place to be able to collect this money, I could not support it. I trust that Government can now produce the vehicle to collect it. It is futile to just put a proposal out there based on the numbers that present themselves statistically and expect it to happen.

We have had too many situations where these establishments do not pay government. We need to ensure that the mechanism is in place to ensure that government collects it. We hear so many of the condos doing it through people sending their friends down or saying they are friends when they really are not. They are renting to them from overseas. Government needs to be extremely cautious and cognisant of the ways and means in which these people will try to circumvent the system. I know the Second and Fourth Elected Members for West Bay, the Second Elected Member for George Town, the Third Elected Member for Bodden Town and I have all discussed this at one time or the other and about ways to ensure that we can collect from these people.

I do not intend pushing too much further. I am sure we will get the opportunity in Finance Committee to deal with the Budget. I think it was the Second Elected Member for West Bay who spoke about the economist that Her Majesty's Government has sent to watch over our financial affairs. I know Her Majesty's Government mentioned that in the White Paper. I did not expect it so soon, but I really did not expect it at all.

The rule of thumb, as they say, is the service of your debt should be no more than 10 percent of your recurrent expenditure. It is my understanding that Cayman's will be 8.6 percent, well within the 10 percent. If this country uses the same rule of thumb as Her Majesty's Government, I question why a financial advisor is coming to our country at this time because we have not reached the 10 percent. Is it really to protect Her Majesty's Government? Or is it that Her Majesty's Government has fears of things to come? Is it really about the contingent liability as it exists? I think this country needs to know that.

If I was aware that there was an economist on this Island advising this country on its financial affairs, when I met with the head of the FCO (Foreign Commonwealth Office), I would have made it a point to ask him why they sent him or her here and what the intent was. However, exclusion from that prevented me from knowing and thus prevented me from being able to ask him about it. I would love the opportunity to ask the head of the FCO, or ask Her Majesty's representative in this country—and I will. Perhaps, it is better to go to the head as the head controls the tail.

*[Laughter and talking]*

**Mr. V. Arden McLean:** I think the country needs a better explanation and I think that explanation needs to come down from Her Majesty's Representative to the country. For 150 years we have been managing our own financial affairs and, all of a sudden, we need an advisor?

It looks like the Fourth Elected Member for West Bay is saying because we borrowed \$55 million last year, he thinks that is the reason. Well, I hope the

economist is advising the UDP Government on taxing for \$55 million.

**The Speaker:** Honourable Members, please do not engage in cross talk.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I voted for the last Budget and I said do not come back here with anything that is going to hurt the poor man. I appealed to this country then for patience and assistance but I also heard the Fourth Elected Member for West Bay voting for it too. Now we are saying that because we borrowed that money, Her Majesty's Government has sent an advisor. Madam Speaker, with your permission may read from the *Hansard*, a part of the Fourth Elected Member's contribution, which was done on 9 April 2001?

**The Speaker:** Please proceed.

**Mr. V. Arden McLean:** It says, "**When we look at the present Budget, I would have preferred to see a budget presented which had no borrowings and no new revenue measures but because of what has gone on in the past, it was not possible. The Government could have done what the previous Government did for the past four years, in my opinion, budget or *fudget* the revenue to make it equal to what they needed for expenditure. At the end of the year they could have said that they did not overspend but the revenue under-performed. No, Mr. Speaker, I am happy to see that even though the picture is not a pretty one Government has presented a true picture of our financial position.**" [2001 *Official Hansard Report*, page 403]

That is so true!

We supported it then. There are Members in this honourable House who did not and I respected that. There were Members who did not support the revenue measures and I respected that. So, any Member who cannot support it now should not be brought down.

Since 8 November 2001 much has transpired. Tensions are high and it will take a while for those to subside. It is unfortunate that these things happen but we have to move on in our lives. We can quote each other as much as we want. However, I stand here on this side of this honourable House and I have never tried to discredit or malign anybody or question anybody's integrity. Integrity is very sacred to me. With all due respect to all Members in this honourable House and to your good self, I will not do that. I will not go in that arena. However, I warn everybody else, do not go there with me either because I shall reply. I have seen it and I can see we are leading to it. It is not going to be a good thing in this country.

Out of respect, we must all try to contain ourselves, maintain respect for each other. Whether you are with me or you are against me, respect is due. This is the House of politics and we expect that we will

have opposition. Certainly, I will have opposition to what I say because it is my opinion, it is my position but then others will get the same thing from me and from others.

It is with much regret that I see this thing materialising and it is not going to serve this country any good. We watched for eight years prior to 2000 when this country went into this political bickering and what else it got into. At the end of the day, all those same players are still here living amongst one another. We all have our families and we all expect respect. However, as I said before, I will have my say. I certainly cannot claim to have my way because I have never had that. However, I am respectfully asking all Members of this honourable House to show respect to one another and avoid encroaching on people's integrity. Some things are a little more sacred to others than they are to some. Untruth is one such thing. That one will bring out some response.

Madam Speaker, I thank you and I congratulate you on the manner in which you have conducted your House. I look forward to much more debates in your House and while I am a rookie out here and it may be said that you are a rookie there, you are a quick-learning rookie. Remember my little saying: 'I am slow to learn but long to forget.' However, you have turned that around on me now, Madam Speaker. You are quick to learn and long to forget that which you have learnt.

Madam Speaker, thank you.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak?

We still have approximately nine minutes if we intend to adjourn at 4.30 this afternoon. Does any other Member wish to speak? Does any other Member wish to speak?

**Hon. Gilbert A. McLean:** Madam Speaker.

**The Speaker:** The Honourable Minister for Health Services, District Administration and Agriculture.

**Hon. Gilbert A. McLean:** Madam Speaker, if you do not mind, I think Members would just waive the nine minutes left before the time of interruption and we could adjourn a bit early. I would move the Motion if you so wished.

**The Speaker:** If it is the wish of the majority of the Members of the House that we now adjourn, I would be directed as I am entirely in your hands. If I could have an indication either by a nod of the head or hands or I should put the question.

Honourable Minister, can you move the Motion for the adjournment? Then we will put the question.

## ADJOURNMENT

**Hon. Gilbert A. McLean:** Madam Speaker, I beg to move the Motion that this honourable House now be adjourned until 10 am Monday.

**The Speaker:** The question is that this honourable House do adjourn until 10 am on Monday. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This House now stands adjourned until 10 am Monday.

**AT 4.25 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 17 DECEMBER 2001.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**17 DECEMBER 2001**  
**10.43 AM**  
*Seventh Sitting*

**PRAYERS**

**Hon. James M. Ryan:** Let us pray:

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

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

Let us say the Lord's Prayer together:

*Our father who art in heaven, Hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil: For Thine is the kingdom, the power and the glory, forever and ever. Amen.*

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

**Proceedings resumed at 10.46 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**The Speaker:** I have received no apologies from any Honourable Member, neither have I received any statements.

At this time I will call upon the Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Thank you, Madam Speaker.

Madam Speaker, Government apologises for the late start due to some meetings this morning and as you know the phones here in the Assembly are out. We were unable to reach anyone. What we propose to do is to suspend at this point to come back at 1 o'clock.

**The Speaker:** The Question is that the House be duly suspended until 1 pm today, Monday. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The House stands suspended until 1pm.

**PROCEEDINGS SUSPENDED AT 10.47 AM**

**PROCEEDINGS RESUMED AT 1.28 PM**

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**THE APPROPRIATION (2002) BILL, 2001**

**DEBATE ON THE BUDGET ADDRESS**

*(Continuation of debate thereon)*

**The Speaker:** The Honourable Minister responsible for Education, Human Resources and Culture.

**Hon. Roy Borden:** Madam Speaker, I rise to make a contribution to the Budget Speech as delivered by the Honourable Financial Secretary on Wednesday, 5 December 2001.

Madam Speaker, it is not surprising that the Cayman Islands are caught up with financial challenges as is the rest of the world at this time. It is also not surprising that we have any number of armchair economists and politicians who believe that they have the formula. If comments arising out of the presentation of the Budget Speech are an indication, then the Cayman Islands should not suffer from the want of having rescuers. However, Madam Speaker, such is the essence of democracy.

The Government, to the best of my knowledge, is the only entity crafted with the legal and constitutional responsibility to make the way forward. Which is not to say that we should not listen and take cognisance of what other entities have to say. However, it could be presumed, and quite rightly so, that the Government will know of the extenuating circumstances they face better than any other entity; certainly much better than those outside entities which are now claiming expertise in droves.

Madam Speaker, it has been a fallacy of many countries to enter into deficit financing. The records are full of countries which started out on good tracks, then went into deficit financing and have never recovered. Certainly, that has been the downfall of the developing world or the Third World, and it will be foolhardy for the Cayman Islands at this time to believe that history is going to be any kinder to us than it has been to those myriad of countries which went down that track. We need to rise to certain challenges at this point in time and one idea is the new social contract. The Government cannot service its obligations as it has been without the cooperation of the private sector. It is not good enough to continue to say that we are being supportive, that the private sector pays when called upon. We need to take the analysis a step further.

The Government is doing its part. The Government realises that it needs to change its modus operandi. There are ministers and ministries which are taking a closer look, as can be evidenced by the Honourable Financial Secretary in his speech. Many things need to change. But, first of all, we need to change our underlying philosophy of the way we do business and we need to move towards a true partnership in this society; a partnership, between the public sector (which is the Government) and the private sector. We need to have a fundamental understanding and we need to clearly appreciate each other's role.

I was disturbed as I listened to the news this morning. There was a comment attributed to CIREBA (Cayman Islands Real Estate Brokers Association). The essence of that comment was that government is not necessary. Madam Speaker, I could not believe that we would have responsible entities who would state there are many things necessary in the country but government is not considered one of them! Absence of government is anarchy or worse! Is that what these people want to see? Is there any one out there who wants to see anarchy? Or is making money more important than the social order? Is it more important than public good or public order? I would hate to believe that is the philosophy of the entities outside.

Therefore, we need to embark upon a new social contract, whereby the Government recognises its responsibilities and its obligations. A contract in which the private sector is enabled the necessity, the mechanics and the ability to carry out its obligations. Thus the sector can realise a reasonable investment

and return on its money so that private businesses can thrive. It is not impossible. The Honourable Financial Secretary, in his summary of the Cayman Islands Economy on page 3, laid out clearly our development experiences over the past three decades. On page four he continued by suggesting what we need to do in order to foster the kind of development that we should expect. The first step would be a tri partite approach to national development.

I get the impression, Madam Speaker, that if we were to take seriously some of the arguments that are being laid, we would let the country develop to a state where certain people have to be reduced to a parasitic existence. No one, in the Cayman Islands wants to see the development of any social parasite phenomena. We must, in this country enable all in sundry to live in dignity, however humble their lifestyles may be. We should not seek to develop that kind of society where there are clear cut rifts and a wide divide between the haves and the have-nots with no middle class bridging the gulf. To embark on that kind of development path is to embark on disaster and the Caribbean and the developing world is full of those kinds of societies. The Cayman Islands need not be another statistic.

So we must follow our conscience and build in this country a system where the Government, private sector and the social sector can co-exist with mutual respect. This is found in the tripartite system if we want to go that way. This is based on the ability, not only to earn money, but to be able to dispense the earned monies on relevant necessary and appropriate projects.

I agree, Madam Speaker, with those persons who hold the view that the time has now come for us to reward good social behaviour and stop focusing and emphasising on rewarding negative behaviour by positive means and methods. In other words, Madam Speaker, the time has come for us to begin to staunch the flow of delinquency. We should staunch the expansion of Northward Prison and pay more attention to those projects which are pro active in the sense that they are going to try to curtail this growth. To do so, the Government needs to be introspective. The Government has begun to look at itself. It has begun to face itself in the mirror. We are talking, Madam Speaker, about more effective management. We are talking about personnel deployment which is modern, efficient, and more effective. I caution anyone who would expect to trim, chop and cut willy-nilly, especially a body like the Civil Service, without a plan, without an alternative. I will not be a party to that and this Government is responsible and we are not going to do that. Madam Speaker, we are going to approach it from a scientific and rational position. That is what is needed, that is what has been lacking.

The Civil Service Review is on the way. Ministries have made obvious strides. They are obvious for all who would like and who are willing to see. We will not be pushed into irrationality. We will not be

goaded by fear tactics and scare tactics. We know the path that we are embarking upon. It is, Madam Speaker, a modern path.

The first thing that is necessary will be to formulate a political directorate which is cohesive and worked from objectives. After that is done, we have to gain the confidence of those persons who serve us. We can no longer operate as an adhococracy. Finances must be prioritised, projects must be prioritised. The Government must cease to exist as five separate entities and operate as one entity with a common philosophy and a common direction so that our budget can be spread in a way that is most effective. The majority of the population can then benefit from it, rather than having this infighting among five different Ministries which results in five different Governments, five different sets of priorities and five different Budgets!

As the Financial Secretary remarked in his Budget Speech, we have to focus on the renewal of the existing systems. We have to be sure that the resources we have are working to the best of our ability. I want to say this at the beginning because this is important. There are Ministries which have embarked on cost cutting ventures while at the same time still offering effective services. I have heard much preaching that the private sector is doing their share. What is the public sector doing?

I will tell you some of the things that we are doing in my ministry. Students on local scholarships at the Community College used to receive a stipend of \$500 per month. Regrettably, that had to be discontinued. It had to be discontinued because this is a time of fiscal constraints. While the scholarships are still free, we are unable to continue offering the stipend of \$500 a month. We are doing things like this but we are being responsible about it. I refuse to be controlled by fear and scare. I examine what can be removed with the least detriment and I have to explain to the students and explain to some parents we had to reluctantly discontinue the payment because the country is in the position now where we have to do some financial cutbacks. Scholarships, Madam Speaker, were not cut back, neither those overseas nor those locally. I hope that, sooner rather than later, we can resume payment of the local stipend.

We did something else a year ago, at the Ministry of Education, Human Resources and Culture. We discussed the employment services centre and embarking on a new direction in labour and human resource development in this country. We have developed the centre with absolutely no new posts. We did not burgeon the bureaucracy by any new appointments. I mention that, in spite of what is sometimes read and written, because we in the Government, are cognisant of the challenges which are ahead of us and we are working.

We have to be very careful, because you cannot operate a first world country on a third world budget. That is what the private sector needs to understand that is what the detractors need to realise,

Madam Speaker. So if you are calling for example, for the Monetary Authority to be expanded into a modern regulatory authority, you cannot do that on a third world budget. You cannot get the kind of expertise that you need operating with a third world purse and third world fiscal policies. We have to decide which route we are going to take. I am afraid that the development path the Cayman Islands have taken is an irreversible path. We cannot go back and certainly, if a poll could be taken, we would find out that we do not wish to go back. We must go forward and this is a Government and this is a budget, Madam Speaker, which is taking us forward.

There are no frills in this Budget. Everything is absolutely necessary and I believe that we are as responsible as we can be. I say that the year 2002 is a year of convalescence, financially speaking. It is a year of stock taking. It is a year where we are writing ourselves to get back on track. The Cayman Islands, at this juncture, has the kind of Government which is able to put us in a financially stable position and I am happy because I dreaded the possibility of having to stand here and associate myself with another deficit Budget. I think it was in 1993 when there was a great hullabaloo because the financial position in which we now find ourselves was not new. It did not just come upon us. Successive political directorates faced the same or similar challenges. I am convinced that the economic miracle which the Cayman Islands have experienced particularly in the last ten years may be due, in part, to the frugality and the policies of the previous political directorates. Also a large part of it was beyond our control and due to a combination of fortuitous circumstances, over which we in the Cayman Islands if we had influence did not have total control. Where we made our mistake was that we believed that the seven years of plenty were going to last forever. We did not take advantage of savings and modern efficiencies as we should have done. There are those of us who realise that we now have to do things differently and we have the vision. We just need the support of all honourable Members in this House for effect.

One of the things I have argued, Madam Speaker, for many years—which I hope to be able to put into effect now—is that the students on Government scholarships can no longer be bonded to come back to work in the Government bureaucracy because it can no longer be afforded. The situation is simply ballooning to a point where if we do not discontinue that practice it is going to burst. Let me tell you what we are doing and why. In the Budget we talk about this kind of development and why a Bill was brought here for the establishment of the Cayman Islands Development Bank.

The Government scholarship-holders need to be encouraged to return to the Cayman Islands, but they need to be given certain options because this Budget or any budget could not accommodate every one of them. We now need to change our tactics and

alter our way of operating. Some of the students need to be encouraged to go into the private sector. Some of them need to be encouraged to become entrepreneurs and work for themselves. I have always said that Government should have to compete for its staff and its officers just like the private sector—advertise, interview and short list.

The economy simply cannot continue the way we have been going and so this is necessitating a change of philosophy down to the very bowels of the Government. It will affect the way the Personnel Department operates, it will affect the way the Public Service operates and it will affect the way the bureaucracy functions. This impending change has its basis in the economy and in the Government Budget, so it is necessary to have a different focus. That should be easy for all to understand if we are to continue. Otherwise, our Budget will be forever expanding and more and more monies will be spent on recurrent expenditure and we will be always playing catch up.

Madam Speaker, the disagreement emanating out of the Budget is not to do with what philosophical direction the country should embark upon. Rather, I think, it is a disagreement which arises out of a misunderstanding. I believe we are on the way to getting the private sector to realise the priorities of this Government and what we are trying to do in this Budget. At the same time getting them to understand that no one in this Government wishes to take the private sector for granted.

We, however, have certain obligations which we would like to meet. I say this because if this Budget had been presented as a deficit Budget, the private sector would have been lambasting us. They would have more reason to be concerned and alarmed than they are now. There are those in the private sector who realise this but I resent (democracy notwithstanding), the attitude of those persons who write about a cassava republic. Those persons have their options. They can repatriate or move themselves or they can choose to become involved constructively.

The Cayman Islands is not a cassava or any other kind of republic! The Cayman Islands is a respected Westminster style democracy and if that were not so, the Mother Country would not allow us to exist as we have been. I want to set the record straight. I recognise that in a democracy everyone is entitled to their opinion. However, with that entitlement is a certain responsibility and with what I know about those kinds of republics, if the Cayman Islands were not a true democracy do you believe anyone could write that it was a cassava republic and get away with it? Get published and get it read?

No, Madam Speaker, I mean those kinds of attitudes are just not appreciated in this country. I can only speak for myself, but I take the dimmest view of those kinds of attitudes. I respect anyone's right to dissent but I cannot agree and respect that comment. The Government has made itself available to meet, to listen, to counsel. I think the problem many people

have is that they expected it to be business as usual. Many were taken by surprise when the United Democratic Party came of age. The moment came when politics and economics in the Cayman Islands spawned the development of a formal political directorate which is intent on giving accountable leadership by the book. What people are doing are two things. They are saying, well the Budget is not really genuine and legitimate. The reason for saying that is an attempt to hit at the entity that assumes responsibility for the Budget.

There should be no fear, because the Cayman Islands are moving forward in a very responsible way. We are facing many challenges for which we need money to build up our infrastructure. We have demands from international organisations. We have an image that the United Kingdom would like us to maintain. Madam Speaker, we have been paying our way for all these years. I want to speak very seriously. For the first time in the history of this country, we have an economist here who was seconded from the Foreign and Commonwealth Office. Intelligent people would take that as a sign that they are looking over our shoulders. We never had that before. If I were a wagering man I would bet that had we presented another deficit Budget, not only would the economist be sitting here amongst us, he would be telling us what to do.

Those of us who are intelligent, see and understand what is necessary to be done. To lose our financial independence and to lose the ability now to take decisions as to how our money will be spent is a retrograde step. We would never get that independence back again easily. Can we not see that, Madam Speaker? Is there not a sign in all of this for intelligent people to read? Or have we got to be from the court of Nebuchadnezzar to understand what that is?

It is true that the Cayman Islands are inextricably weaved into the world economy. It is also true that we can take responsibility and have always, as a society, made our own way irrespective of what the outside world was going through. because the fact that there are recessions in the industrialised countries does not mean that the Cayman Islands have to keel over and give up and say that we cannot do better. That is the reason we have five intelligent and elected ministers to craft the way out so that our people are not burdened financially to the point where they cannot cope.

This Budget, suggests that the Cayman Islands Government has reached the point where it expects the wider society to match the gestures that the Government is taking. If there is retraction, reneging and finger-pointing on the part of any entity, it is not going to work. Unfortunately, too, the system is that the Government cannot take a referendum on measures it needs to impose to raise the necessary money. The Westminster system does not allow for that. Such kinds of indecisions, Madam Speaker, cannot work in a time when decisions of exigency have to be taken. So, while I am apologetic to those entities that say

that they were not consulted; nowhere in the civilised world are they consulted.

When Gordon Brown, the Chancellor of the Exchequer, brings his Budget, Madam Speaker, he does not take a poll and ask the Bank of England or all the other banks how it is going to affect them. He says that my Government has a budget of \$5 hundred million and he just comes to Parliament and reads it and it is voted upon. In the Cayman Islands in the 21<sup>st</sup> Century we can do no less. I do not wish as a Minister and as a Member of the Government to create the kind of situation that, before a budget can be presented, we have to go and take a poll to find out, whether or not the Budget will be favourably received. The only concern would be that, morally and politically, the Budget is wisely crafted, with no foolish expenditure and that the public's money is spent effectively. Following that there has to be accountability and transparency. I have searched the Constitution and Standing Orders and I can see nowhere where I am obligated to take a poll.

The Government is responsible and we should listen to the concerns of these people. It is our obligation, and, therefore, our intention, to be responsible with monies collected. That has been the past history and tradition of political directorates and it shall be no less now. I say to that extent, this Budget is a sound Budget. It is the best that could be done because rather than face another deficit Budget we know we have to make changes. We know that we have to cut back. We know that this is a time of recession. There is another point which needs to be made.

If you expect reductions in the budgets you must also expect reduction in services because the two go hand in hand. The private sector cannot therefore expect that we are going to have a reduced budget while services continue at the same level. Many people are missing a fundamental point because of the situation and the circumstances in the society in which we live.

Checking the statistics we will see that a significant proportion of our young people go to Northward Prison. Some of them are not able to function in the society when released, after prolonged imprisonment. What are we going to do about those cases? What are we going to do about those who drop through the educational cracks? Are we going to build up a welfare society that we have every year to increase the amounts of money we plough into social services? Are we going to implement programs to empower these people, to save them before they get to Northward and to train them before they drop through the cracks and become wards of the state? Those people who have to pay duties and fees and taxes are going to complain and quite legitimately so, that more and more of their money is being spent on maintaining these people in unproductive lifestyles.

What this country needs is an awareness of the necessity to empower persons. Much attention was given in this Budget to empowerment, Madam

Speaker. There was an examination of the Cayman Islands Marine Institute and of the necessity to build a remand home as against offering positive rewards and attractions before people get to that stage. There was consideration of training vis-à-vis an employment services centre to train and counsel people and help them to access jobs. These are things for which one does not see immediate results and I suppose that is why the element and levels of criticism are as intense as they are.

These kinds of gestures will reap the rewards in the years to come. It will enable us to embark upon positive systems and it will help us to stop expanding the social control agencies and containment services and to put more money into positive things. We need to take into consideration training programs, sports programs and educational programs.

We have heard from the Minister of Health stating that health fees are incredibly and unrealistically low in this country. So low that we have people coming from overseas to access them. We propose to gradually move these fees more inline with the cost and with what is being charged for similar services elsewhere including the private sector. Nobody gives us credit for that. They only see the other side. The coin has two sides. The Government which is the political directorate is being responsible. There is a clear demonstration of this partnership where both sides show a willingness to do what needs to be done. Unfortunately, we cannot make up all the ground in one year.

I would hope that all the talk, all the bluster and all the criticism which is being levelled is tempered by the realisation that attempts are being made. I heard no one speak of the role that a development bank can play. I heard nobody speak of this tripartite approach. I heard no one mention the streamlining of the public sector or the Civil Service reform. I heard no one speak of the micro finance initiative. I heard nobody speak of empowering Caymanians. All the talk was beating up on the Government because the Government chose to raise some fees in areas that could absorb fee-rises. Nobody over there, on the other side, knows it better than me. I spent twelve years over there.

I know that it is popular to say certain things. I also know that what may be popular may not necessarily be practical or realistic because the reality is certainly different when you get on this side. It is nice to say the things that are popular and get the applause. However, when you sit in the seat of the Government and have to make certain decisions about programmes which need to be implemented and maintained, it is a far different cry from when you are a Backbencher with no responsibility but to criticise and sometimes, not constructively either.

We welcome the private sector into this partnership for a new social contract for the Cayman Islands allowing the Government to effectively service the needs of those who need help in finding affordable



housing. A social partnership which allows the Government to be proactive in the programs it offers to prevent our youngsters from going down the road to destruction and delinquency allowing the Government to embark on programmes curtailing the use of drugs amongst our young people. A contract providing education and training so our young people can be effectively employed. It is not easy when we consider that 60 percent of our work force is on work permits.

This Budget must make provision amongst all the other things to ensure that Caymanians can be educated and trained so that we can make inroads into those statistics, Madam Speaker, and so that we can become less reliant on imported labour and more reliant on our own indigenous people to fill those roles. It is a Budget about empowering Caymanians as much as it is about maintaining certain services. Am I to understand that those who object, do not understand the fundamental reasons why this money is necessary, why we went this route and why we cannot, go into deficit financing? If we were not going to come here with a balanced Budget, made up with no major borrowings, where are we going to get the money from? A fundamental question is, when we borrow, who is going to repay and at what rate? The prime rate is not always going to be, as I read the other day, down to 4.75 percent. We do not want to get into a debt spiral. If there are any better managers where are they? If they are not on this side, where are they?

I was reading the other day the editorial in the senior newspaper in the country berating the fact that they cannot get tourism statistics. What idleness! Of all the things they can editorialise, they are making a whirlwind out of the fact that they cannot get tourism statistics. Of what great significance is that now? Is that stopping the Cayman Islands from functioning? Is that stopping the world from spinning? No Madam Speaker, while it may be an inconvenience, it is not a disaster. I am surprised that there is such a negative approach by such influential and important entities in this country. I believe that it is necessary and vital for planning purposes to get statistics, not only tourism but other statistics as well. If there is an absence of them, that is not the end of the world!

I did not see any editorial about the effort to empower those persons who were laid off by the one week training that was given by the Ministries of Education and Tourism. I did not see any editorial about that. I did not see any editorial about the efforts the Government is making to steer the country in one unified direction. I did not see any editorial about the efforts being made by the Information Technology Ministry to modernise us so that we can be a destination which is modern and competitive in terms of information and communications technology. If we take the microscope and look for the cracks and look for the faults we can find them by the millions, but these are not the things we should be highlighting.

We should be highlighting the positive. Nobody is doing that!

Since the announcement of the birth of the United Democratic Party the disparate elements are even more meticulous in a certain kind of negative criticism. I call again for a spirit of partnership and cooperation to build a society which one and all can understand and within it realise his or her role. It is not impossible. The Cayman Islands is a premier society known for its fiscal responsibility, its constructiveness and its ability for all and sundry to operate together in peace and harmony.

Madam Speaker, I want to say that this Budget was put together, comparatively speaking, with relatively little pain but, nevertheless, was constructed with the greatest conscientiousness and respect for the entities which make up this society. This Budget meets the needs of a dynamic and growing Caymanian society. It affords us to use the resources we have available most effectively. It should be one which the great majority of this country can associate with. I want to say, I expect at the end of the financial year the reports which come in about the financial Budget, such as the way the monies were spent and about the achievement of the objectives which were set out, are convincing, sincere and positive. Throughout the history of the development of this country, political directorates may have had their faults but no directorate set about the wilful destruction of this society and this is no different. This Budget is as constructive as any budget ever presented. It is as caring and painstaking as any other and when all is said and done. I proudly associate myself with it and I say in confidence that the country is moving forward.

The good ship Cayman, while it has its challenges, is eminently equipped by this political directorate to deal with those challenges. I look forward to debate in Finance Committee to the justification, not only for the expenditure of those Portfolios and Departments which make up the Ministry for which I hold Constitutional responsibility, but for the Budget as a whole.

I say to the private sector, we must work together irrespective of the differences we have. There is room for partnership. We must build this partnership. We must embark on a new social contract for the Cayman Islands so that we do not create a society of haves versus have-nots. We do not want to degenerate into an 'us versus them'. We can then have the kind of harmonious society that all and sundry can feel a part of and have a place within.

Madam Speaker, I hope that this Budget and those persons associated with it can be given the chance they deserve and perhaps when you have seen as many storms as I have seen, you will realise that there is no need to pontificate or no need to put down. Just the need to open your eyes, stand by your or and move forward.

Thank you.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin Jr.:** Madam Speaker, breathe deep the gathering gloom. On this the occasion of my second debate on the Budget Address of the Honourable Financial Secretary, I come to the debate under decidedly different circumstances than I did in April of this year when I debated the Budget for 2001.

Madam Speaker, in my preparation for this debate I turned up a document, a press release issued by the Council of Associations on 16 May this year, from which I would like to read certain excerpts, with your permission Madam.

**The Speaker:** Permission granted.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, what struck me about that document was the contrast between the Budget process address and debate. Those few short months ago and the circumstances under which the country now finds itself, debating again the Budget address and draft Budget this time for the year 2002.

Madam Speaker, it is entitled, Council of Associations, 16 May 2001, for immediate release. **"A new approach to budget planning. Presented in the Legislative Assembly in March, the draft Budget for 2001 includes more than forty revenue measures, including many fees imposed on our Offshore Financial Services Industry to raise an additional money and to fund new and existing Government Services and projects, including essential plans to significantly increase the size and regulatory scope of the Cayman Islands Monetary Authority.**

**"This news does not surprise the private sector. The financial state of the country's budget is the result of a decade of unrestrained tax-and-spend policies by previous Governments to fund politically popular projects and poorly monitored social programmes that the country, in most instances, could not afford because appropriate sources of funding had not been properly identified.**

**"This widening imbalance between Government spending and the growth in the country's revenue base has been quite apparent for many years, particularly when the national budget was presented. In fact, during the 1990's the private sector came to expect a package of revenue measures as a standard budget item to underwrite the Government's plans to fund its new projects and programmes.**

**"These 'trigger' announcements disturbed many businesses because they were unveiled without notice or even consultation. The private**

**sector had to object publicly before its views were heard or even considered as evidenced during the public protests in 1997.**

**"We congratulate the new Government, led by the Honourable D. Kurt Tibbetts, on its new approach of involving the private sector on its budget deliberations and seeking advice and assistance before the draft Budget and revenue measures were announced. This new approach of openness, honesty and transparency supports the new Government's campaign pledge.**

**"The openness of the new Government was clearly apparent when for the first time ALL Ministers as well as the Financial Secretary addressed the Chamber of Commerce during its monthly general meeting in January to discuss its plans and to discuss some of the major budgetary issues affecting the country. While the private sector may not always agree with Government's approach to resolve the issues, we admire the willingness of the new Government to ask for advice and, most importantly, consider our opinions BEFORE reaching decisions that may adversely impact our economy.**

**"Open dialogue and public/private sector co-operation is essential particularly when external pressures are mounting, specifically the OECD [Organisation for Economic Co-operation and Development] and FATF [Financial Action Task Force] requirements on commitments and what appears to be a slowing of the United States' economy, the main source of visitors for our hospitality industry.**

**"We consider the appointment of a private sector-led committee, chaired by Mr. Robert Bodden who has been asked to investigate additional revenue measures, to be a positive move, but strongly recommend that the first priority is to review Government's spending and revenue collection before taking the traditional approach of raising additional revenue without identifying spending cuts."**

Madam Speaker, because I wish to be completely fair, I will read the following which is also part of that press release.

**The Speaker:** Honourable Member, is it your intention to also lay it on the Table?

**Mr. Alden M. McLaughlin, Jr.:** If you so wish Madam Speaker.

**The Speaker:** Please do.

**Mr. Alden M. McLaughlin, Jr.:**

**"To clear last year's deficit and to keep the Civil Service functioning at 2000 levels, the new Government has decided to borrow for the first time, \$26.2 million for the General Revenue Fund to pay off outstanding revenue bills and commit-**

ments from 2000, at a time when the servicing of the national debt alone is nearing 10 percent of recurrent revenue. We see this as a very dangerous precedent and wish to state that future borrowing to pay recurrent expenditure will be strongly resisted. We would have preferred a different approach but we understand that the Government was not left with many options this year.

**“We have been informed that this will not be repeated next year because Government intends to find ways to balance its books and change the way it conducts business. We welcome this new approach and continue to encourage Government to continue to utilize the expertise available in the private sector to effect the necessary changes.”**

I thank you, Madam Speaker, and if I could now lay this on the Table of this honourable House.

**The Speaker:** So ordered.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I read somewhat extensively from that document to highlight the change in approach to these things which have been augured in by the UDP Government.

Madam Speaker, I believe all Members of this honourable House, and virtually everybody in this community, understands the financial circumstances in which those of us who were elected in November of 2000 found this country. I also believe that no one, and certainly I would not attempt to suggest that trying to cope with the recurrent expenditure issue was an easy one in January through April of last year, or indeed an easy one this time around. There are no quick fixes and no simple answers. I have been involved in the process long enough to understand that.

The Second Elected Member from West Bay read extensively from my contribution to the debate on the last Throne Speech and Budget Address. Listening to it, seemed to me was the best part of his debate. I, like the Second Elected Member from West Bay, shared and continue to share concerns about the growing cost of Government.

Madam Speaker, I said (if I may refer to the excerpt from the *Hansards* of my debate in April of this year).

**The Speaker:** You may, provided you state the precise date for reference purposes. Thank you.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker, on 18 April 2000 (sic), page [457]. I said, Madam Speaker, **“To put it bluntly, government is too big and too expensive! The reason why it is so big and expensive is because of the voracious appetite this country has developed for services. Government is simply expected to do too much.”**

**The Speaker:** Honourable Member, just for clarity sake, did you intend to say 2001?

**Mr. Alden M. McLaughlin, Jr.:** Yes, Madam Speaker, thank you for the correction.

**The Speaker:** Please proceed.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I do not believe that there are any fundamental philosophical differences in the way I, and most Members of this honourable House, view this question about how we are going to resolve the growing difference between what Government costs to operate and what we can derive by way of revenue. I said, in my debate the last time that if we do not find a way to slow the growth of the Civil Service and indeed to roll it back, the cost of that service is going to strangle the country to death. I believe that now more than ever.

When I came to the debate in April of last year I had concluded that civil servants amounted to some thirty nine hundred persons. I talked about many of the inefficiencies which had become apparent to me even in that relatively short time that existed in Government's system and particularly in the system of collection. I raised the question of garbage fees and pointed out, back then, that while it is costing some three hundred dollars a year to collect garbage fees from residential places, Government was charging one hundred and I said, Madam Speaker, this simply could not be permitted to continue. I spoke then about the need for Government to utilise some of its premises as revenue earners. I spoke about the need or the possibility of turning the premises behind the public library into a multi-storey parking lot.

I am citing these examples Madam Speaker, so that the Honourable House will understand, that I see what the problems are and that philosophically I do not have a real issue with the matters they seek to address. I believe that there are many areas of Government activity that should be privatised, I share that view as well Madam Speaker. Where I think I part company somewhat, is my view on what seriously needs to be done to reduce Government's overall expenditure, particularly in terms of the number of civil servants on Government's pay roll. I will speak about that more extensively as I carry on in my debate indeed, lest I be misunderstood.

I said, in April of this year (18 April, in fact), on page [458] of the *Hansard*, **“The Civil Service is not large simply because of the powers that want it to be, it is principally because of the country's continued demand for more and more services.”**

**“While I accept and believe that there is room for improved efficiency I do not believe we can significantly reduce the size of the Civil Service without a corresponding reduction in the number of services the country demands that Government provide.”**

**“Over the long term, if this country is to prosper, we are going to have to reduce our reliance on Government provided services, we are**

**going to have to stop expecting Government to subsidise basic services such as garbage collection and health care.**

**“In turn Government has to adopt a philosophy that involves a systematic and structured reduction in the size of the Civil Service. This cannot and should not be expected to occur overnight but it must happen.**

**“I am not talking about a hurried and arbitrary cutting of Civil Service jobs, what I am talking about is a critical evaluation of the Civil Service, the services it provides and the adoption of a long term programme of retrenchment. If we do not do this and if the Civil Service continues to grow the way it has over the past six years, the cost of operating central government is going to strangle this country to death.”**

Madam Speaker, with those prefatory remarks, I come to my principal issue with the way the UDP Government has gone about this particular budget process and how we arrived at the Budget Address which was delivered by the Honourable George McCarthy on Wednesday, 5 December.

Madam Speaker, in his address, the Honourable Third Official Member spoke of the slowing of the economy and why we need to rethink our approach to the long term development of these Islands, while at the same time maintaining our global leadership position, particularly in relation to the financial industry and to tourism. Now, with the greatest of respect to the Honourable Third Official Member, for I have some idea of the difficult role he plays and the difficult job he has to do regardless of which government is there. I seriously question whether any real regard was in fact had to the need for Cayman to maintain its global leadership position in relation to the financial industry when this Budget was proposed.

You see, Madam Speaker, I look at the Budget proposals and I recollect how often over the course of the past few years (over many years and I am not talking specifically about this year) that the Honourable Third Official Member and many other individuals speaking on the behalf of the industry and on behalf of government have referred to the financial industry as resilient, as buoyant. How we have managed to forge ahead notwithstanding the threats of the OECD and the FATF and the European Union's savings directives and many other initiatives that keep looming. The financial industry has survived. It has done better than survive, it has continued to thrive notwithstanding all of these things even though growth may have slowed, at least some aspects of it. It has continued to do quite well. I fear that, because it has survived those many assaults over a great many years, now a view has been taken that the financial industry is invulnerable. Nothing we do to it is ever going to cause it to wane.

Until recently, we have made that very same mistake in relation to the tourism industry. We thought, Madam Speaker, because for years and

years and years there was an increasing number of visitors to these shores, we have boasted about it as a country—tourist arrivals were up 10 percent over the last two years. So, we developed a mindset in relation to that that industry was also invulnerable. Over the course of the past couple of years we have come to the harsh reality that that is not the case and it did not take the September 11 to cause that to happen. The tourism industry in this country has been on the decline for a number of years, Madam Speaker; 11 September just brought it to crisis level. Do you know what in my view, has caused the tourism industry to be in decline? An overpriced product, a product which provides much less in value now than it did five or ten years ago.

Madam Speaker, since 1998—and it is not because there are not more rooms, and it is not because there are not more flights to bring people here—we simply have lost our competitive edge. We have made this place unattractive to many, many people and out of the price range of far more. Since 1998 we have added more than twelve hundred and fifty new rooms, such as Sunshine Suites, Comfort Suites, Cobalt Coast, Morritts Tortuga, Holiday Inn to name a few.

By my calculations and information, Madam Speaker, there are four new airlines serving us over the course of that period. Some are on a charter basis, some as regularly scheduled flights. If you talk to those in the industry, business now is about 40 percent what it was in 1998 and that is not talking about 11 September and subsequently. We have lost our competitive edge. We thought that industry was not price sensitive, we thought product really did not matter sea, sand and sun. Sell them a mudslide at \$11, they will buy it, they will keep coming to Cayman, we are safe, we are clean. At a time when visitors to places like the Dominican Republic, the Bahamas, Aruba are on the increase we are on the slippery slide. That is an important lesson and one that we should pay attention to because, we are on the road to creating a situation where the other limb or leg of this economy is at risk.

I know that at some point there are likely to be charges of self-interest on my part because of my connection to the financial industry of these islands. Madam Speaker, I know there are some Members of this honourable House on the Government side who have some experience in the financial industry of these Islands. However, I believe that I can say without fear of contradiction that the almost eighteen years I have spent there is more than the sum total of all of them put together. I believe I was in the financial industry before the Second Elected Member for West Bay started high school. I say that, Madam Speaker, so that all concerned will realise that I understand that industry. I know their foibles. I know, when they resist, because what is being proposed seriously means that they are going to encounter great difficulty in continu-

ing to sell the service and product which they market which makes the wheels of this economy go round.

The Second Elected Member from West Bay read quite extensively from my debate on the Throne Speech and Budget Address presented to this honourable House in March of this year. The point that he read, so extensively were my remarks stating, categorically, that the financial industry of these Islands, in my view, was not bearing its fair share of the tax burden. I also went on to say, which he did read, that I suggested that the way forward was for Government to sit down with the players in the financial industry as it had done prior to the preparation of the 2001 Budget Address and seek a way forward.

I believe, because I have had numerous meetings and discussions with members from that industry over the course of these past few days, that virtually all but the most intransigent in the financial industry, understand that they need to contribute more and are willing to do so. What they have the greatest of difficulty with, what they find wholly preposterous is the manner in which almost fifty million dollars of new fees are being added to the cost of doing business in the financial industry of these Islands, in one fell swoop.

That is what has got everybody up in arms because those of us who run businesses or have run businesses understand that we cannot operate without a proper budget, without advance notice of fees which we will have to pay. Even more importantly is how do you explain this to clients? How do you explain to sophisticated international clients that overnight, and on three weeks notice a product or a service which they need, which they utilised, is going to be increased in some cases, by hundreds of percent. People who live in a civilised sophisticated country cannot understand how it is that, a responsible Government would, without due consultation and notice, increase the cost to them to carry out business in that jurisdiction. It is almost impossible to explain that to clients, Madam Speaker.

I have come to the view, that more than any single issue, more than these particular exorbitant increases, what is really going to cause the demise of this economy is the constant disruptive manner in which we are going about the administration of this country. The ensuing uncertainty and instability is what scares investors. It is what frightens business people and what worries those who work here, more than any other single thing that Government does or does not do.

Madam Speaker, there is always a period of uncertainty following a general election but, usually, by the end of the first year the country has settled down. Well, this year we had the tragic events of 11 September which has reordered the world. Then we had, in domestic terms, the equally tragic events of November 8. An air of uncertainty has reigned ever since and November 8 was followed far too swiftly by 5 December which was The Budget Address. Perhaps

more accurately I should say on the Monday following that, the date of which I cannot bring to mind, when the schedule of increased fees was unveiled.

The question on every lip, Madam Speaker, is what is happening in Cayman? Has the place gone mad? One of the things that we marketed so heavily, one of the things that brought people here, one of the things that caused people to be prepared to invest significant sums and establish banks and businesses was that whether the Government was good or whether the Government was bad, whether you liked them or you did not like them, they were predictable. You knew what it was that you had to face. Now, the only thing that is certain is that there will be more uncertainty. The country, Madam Speaker, the economy cannot continue to be assailed by surprise after surprise, by disruption after disruption without there being serious if not fatal consequences. This is a plea on my behalf.

I sit where I sit and, to tell you the truth, I am growing very comfortable sitting where I sit. I am quite happy to stay here for the duration, which is the democratic process. It works its way and the chips fall where they may. I am prepared to let them stay there; but I implore those who now drive the policy decisions of this Government and forge the way forward for this country, not to continue to operate in this style. It is completely unnecessary. It is completely uncalled for. If they continue this *modus operandi* every time this House convenes and there is any Bill of any import brought here, without consultation, which has ramifications throughout the industry or indeed throughout the country, there are going to be, not just the lonely voices of us on this side pleading for due process to be followed, pleading for proper notice, they are going to be met, each time, by the armies of those who are affected by what they are proposing.

There are many who deplored the style of the First Elected Member for George Town. I heard the Honourable Minister for Education asserting a short while ago, quite correctly Madam Speaker, that he saw nothing in the Constitution or the Standing Orders of this House which required him to consult with anybody. Absolutely right, spot on; there is no constitutional requirement and there is no Standing Order to that effect. However, good sense dictates, Madam Speaker, that when you are going to take steps which are going to radically effect the way an industry is able to operate, even if you do not have the courtesy, you should have the common sense to understand the importance of consultation. More than anything else that is what the industry is really against. I know. I talk to its members every day.

While on the subject of the financial industry, I will take the opportunity to examine some of these proposed increases. The scale of some of them is, quite frankly, staggering. For example, the increase of an 'A' bank licence fee from CI\$123,000 to CI\$400,000—and that is the renewal, as I understand it. The new bank license would be half a million [dollars].

In my view, the notion that significant fee increases for license holders will result in increased revenue is entirely misconceived.

I have already been reliably informed, Madam Speaker, of two class 'A' licence holders who have indicated that as a result of these increases they will surrender their class 'A' licences. I predict that many of those who retain their licences will proceed with the redundancies that hitherto they were trying very hard to avoid. These new increases have to be looked at in the context of the already substantial increases which were proposed in the Budget in March of this year. No one has paid those yet because licences are payable at the beginning of every year.

Madam Speaker, because of the various initiatives of the Financial Action Task Force and others, the financial industry has had to develop significant and expensive compliance departments to deal with the issues of ensuring that there is no money laundering. All of those add substantially to the operating costs of these various businesses. Additionally, there is an increasingly significant gap developing between licence fees here in Cayman and those in the Bahamas and the British Virgin Islands.

Madam Speaker, this may not be that well understood, but in the view of offshore investors, financial institutions, fund promoters and others, Cayman and the other offshore jurisdictions are fungible. It is becoming an increasingly difficult battle to persuade them that Cayman is a better place to be than somewhere else. Cayman really holds no great advantage over those other jurisdictions except the excellence of the professional service providers we have and the relative ease and inexpensiveness of conducting operations. At a single stroke, these fee increases have seriously undermined that competitive advantage.

There is another point—and the more I subjected these proposed fee increases to analysis, the more I was driven to the inescapable conclusion that much of these proposals are hurried and not properly thought through. I am positive about this because the cry that I have heard from the financial industry about the lack of consultation means that this is so. Those who have developed them have done so with an imperfect understanding of how business really operates within the Financial Industry. The effect of the introduction of tax planning into the business planning of financial sector businesses I do not believe has been taken into account by the architects of this work.

I do not believe that they have realised the fact that firms will, for the first time I believe in the history of this country, have a real incentive to structure the affairs so as to avoid incurring the increased fees. It is quite possible, for example, that the increase in the cost of a class 'A' bank licence would be more than offset by a reduction in the actual number of licences, and businesses would stop offering services that entailed a higher licence fee. Unless the fees from that area of business justify it and they would

also then presumably lay off the staff that previously ran those particular divisions.

In the Budget Address, the Honourable Third Official Member stated that class 'A' bank licences were down. If I recollect, Madam Speaker, he said some 4 percent (on page 20 of his address): **"In the banking sector, Category 'A' bank and trust C.I. dollar assets were \$837.2 million at the end of June 2001 compared to \$825 million at the end of June 2000; and the number of bank and trust licences dropped by 4 percent, from 569 in September 2000 to 548 in September 2001. The reduction in licences is a result of bank mergers and retrenchments. The policy introduced in April 2001 on the residual private banks had an effect as well. The policy required that private banks without a physical presence establish a presence to the degree appropriate to their activities within a nine month period or surrender their licences."** He goes on to say, **"To date 24 of these banks have opted to surrender their licences, 6 have restructured to become subsidiaries and retain their licences and 12 licensees have decisions pending."**

Madam Speaker, if I were a wagering man, I would bet that we are likely to see, if this proposal goes through without amendment, a good many more surrender their class 'A' licence. What I do not think is fully understood, is that quite a number of class 'A' licence holders do not actually operate a retail banking business. They hold their class 'A' licences because it lends to them a certain prestige and flexibility. If the cost of holding that licence is outstripped by the perceived advantage of doing so they will surrender their licence. Economics. I am sure the Second Elected Member from Cayman Brac would agree with me on that one.

Madam Speaker, there is another point. There is a considerable risk that as disastrous as these proposals are, they will not even achieve their desired objective of solving the Government's financial problem. With the little economics that I know, my little A level economics, I understand this much. Where severe increases are introduced, they inevitably lead to market distortions. Somewhat paradoxically in this case, increases may well result in an overall reduction in Government revenue as has often occurred in countries where taxes have been significantly increased.

In Ireland, government revenue went up dramatically when the government reduced tax rates and in France tax hikes led to a decline in revenue. Take the situation of the class 'A' banks. Suppose we arrive at a situation where six of those banks decide not to renew their licence, what does that do to Government's projections? That is \$2.4 million just like that!

Perhaps that is why we have a Cayman Islands Development Bank which is going to have a retail operation. Now I am starting to see, Madam Speaker, the urgency with which that matter was pro-

posed, brought to this honourable House and rail-roaded through without any opportunity for debate.

**Hon. W. McKeeva Bush:** Madam Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** Please state your point of order.

**Hon. W. McKeeva Bush:** I suspect the Member is getting tired so that is why he has decided to raise such an issue because he knew it would be a point of order.

Madam Speaker, this matter was not rail-roaded through the House. That is bringing improper motives to the honourable House. The matter was dealt with according to Standing Orders. Madam Speaker, the Bank does not deal with retail. How many times does that have to be said? Why did the Member not look through the Law? He has had specific time. Madam Speaker, I think that the Member is misleading the House.

**The Speaker:** Honourable Member as far as it relates to the motives under Standing Order 35 (4), I would ask you to refrain from imputing improper motives on any honourable Member in the House and at this time I would ask you to please continue.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker, but I would be grateful if you could point me to where I imputed improper motive to any Member of this honourable House because I would wish to refrain from doing so again.

**The Speaker:** Honourable Member, although no Member can question the ruling of the House, I will oblige by indicating the specific aspect that I made my ruling. That was regarding it being 'railroaded through the House' as I could not, based on the evidence so far, consider that to be the position as it was done within all of the considerations of this honourable House and it brings you very close to Standing Order 5(3) as well. So, if you would continue without staying in that specific arena I should be most grateful.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

**The Speaker:** Honourable Members let us refrain from our crosstalk so that the debate could continue please.

The Second Elected Member from George Town, continuing his debate.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I wish to refer now to the details of revenue measures, item 11 which is somewhat curiously entitled, 'Traders Licences', but then which proceeds to speak of accounting auditing firms and law firms and other pro-

fessional firms. I am a bit bemused by the title, Madam Speaker, but, nonetheless, this section proposes a band system for work permits and trader's licence fees. The traders are accounting firms, law firms and other professional firms. My reference to it including work permits is misplaced and I apologise for that. I will go through it in some detail.

I say at the start that it is discriminatory in ways that appear to me to be entirely unjustifiable. It seems to also be ill-planned and haphazard indicating that no real consideration has been given to its likely consequences. When I say that, Madam Speaker, the proposed band system is entirely confused. Why should a law firm with fifteen lawyers be charged more than five times the fee payable by an accountancy firm of the same size? Equally, why should a law firm with 11 lawyers pay three times the fee payable by a firm with 10 lawyers, while a firm of 50 lawyers will pay the same amount as a firm with 26 lawyers? I have struggled to see the logic in that. I understand the objective to raise revenue for Government but I have struggled with the logic employed in establishing these bands.

If a 10-person law firm wishes to hire another lawyer, whether he is Caymanian or not, the cost of hiring would include an additional hundred thousand dollars trader's licence fee. This is a huge disincentive for firms to expand from one band into the next and a significant incentive to shrink from one band to the next. I ask what Government purpose is achieved by that? What underlying policy drives this proposal?

Madam Speaker, we are all fond, in this honourable House of talking about how important it is that when we are developing policy, we ensure that the best interest of Caymanians are served. In my view, these proposals will adversely affect the prospect of Caymanians, or at least limit their employment options. That is because a smaller firm which wishes to expand by sponsoring Caymanian students and employing them when they qualify so that they can benefit from the experience of senior lawyers, will be penalised for doing so. A four or five member firm which does so, would move from the exempt bracket to the fifty thousand dollar bracket. The effect of which is that those two newly qualified lawyers would cost the firm twenty five thousand dollars a year each in addition to their salaries and sponsorship costs. For a 10-member firm in that position, the cost per newly qualified lawyer would be fifty thousand per year in addition to salaries and sponsorship costs.

I suspect, as is usually the case, the die has been cast; but if there are still some Members on the Government side who are prepared to listen to reason I will suggest this: We have to understand that the introduction of these fees on such short notice penalises the operations of all firms but more so the smaller businesses which tend to be Cayman owned who will have to find comparatively large sums for which they have not budgeted on what is effectively three weeks' notice.

Madam Speaker, I sat down with certain members of the profession of the smaller firms and the additional costs to their bottom lines—talking about the smaller size firms—ranges between \$100 and \$200,000 which they will have to find on the second of January.

#### POINT OF ORDER

**Hon. George A. McCarthy:** Madam Speaker, on a point of order.

**The Speaker:** The Honourable Third Official Member, please state your point of order.

**Hon. George A. McCarthy:** Madam Speaker, I would just like to point out for the benefit of this honourable House that following meetings with the representatives of the Council of Associations and meetings that took place on Friday afternoon and today, the Government took a position to review the fees as they apply to law firms and to bring those fees in line with the bands that have developed for accountants.

Madam Speaker, I should point out that the Honourable Second Elected Member from George Town would not have had knowledge of this as yet as it was intended that this revised schedule would be distributed to honourable Members. With your approval, I would like to take the opportunity at this time to lay on the Table of this honourable House the new schedule so that the honourable Member will be guided by the correct fee structure.

**The Speaker:** So ordered and subsequent to that I should also like to suspend for twenty minutes.

**Mr. D. Kurt Tibbetts:** Madam Speaker, before you suspend, if you do not mind.

**The Speaker:** Yes, Honourable Member.

**Mr. D. Kurt Tibbetts:** Certainly that could not have been a point of order, Madam Speaker. Certainly it could not have been a point of order. I would appreciate you ruling before you suspend if you are so minded.

**The Speaker:** Honourable Member, you are correct in that it was not a technical point of order. I took it although it was not that. I allowed it to go under the elucidation seeing that the Member quickly sat down.

If the Member, or any other Member, wishes to deal with that technical aspect, I have no problem with that. I just felt that in the interest of time and information sharing that I would allow the Honourable Third Official Member to perhaps deviate slightly from that. Hence the reason I also moved expeditiously to suspend for twenty minutes was to allow all Members to peruse it and have an opportunity of equity.

#### PROCEEDINGS SUSPENDED AT 3.37pm

#### PROCEEDINGS RESUMED AT 4.11 pm

**The Speaker:** Proceedings are resumed.

Continuing his debate, the Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you.

Madam Speaker, when we took the suspension the Honourable Third Official Member had risen on what he termed a point of order to advise the honourable House that there was a revised schedule of the revenue measures. I am most grateful to the Honourable Third Official Member for that. I do wish that all points raised were so helpful.

The revised schedule which I now have in my possession has revised the bands system for trader's licence fees as the schedule refers to them so that the distinction between the fees to be charged for accounting, auditing firms and law firms is now the same. That is preferable to the first proposal. I do believe that it would be fairer and in the end that Government would derive more income if they were to abandon this proposal in its entirety. Instead of creating a system of bands, simply utilise the current procedure of practising licences, certainly for the legal profession which I believe is currently at \$1500 per year.

Simply do their arithmetic to arrive at the required figure and simply increase the costs of the practising certificate by that amount. This would be far simpler, no need to do anything new and creative. Government still gets their money. It is far fairer because under the current proposal, once a firm gets to twenty six attorneys or twenty six accountants, the fee paid is a constant \$300,000. There are firms in this Island whose number approaches fifty. Why should they be paying \$300,000, as a firm with twenty six attorneys does? Again, Madam Speaker, I am unable to follow the reasoning there, but no doubt when an honourable Member from the Government's side rises all will become clear.

There is another suggestion which I have in relation to this, Madam Speaker, again consistent with the oft stated intention of all Members of this honourable House to improve the prospects of Caymanians and afford them the best possible employment opportunities. As I pointed out a bit earlier, creating arbitrary bands is a somewhat arbitrary exercise because when one moves from the upper end of one band into the lower end of the next band the costs of doing that are significant. If you have five lawyers you are exempted under the bands or you have five accountants you are exempted from any trader's licence fee. As soon as you have six, the fee is fifteen and when you have seven it is fifteen and when you have eight it is fifteen and when you have nine it is fifteen and when you have ten it is still fifteen, but as soon as you take on one more you double the cost of your licence.



This plainly is going to operate as a disincentive to hiring young Caymanian inexperienced individuals, whether they are lawyers or accountants. That is, if hiring one Caymanian newly qualified is going to move you from paying \$15,000 a year to \$30,000 a year and your choice is between that one Caymanian and somebody with seven or eight years experience who is more experienced, longer tenure and is far more productive, the far more productive lawyer is going to get the nod every time.

That is simply the reality of business and therefore I am suggesting to honourable Members on the Government Bench—who are awake—that a possible way to deal with this is to exempt from the trader's licence fee young Caymanians lawyers who perhaps have one to five years' experience, so that when a firm takes those sorts of individuals on board it does not adversely impact them in terms of numbers. If we are determined to keep the interest of Caymanians at the forefront, Madam Speaker, I offer this as one means of doing that.

Before I leave the revenue measures, I want to deal with the introduction of a new fee, that is, the annual licence fee for company management firms. To be accurate, Madam Speaker, it is a new component of the annual licence fee. The proposal is that a firm which manages 1 to 5 companies would be exempt. A firm which manages 6 to 10 companies would be \$1,500. A firm which manages 11 to 15, \$2,500. A firm which manages 16 to 20 \$3,500. A firm which manages 21 to 25 companies would be \$5,000. A firm which manages 26 plus, companies would be \$7,500.

I have struggled to understand the rationale employed here and again, Madam Speaker. I simply put it down to a lack of complete understanding of how company management firms operate. The market reality is that, particularly since the introduction of the anti money-laundering measures and the tremendous compliance requirements which have accompanied that, I am prepared to venture that there is no firm in Cayman that manages 1 to 5 companies, unless it is a closely held operation. They are managing companies for themselves or for related entities and that probably holds true all the way across the range of new measures. I sincerely doubt there is any firm which carries on the business of managing 26 companies, again, unless it is a closely held operation.

The reality is, that based on the cost of operating company management business with the compliance requirements which have to be met, unless you are managing in the range of three hundred companies, it hardly makes sense. We have management firms that manage 9,000 plus companies. So if you manage 26 companies you get charged \$7,500 and if you manage 9,000 companies, still \$7,500. It makes no sense to me. It would seem to me far more sensible to charge a fee per company, whatever the figure is, even if it was only \$100 per company. So those who manage 9,000 companies would pay \$900,000.

We would not need to go that high. However, it would be far more equitable. Those who manage the most companies would pay the most. Coming from where I do and understanding how this business works, I offer that as a suggestion to the Government. In that way, whatever figure we arrive at as being the equitable sum per company would be across the board.

Madam Speaker, perusing the schedule I also noted that absent from it was any new or increased fee in relation to Local Companies Control Law Licences, which I believe is currently \$200 a year. This seems to me to be quite a significant oversight because Local Companies Control Law Licences are by and large granted to operations carrying out an activity which is of significant value. This is so much so that they have been unable to attract the necessary local investment.

The Ritz Carlton Development is a current example. It seems to me, Madam Speaker, that \$200 per annum for a licence to develop a project of that size is very cheap. This is particularly so in light of some of the tremendous increases which are being proposed in relation to the players in the financial industry. I offer that to those on the Government side.

Another feature, Madam Speaker, which appears to have been omitted, is any fee on special purpose vehicles. I do not believe any fee at all is currently charged on these. These are used to facilitate huge financial transactions in the financial industry. Again, I offer that to the Government side.

It is very worrying, when such huge increases are proposed upon what is now the only solid pillar of our economy without due consultation and the tremors that caused throughout that industry. The use of in-temperate language such as, '*the industry has got away with murder over the years*', creates an impression of that the financial industry is a culprit. If we talk seriously, if we mean what we say about the public/private sector partnership, however passionate we are about the things in which we believe, we need to try, Madam Speaker, to refrain from the use of that sort of language because it really does the country no good at all.

It certainly does not encourage or even embarrass the financial industry into becoming more free with their contributions to Government coffers. They need to be encouraged to pay more, Madam Speaker, I have said that for a long time, I have been in the industry for a long time but that is certainly not the way to go about it. It is far more likely that that sort of language is going to be interpreted as an intention on our part to commit suicide. Madam Speaker, I think I have said enough about that aspect of the Budget Address.

**The Speaker:** Honourable Member are you intending to move on to a next point because, we have reached the hour of interruption?

The Honourable Leader of Government Business.

**SUSPENSION OF STANDING ORDER 10(2)**

**Hon. W. McKeeva Bush:** Madam Speaker, under 10 (2), I would like to suspend that Standing Order in order to continue the debate.

**The Speaker:** The Question is that Standing Order 10 (2) be duly suspended so that the House can continue until 6 pm this afternoon. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 10(2) SUSPENDED.**

**The Speaker:** The Second Elected Member for George Town, please continue your debate.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I am quite prepared to continue. I just wish to say this, Madam Speaker. The House did not commence this morning until, I think it was nearly 11 o'clock and then we adjourned until 1. I do not have any difficulty because I understand that the Government was in meeting.

I would be grateful, Madam Speaker, to be shown some courtesy in these things. To know that the House is not going to begin on time because of one reason or the other and, indeed, that if we are going to run late, to be advised very early so that we can plan our own lives. I understand that two Members on this side may have to leave before 6 o'clock because they have other engagements. I am prepared to continue, I just wish to make those points, Madam Speaker.

**Hon. W. McKeeva Bush:** Madam Speaker, may I?

**The Speaker:** Yes, Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, when we began the Meetings of this honourable House, I informed Members that we would be sitting late most evenings and we would endeavour to let them know at what particular points we would. Today we did pass around a note after talking to you. The same note, Madam Speaker, was passed around to those Members, with I think two of them saying that they would not be able to stay. So I would presume that most of them knew about it. If Members will recall, when we began we said because of the lateness of the Budget we would continue late in the evenings. I thought that was putting Members on notice so that Members could organise their business in time.

**The Speaker:** The Honourable Second Elected Member for George Town, please continue.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

Madam Speaker, I will not engage the Honourable Minister of Tourism. I just ask him if we are to presume that that is going to be the case every evening.

I will move on to talk briefly about the issue of immigration and the security of tenure issues which are raised in the Budget Address of the Honourable Third Official Member.

Madam Speaker, I believe all honourable Members of this House and indeed much of the country is aware of my views about immigration and how critical I regard that issue. Indeed, the Budget Address and Throne Speech in April are dealt extensively with the question of immigration and the need to resolve it swiftly. I believe that I am one of a very small number of Members of this honourable House, who have actually articulated a position in this honourable House in relation to the key issues of term limits on work permits, permanent residence and Caymanian status.

I have been honoured, Madam Speaker, to have had the privilege as a member of the Immigration Review Team appointed some months before the change of Government on 8 November, and as member of that team, to have worked with other honourable Members of this House, the now Honourable Minister for Health and the Second Elected Member from West Bay, as well as Mr. Patrick Schmidt and Ms. Sheena Frederick-Westerburg and the Chairman of the Committee, Mrs. Sherrie Cowan, on preparing a report to Executive Council on this issue.

Madam Speaker, the first interim report was delayed as one might have expected as a result of the changes in Government, but was submitted some two weeks ago I believe to Executive Council. That report dealt with an overall immigration philosophy and framework and the key issue of work permits.

**The Speaker:** Honourable Member, I would ask you that in so referring, to exercise some caution so as not to divulge any confidential nature, seeing that it has not been laid.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker, I am very cognisant of that. I am simply providing an overview which has been made public. The second report is to deal with the issues of permanent residence and Caymanian status and the third, to deal with administrative issues.

It may well be that some of the work of the Committee may have been overtaken by events in light of the announcement of the Government about its policy in relation to the grant of the permanent residence. I await word from the Chairman as to the way forward on that. Whatever the way forward, Madam Speaker, in relation to the Immigration Review Team, I still hold steadfastly to the view that we must resolve

the issue of immigration and security of tenure and do so swiftly.

I do not believe that is the same thing as simply handing out either permanent residence or Caymanian status without due and careful consideration and the development of clear articulated criteria. So that those who are affected by the decision-making process understand why it is that they were granted or were not granted and that the populous as a whole have a clear understanding of the immigration policy of the country and of the Government. It is this issue of uncertainty which has clouded immigration for so long creating much of the unhappiness that currently abounds.

Madam Speaker, in relation to the Government statement earlier in this Meeting saying it intended to recommend the grant of permanent residence up to one thousand people. While that, Madam Speaker, may resolve some of the problems in the interim and while that may appease a few, I do hope that that does not signal a policy that Caymanian status will not be open to certain of those candidates.

There are many of those in that category who were unsuccessful this time around that I believe ought to be considered for a grant of Caymanian status. I hope, as I said, that whether it is by virtue of the Immigration Review Team or some other way, we are going to continue to work towards resolving question of immigration and security of tenure and indeed, that we are going to stay on track for what I know was the intention of the Government that existed up to 8 November. That is, to bring amending legislation to this Honourable House during the First Meeting of 2002.

In his address the Honourable Third Official Member spent a considerable amount of time setting out various aspects of the Financial Management Initiative. I must say, Madam Speaker, that I was delighted that the new Government has taken this on board and that this has not fallen away given the departure from Executive Council of the First Elected Member from George Town and the lady Member from North Side, who I know have championed fiscal reform and particularly the Financial Management Initiative for many, many years.

The Budget Address also sets out as part of the Government's policy the phased implementation of the accepted recommendations of the review of the Cayman Islands Civil Service Commission by His Excellency the Governor and carried out by the Civil Service College of the United Kingdom. I do not know what those recommendations are and I do not believe that any honourable Member on this side of this House has had sight of them either. I hope we will and I hope there will be an opportunity for us to provide some input before decisions are taken.

Madam Speaker, the Honourable Third Official Member also announced the intention to establish a National Advisory Council which would provide, within a comprehensive framework, individuals from

the public sector, the private sector and the social sector. I am fully in favour of such a council. I believe that the experience over the past few days should urge the Government to be even more intent upon the development of such a council, which can give it advice and the opportunity to know what the private sector is saying about Government proposals.

In the past the private sector consultative committee has been used by successive Governments, as the vehicle and the medium by which Government seeks and obtains advice. It allows the private sector effective consultation and collaboration. I am not sure, Madam Speaker, what happened this time around but apparently that did not transpire.

Now I come to the signing of the tax information agreement with the United States. There was, Madam Speaker, some animated debate, if I may call it that, between the Honourable Minister for Tourism and the Elected Member from East End on Friday in relation to what information Members on this side of this honourable House had received in relation to this. At some point a question arose as to what I knew and did not know and what my role was in all of this. Let me seek to clarify this as best I can, hopefully, without provoking the Minister of Tourism.

Madam Speaker, I was appointed as a member of the negotiating team following the election to Executive Council of the Government, I think it was 15 November 2000. My position prior to consideration of standing for election, my position following my election and becoming a member of that team, and subsequent position, has always been that when we are entering into agreements, international agreements which affect the members of the financial industry or any industry, we should not do so without the most careful consideration and without wide consultation. No matter how well placed we believe we are. There is nobody on the Government side, there was not then and I do not think there is now, who can claim any expertise in tax matters.

I campaigned against the last Government, which was defeated on 8 November 2000, on the basis of their lack of consultation, on the basis of their taking decisions without giving the private sector an opportunity to say this is how this will affect us. I accept, Madam Speaker, it is for the Government to make the decision. Concerning this particular tax information agreement with the United States, I was invited as a member of the negotiating team to a meeting with the United States Treasury representatives at the Westin Hotel, the Friday before 8 November 2001. As the discussions developed and it became apparent to me that there were those on the negotiating team who felt that it would be a good thing if we came to an agreement that evening, I expressed my concern about the pace at which we were proceeding and about the fact that we were doing so without consultation.

The Honourable Third Official Member is here and he was there. Madam Speaker, the Honourable

Minister for Planning (who is not here this evening) and I, got into quite a heated argument about my view—to which I have held fast—that these decisions should not be taken without consultation. I do not disavow, Madam Speaker, my membership of the team at the time this was agreed that we would sign a tax information agreement with the United States. However, I can say this (and I would not have said so if it had not been raised): I steadfastly opposed us doing it without consultation.

It may well be because I am not one of those intransigent souls who believes that we have to hold fast to secrecy because that is what made us what we are. Those days have gone. I have long since accepted that. I have spent too many years, Madam Speaker, involved in the financial industry not to understand it is dynamic, it is evolving and we have to move forward and we cannot simply say, no, no, no and expect business to flourish. I am not for a moment saying that the agreement is not good or that it is disastrous or any such thing. Time will tell because time is the only judge of these things.

I have heard people clamouring for years and years about the Mutual Legal Assistance Treaty and it has worked fine. My point is, I believe in consultation with those who are affected by the decisions. That is a view not shared with all members of the negotiating team. There were suggestions, by the Minister of Tourism and, earlier, by the Second Elected Member for Cayman Brac in another forum, that there had been a meeting and members had been apprised of what the terms of the agreement were. I can say for myself, the only meeting that I am aware happened was with the private sector consultative committee on Friday, 9 November this year, because I was advised by the Honourable Third Official Member's office that such a meeting was happening. I have never been formally advised, Madam Speaker, that I am not a member of the negotiating team. I saw it in the press.

[Pause]

In his Budget Address, the Honourable Third Official Member has referred to the world economy and the fact that consumer confidence fell dramatically following the terrorist attacks in September. He also stated that unemployment levels have been rising in the United States since the beginning of the year with massive job losses experienced in various sectors and that the unemployment rate is expected to rise from 4 percent last year to 5.4 this year. He has said, Madam Speaker, that the world economy is expected to grow by 1.4 percent in 2001 compared to 4.7 percent in 2000. He refers at some length to the United States economic stimulus package. He says, "In general, the recent easing of macro economic policy in the United States should support economic activity in the year ahead."

On the monetary side the Federal Reserve Board has cut the federal funds rate ten times during

2001, reducing it by a total of 450 basis points or 4.5 percent. This rate now stands at a historical low of 2 percent. In terms of fiscal stimulus the Bush administration recently announced a \$99.5 billion package of business tax breaks, rebates for low income households, capital gains tax relief and extended unemployment benefits.

This package, together with the tax reduction in June and emergency spending made just after the attacks, should amount to an estimated \$160 billion in 2002." A little later on, in his address, the Honourable Third Official Member also outlined the economic stimulus measures which the Government, which held office until 8 November proposed and it appears the new Government has endorsed. A reduction in land transfers from 9 percent and 7.5 percent to 5 percent, 50 percent reduction in building permits fees and 50 percent on infrastructure fund fees. In terms of outlook he predicts that these will have a positive effect on the real estate and construction industries in particular.

Now, Madam Speaker, against the background of the world economy, against the background of the local economy in circumstances when the mighty United States of America are offering economic stimulus measures and tax breaks in the billions of dollars, we proposed certain economic stimulus measures which are hoped to infuse new life into the construction and real estate industries as economic stimulus measures. Then, a short month later, we propose the counter measure of a \$55 million tax package—the biggest single tax package that this country has ever seen. What is it, Madam Speaker, we are trying to do?

**Hon. W. McKeeva Bush:** Madam Speaker, on a point of order.

#### POINT OF ORDER

**The Speaker:** What is your point of order, Honourable Minister?

**Hon. W. McKeeva Bush:** Repetition, Madam Speaker, the Member traversed this ground early in his speech and he is going back to talk about the same tax measures. He practically went through that the whole first part of his speech. So I think it is being repetitious.

**The Speaker:** Honourable Second Elected Member for George Town, would you indicate as to what vein you were taking in that discussion about the tax package.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I propose to move suspension of this honourable House so that we can see what the *Hansard* says. I have not at any point in my address referred once to the overall tax package. I spoke at length. I went into

a detailed analysis of the schedule of revenue measures. I am now looking at it from a macro standpoint.

If the honourable Member would stay awake when I am speaking he might not miss what I am saying!

**The Speaker:** Is that a request, honourable Member, for a copy of the *Hansard*?

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, that is what the Minister is insisting on, because I have not traversed any new ground and I am prepared to sit and be quiet until we can resolve this. Madam Speaker, I am reaching a point where everything I say, the Honourable Minister seeks to interrupt me. It is not, in my respectful submission, a point of order. It is a deliberate attempt by him to stifle the voice of the Opposition.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, far be it for me to stifle any one of their voices over there and I am awake, that is why I can call the point of order. It is my impression that he has traversed that ground this morning. It is not new ground even if he expands on it. Nevertheless, let him go ahead killing himself.

**The Speaker:** Honourable Second Elected Member for George Town, please continue in the direction that you started and I will continue to listen attentively. I did not thus far, hear you refer to it in a repetitive manner but I will continue to listen as I have always done with all honourable Members.

**Mr. Alden M. McLaughlin, Jr.:** I am grateful to you, Madam Speaker.

I recall quite well during the Budget Meeting and Throne Speech of this honourable House in March/April of this year that the Second Elected Member for Cayman Brac, who is an economist, spoke at length about the negative effect on the economy of imposing new tax measures. In fact, in one particularly good example he made reference to how the reduction in import duties on certain building materials and the like in relation to Cayman Brac had actually resulted in an increase to Government's coffers because of the additional spending and importation of goods.

Now Madam Speaker, again I have been around long enough to understand the chameleon nature of the politician and so I am going to await listening very keenly to what the honourable Second Elected Member for Cayman Brac is going to say about the effect on the economy of a \$55 million tax package. It was his view that the almost \$20 million tax package which was brought in March or April would be counterproductive. That has not taken its full effect yet because the fees to be derived from the fi-

ancial industry will only come about the on January 1.

I am going to deal now with Tourism, if I am permitted. Madam Speaker, the Budget address indicates that the Ministry of Tourism and the Department of Tourism have adopted several initiatives. The major ones include a million dollar television advertising campaign in eight cities in the United States and Canada. Focusing on cities with direct non-stop air services and additional 72 cruise ship calls slated to bring in approximately 365,000 visitors to these Islands. Some of the ships will call on weekends thereby increasing the economic benefits to local businesses. The formation of the Land and Sea Co-operative will help to better promote on-island tours allowing smaller local operators to benefit from tourism opportunities and a vibrant training program to help train, retrain and improve service levels in front line staff. That will include Customs and Immigration.

Now, Madam Speaker, during the earlier part of my debate (from which I believe the Minister of Tourism was absent), I compared what had happened in the tourism industry with what I perceived may happen in relation to the financial industry. One of the biggest problems in the tourist industry over the course of the past year has been that, by and large, the Department of Tourism has remained leaderless for almost six months. This situation has created considerable consternation within the industry. I have spoken to a number of players in the industry who felt that the lack of a capable individual in that role until quite recently has had an extremely negative effect on developing any properly co-ordinated and effective program.

One of the initiatives proposed is this million dollar television advertising campaign. Madam Speaker, I do not believe that marketing or the lack of it is our biggest problem. I believe that we need to take serious steps to fix what is wrong with the product that we have. I also believe that the role of the Department of Tourism needs to be re-evaluated. I do not believe that the Department of Tourism should be the marketing vehicle of the Cayman Islands Government tourism package. Those who have a vested interest in the industry are far better placed to carry out the marketing exercise. They are far more motivated to ensure that they get value for money spent.

I believe that the role of the Department of Tourism should be as flag bearer and regulator. It is a useful public relations tool but I believe that in seeking to carry out the advertising campaign it loses its way. It gets bogged down in matters for which it is ill qualified. It has grown, and grows, and grows, and it costs more and more. If I am not mistaken, Madam Speaker, the budget for the Ministry of Tourism was something in the range of \$22 million. This year I believe it is somewhere in the range of \$18 million.

An example of how this marketing strategy works or does not work as the case may be is as follows: There was a marketing program called "Re-

energise" which I think was promoted starting sometime in March of this year. All reports that I have received from a fairly broad cross section of the industry have indicated that the program was a massive failure. Now, we are moving on into a new marketing program called in the Budget Address 'a million dollar television advertising campaign,' in eight cities of the United States and Canada. My question is: Have we had any evaluation of the reenergised marketing program, which I believe is still running? Do we know what it costs? Do we know what results we have got from it? Are we simply going to put that one down to experience, no post mortem done and just roll happily on into another million dollar marketing program again?

Madam Speaker, we are struggling to bring stay-over visitors to these Islands and the reason we are struggling is because we have a faulty product. I believe money could be better spent, particularly at this time when the world is afraid to fly, on trying to fix some of the things that the tourists complain about in these Islands. This is to help make the product better. Despite the lack of stay-over visitors it seems, Madam Speaker, that we have an over abundance of cruise ship arrivals, some 627,251 thousand by the end of September 2001. By and large though, as a country, we treat them as traffic obstacles.

We do not know what to do with them when they get here. They wander aimlessly about the streets in George Town which are, on cruise ship days, overly congested. I do not believe that the numbers are an indication of how well the businesses do when they visit. You get to a point when there are so many people around—when the traffic is so great—that people just quit trying to get anywhere, quit trying to get into the stores. Then, to compound that, those who do wish to take a tour are fought over down at the dock while the visitors watch! These are the sorts of problems which we need to fix, when I talk about our tourist product. Madam Speaker, the Budget Address also refers to the formation of the land and sea co-operative and it is stated that this would help to better promote on-island tours, allowing smaller local operators to benefit from tourism opportunities.

I believe the Land and Sea Co-operative has existed for some time now. I do not think it is a relatively recent advent. Indeed, I think I recall a sum of some \$50,000 or so being provided for its assistance in the Budget in March this year. I think the formation of the Co-operative is a good idea. I think it should be the vehicle by which the smaller operators can band together to provide the sort of collective bargaining power to achieve contracts, to effect the proper insurance to be able to set up the proper administrative machinery and to be able to compete for business. I do not believe, Madam Speaker, that it should be a vehicle which members who believe that they can paddle their own canoe, pardon the pun, feel that, unless they belong to it, they will be excluded from benefits or that they will be derided and made to

feel that somehow they are culprits because they have been successful.

In the recent past and on two recent occasions, I had a number of tour operators attend my MLA office to voice concerns about what was transpiring down at the port. The recent events which I hope have now been satisfactorily resolved, have really, I believe, done considerable harm to the industry as a whole. It may have coloured the views of the cruise ship operators and indeed the tourists who witnessed some of the incidents down at the port. I hold no brief for any operator. I believe that all those who are legitimately engaged in business in this country are entitled to expect from the Government courtesy, due notice, and reasonable notice of any changes in policy which are going to affect their operations.

Whether the individual who owns the business is a saint or a villain, if he is legitimately engaged in business here it cannot be right for him to receive a letter one afternoon advising him that his terms of business are going to be significantly changed the following morning. Instead of being allowed to pick up as many visitors as are willing to come to him, his numbers will be reduced to 200 or 300. Businesses, Madam Speaker, must be able to predict what it is that they are expected to do and what it is that they are entitled to do. I believe, unless you have been engaged in business you do not understand what arbitrary decisions do to the continued viability of a business. A Government cannot operate in arbitrary ways. Even if the decision is absolutely right, the decision must be taken. Businesses and people are entitled to know from day to day, what it is they can rightfully do. They cannot operate in an environment where the rules can change on the whim of a Minister.

Madam Speaker, I come to the main 2002 Budget strategy decisions. I am again pleased to see the continuation of the policy which began with the passage of the Public Management and Finance Law 2001 and the agreement of a strategy policy statement prior to the start of the budget process. The second strategy speaks to an increase in Government revenue by introducing new Government measures in the financial services and business sector which we talked about them at some length. Improving the collection of existing revenue, increasing Government's fees and charges so that they reflect the cost of the service provided for example health service fees. Improving the collection of existing revenue is a matter that has been dear to my heart since I entered this hallowed Chamber. I have spoken about it on more than one occasion and I have pursued the situation, through parliamentary questions, over the course of this year. Increasing Government fees so that they reflect the cost of the service provided for example, Health Service fees, I say *Hallelujah!*, Madam Speaker. We have got to get to a point where services which Government provides are being paid for, at least at cost.

Now, proposal strategy number 3: **"The removal of all funded vacancies from the 2002 Budget except where the recruiting process is underway."** That has been simply lifted from the 2001 Budget. The same strategy is in there.

**"The introduction, in year 2002, of moratoriums on civil service cost-of-living adjustments and on civil service increments or merit increases."** Well, Madam Speaker, in the 2001 Budget the cost of living adjustment was deferred to 2002, so it has now been taken a step further by proposing a moratorium. I have no difficulty with that, Madam Speaker.

**"The imposition of moratoriums and the creation of new civil service posts and on the filling of existing vacant posts, except for absolutely 'essential services'."** Again, that has been lifted from the 2001 Budget. **"The streamlining of multiple grants, waivers and reimbursements now given by Government."** For example, announcements have already been made on the grant to seamen and financial assistance. That was completed I believe, during the course of this year before the Lady Member from North Side demitted office. **"Curtailling all new services that require additional budgeted expenditure."** That is, by and large, what was outlined in the 2001 Budget.

**"Holding the 2002 Capital Acquisitions budget at \$5.3 million."** and **"Holding the 2002 capital development budget to \$16 million."** Both of these, Madam Speaker, are similar strategies to those employed in the 2001 Budget.

**"Restructuring of the Government's debt portfolio with a view to reducing the annual debt servicing costs."** Again, this was proposed in the 2001 Budget.

**"Ensuring the correct usage of all future contingency warrants consistent with section 22 of the Public Finance and Audit Law"**. This was again lifted from the 2001 Budget.

Madam Speaker, notwithstanding all that has been said, there is little that is novel in terms of restraining Government expenditure and increasing Government revenue, other than the imposition of the revenue measures in the financial services and business sector. I heard much said about the qualifications of the new fiscal team, if I may be bold enough to call them such. Their qualifications are certainly on the revenue side, but do not show much concerning the new tax measures. There is little that has not already been said or done.

There is provision in the schedule for increase of health services fees or the creation of fees in relation to a significant number of procedures that at the moment apparently go unpaid. **"Health Services Fees. An increase in existing fee schedule rates and inclusion of approximately 600 procedures not previously specified in the fee schedule \$9,485,534."** Madam Speaker, we have also had the benefit of having been given the White Paper. I be-

lieve it is in relation to the proposed regulations which will effect these changes and impose these new fees and the \$9,485,534 has been touted as incremental revenue expected in 2002.

I am all in favour in principle, in favour of Government charging for services they provide at the economic rates—although I have not looked at the White Paper to see the detail—no difficulty there. If by virtue of the arithmetical calculation that transpires to \$9,485, 534 then so be it. I believe it is an optimistic stretch to think that by imposing those fees, we are going to increase Government's revenue by almost \$9.5 million. You ask how do I figure that. Madam Speaker, if we learn nothing from history we shall be compelled to repeat it.

In June of this year, or thereabouts, I asked a parliamentary question to the Honourable Minister then responsible for the Ministry of Health, **"What is the current amount owing to the Cayman Islands' Government in respect of overseas medical loans, overseas medical advances, and local receivable balances?"** Madam Speaker, he responded to that part of the question thus, **"Mr, Speaker the total amount owing to the Cayman Islands Government in respect of overseas medical loans, overseas medical advances and local receivables is CI \$46,828,528 14c."** The Cayman Islands Government has 'on the road' as we say, almost \$47 million outstanding in respect of Health Services fees, including the overseas ones.

By what stretch of the imagination do we believe that we can safely add the projected fees to be generated from procedures at the Hospital, which will incur these new fees amounting to \$9.5 million, or thereabouts, to the Budget as part of the projected incremental revenue expected in 2002 and expect that to be realised? Madam Speaker, I am reminded of the definition of an optimist. The latter is an individual who falls off the top floor of the forty-storey building and as he crosses the fifteenth floor, he is heard to say, "So far so good".

I come now to the question of parking, one of those items that I proposed in my debate on the Budget and Throne Speech in April. I am delighted that it has been taken up but, as the editorial in today's *Caymanian Compass* infers, the proposal like a number in the schedule it comes across as half-baked and not fully thought through. Madam Speaker, if I might be permitted to read a few excerpts from the editorial.

**The Speaker:** Please proceed.

**Mr. Alden M. McLaughlin:** It is entitled, **"Pay to park"**.

**"Next year the Government is planning to charge car owners, a million dollars for the privilege of parking in George Town. There is nothing intrinsically wrong with the idea of charging for the privilege of using public property in a highly**

**congested area. However, while the public has been supplied with rudimentary details of this plan, it is still abundantly unclear how it is going to work.”**

It goes into what the Honourable Second Elected Member for West Bay had said. The narrative continues—

**“Pay parking will affect two categories of drivers. Those who work in central George Town, who park on the street or behind the Library for a full day every day and those short stay parkers who occasionally need to park in central George Town to stop or attend to other business. On the face of it, the system outlined by Mr. Anglin appears in theory, workable for full day parkers. They will presumably be able to buy, say a month’s worth of tickets at a time. In practice however, it is hard to believe that drivers who are used to paying nothing to park in George Town will be happy to ‘fork out’ \$93.75 a week, or about \$4,500 per year for the privilege. It seems much more likely the majority will organise to park elsewhere probably at considerable inconvenience. Frankly, it looks like the only real thought that has gone into this proposal is from a cash collection perspective. Some bright spark decided there are about 210 parking spaces in George Town, multiplied that by \$93.75 by 52 weeks a year and came up with a figure of \$1,000,000.”** So, Madam Speaker, when I describe the proposal as half-baked I am in good company.

The Budget Address and the proposals for increased tax measures are unimpressive. There is very little new in any of it, Madam Speaker, except that it has the distinction of being the largest single tax package ever imposed on the people of this country. It has not sought to deal with the fundamentals of the problem. Government simply spends too much on recurrent expenditure and the principal reason is the services Government provides and the number of civil servants it employs.

I know it is far easier to stand up and say that as I have said and as he has said than to get something done about it. I will not be unfair in my debate, I understand the difficulties under which they labour, but until we get the official arm of Government which is responsible for the civil service, to pay more than lip service to this issue and to agree to do something about it, we are forever going to be in this dilemma, regardless of who sits on the Government side or who sits on the Backbench side. It provides much fodder for debate and if I were less fair than I am, I would simply use it without acknowledging the difficulties under which the Government labour.

Madam Speaker, unless attitudes in places like the office of the Governor and the office of the Chief Secretary change, the most that any Government is going to be able to do is to restrain expenditure by not developing new programs or projects which require additional hiring. They are not going to

be able to affect the kind of retrenchment that is critical to the long-term survival of this country. I say this with the greatest of concern about civil servants and their jobs I have always taken the position that almost half of the civil service comes from somewhere else. We can, if all concerned co-operate, effect these changes, effect this retrenchment without displacing Caymanians from their jobs and without making arbitrary cuts.

Contracts come to an end at some point but we have got to have in place the program which everyone understands. Listen, the policy of Government, official and elected, is retrenchment! The policy is shrinkage and unless we marry those two arms of Government, I do not care who is over there, they are not going to be able to make the necessary changes—they are forever. In boom times we will be all right. However, in times such as these, whichever Government is there, they are going to face these sorts of challenges. I may disagree with the way things are done and in many respects with the magnitude of some of the things that have been done. However, philosophically I agree with most Members on that side because many of them sat here with me for the course of the last year, I do share their view about Government expenditure.

Madam Speaker, much has been said in this honourable House and much more has been said and will continue to be said in the wider community about the impact of this year’s Budget. The concern is what it will do or what people believe it is going to do to the viability of these Islands as a jurisdiction in which the financial industry can flourish. The fact that the Government has taken some small step to reduce the impact on some companies is I believe a good sign. There have been a number of meetings held by many of the professional associations and banks and I believe that there will be more. I understand there is to be a big meeting of the Council of the Associations tomorrow.

I know not much cognisance will be paid to what I say but nevertheless, it is my duty and responsibility to make the points I have made. I hope the voice of reason which is shouting loudly in the Community, will get some attention. I hope the Government will understand how very critical it is that we do not now seriously injure the only healthy limb of our economy.

Events before and following 11 September have demonstrated plainly how swiftly an industry can be brought to its knees. If we have not learned that, Madam Speaker, from what has happened to the tourist industry, then we are doomed. It is now approaching 6 pm. I do not believe that I can add anymore to what I have said. Even though they may not like the messenger, I do hope that they will not entirely discount the message.

Thank you.



## ADJOURNMENT

**The Speaker:** Thank you honourable Member.

Leader of Government Business is it the intention to adjourn now at 6 pm?

**Hon. W. McKeever Bush:** Madam Speaker, at this point in the evening we appreciate any messenger who lets us go. Therefore, we wish to adjourn at this point until 10 am on Wednesday, 19 December.

**The Speaker:** The Question is that the House be duly adjourned until 19 Wednesday at 10 am. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 6 PM THE HOUSE STOOD ADJOURNED UNTIL  
10 AM WEDNESDAY, 19 DECEMBER 2001.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**19 DECEMBER 2001**  
**10.20 AM**  
*Eighth Sitting*

**The Speaker:** I call upon the Honourable Member from North Side to grace us with prayers.

**PRAYERS**

**Ms. Edna M. Moyle:** Let us pray:

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

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

Let us say the Lord's Prayer together:

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

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

**Proceedings resumed at 10.22 am.**

**The Speaker:** Please be seated. I have received apologies for the absence of the Third Elected Member from Bodden Town who will be absent from the House for the remainder of this week.

I have also received information that the Honourable Minister responsible for Community Affairs wishes to make a statement this morning by virtue of Standing Order 14. This will be the point of the proceedings that it would be done. The statement is on its way down and with the permission of the House, I should wish to set it down for a later time this morning. If I could have at this time an indication whether you

wish for the question to be put that Standing Order 14 which deals with the formal setting out of the order of the business of the day be put and voted on or is it the general concurrence that this can occur?

**Hon. Gilbert A. McLean:** Madam Speaker, I would suggest to meet the formalities of the House that you so do and Members can indicate their acceptance or otherwise.

**The Speaker:** Can I then call on the Honourable Leader of Government Business to call for the suspension of Standing Order 14.

**SUSPENSION OF STANDING ORDER 14**

**Hon. W. McKeeva Bush:** Madam Speaker, I move the suspension of Standing Order 14.

**The Speaker:** The Question is that Standing Order 14 be duly suspended to allow the Honourable Minister for Community Affairs to make his statement later on during the course of today. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The statement shall be shared during the later course of today's proceeding.

**AGREED: STANDING ORDER 14 SUSPENDED TO ALLOW THE STATEMENT TO BE MADE AT A LATER TIME DURING THE SITTING.**

**The Clerk:** Government Business Bills. Second Reading. The Appropriation (2002) Bill 2001.

The continuation of debate on the Budget Address.

**GOVERNMENT BUSINESS**

**BILLS**

**SECOND READING**

**THE APPROPRIATION (2002) BILL, 2001**

**DEBATE ON THE BUDGET ADDRESS**

*(Continuation of debate thereon)*

**The Speaker:** Does any other Member wish to speak? The Leader of Government Business.

**Hon. W. McKeever Bush:** Firstly, Madam Speaker, I wish to thank you for the fair and good job that you are doing in the Chair. I know that is a tough task you have accepted but you have thus far acquitted yourself well. I am pleased with the demeanour of the Chair.

Madam Speaker, this is the first Budget of the United Democratic Party and as the Honourable Financial Secretary has said, this is a truly balanced Budget.

In the very challenging times all of us are facing in these Islands, there is much more than just hardship and suffering; much more than difficulties to manage and hurdles to overcome. I say to everyone there is the opportunity to come together to examine the frame work and foundations of our society. We have the opportunity to recognise and give thanks for the benefits we have. We have the chance to make a change, to make things better, to build up for a better tomorrow and to do all these things together as one family, one community, one people; the people of the Cayman Islands.

Madam Speaker, we face challenges but we have a great deal to thank Almighty God for. We are still a safe country and a short distance from the United States of America. We are in the same time zone and have excellent telecommunications, world class professional firms and a professional work force. We have heard many people bemoaning the hard times. We have heard them cry out that they are suffering, from the housewife to the small retail business owner and other business people. We have heard them asking for help over this past year.

Our job as the Government is to lead the way forward to show people how they can help themselves and each other. We are there to provide a framework for every man, woman and child to help them to contribute the best they have to offer and to build, improve and protect the lifestyle we have enjoyed in these Cayman Islands. When it is raining everyone feels they are the ones getting wet and they are the only ones bailing out the boat. I say, when the ship of state is in stormy seas, everyone must do their part to see it safely to shore.

Madam Speaker, what we are proposing in this Budget is to address, for the first time in many years honestly and openly, the challenges we must face. No more can we afford to hide our head in the sand or throw borrowed money at our problems hoping they will go away. The time has come to stand up and face our responsibilities in a mature and a more thoughtful way; to recognise what faces us and believe in what we can achieve.

When the United Democratic Party was formed it was a major step forward in the maturing of the political life of the Cayman Islands. We took a great step forward in our journey to become a mature

democracy in the Westminster style and as a United Kingdom Overseas Territory. One of the main spurs to this step is the crying need for change, action and leadership. That is what I believe the Budget delivers. It may not be what we want, but it is a step in the right direction.

An economy that has as one of its main pillars a thriving financial services industry is duty bound to run its own affairs in a businesslike way. It means delivering a balanced budget and living within our means—not just when times are good (which, unfortunately, previous administrations had but did not handle it well), but especially now when times are tough regionally and globally. Now is not the time for the Government to continue in wasteful ways, to squander the future of our children because we do not have courage to face hardship today. Now is the time to turn our ship around and put her back on the course to even greater prosperity and opportunity for all.

The tacking can be hard, especially when we have become used to letting the wind push us where it will. However, it is necessary and will bring forth the spirit that I believe has made the Cayman Islands great. Madam Speaker, we can either bemoan our fate or seize this opportunity to bring ourselves together as a people. All the people of the Cayman Islands, whether they be born here or have chosen to make the Cayman Islands their home, can go forward to reach the true potential.

They say many hands make light work and even though the burden is heavy it is easier to bear if everyone pitches in and this is what we are proposing here. These Islands need all hands on deck to make it work. The private sector and Government must work together in order to create strategies to ensure the continued success of these Islands. Government is re-evaluating our expenditures and will focus our resources in the areas that are crucial to us, the areas that will help us grow and prosper.

One of the things we are proposing is a fundamental review of Government agencies to root out unnecessary bureaucracy and to undo unnecessary regulation and red tape. At this time we are asking the business community, to carry a much greater burden but we are also promising to provide them with a better service in return. Madam Speaker, it is our goal to turn around this economy, to welcome investors, get money into the treasury and have a healthy surplus with a view to reducing the fees companies pay as well as the duties paid by the general population. That would be a good thing to do. Many have talked about this for years. To achieve this we must understand that the old way of doing business must change. We must welcome investment for everyone, from which income can flow down and continue to the man on the street, so he can have the standard of living that we have been used to in the past 30 or 40 years.

We recognise that we do need to stay competitive. Part of being a competitive market is to be a

stable, well run and debt free market; a place where people have the safety and services that make them want to come here and want to stay here.

Madam Speaker, I will commit to the country on behalf of the United Democratic Party to make a proposal to the Honourable Financial Secretary that, perhaps two months prior to the Budget being delivered, he would convene a forum. That would allow Government and private sector to present the economic state of the country to key stakeholders in the private sector in an effort to be more transparent and cooperative. I believe this will augur well for our Islands.

The United Democratic Party is about more than just cleaning up the mess; it is about creating a better future to build on our strengths that we know we have, while weeding out those things we know will hold us back and weaken our future. We have had 40 days as the new Government. We have started on major initiatives to help move the Island forward. The Government has to create an atmosphere to stimulate the economy and the private sector has to help drive that economy. Government must do its part and it has to have the agreement of the people and they must be able to go along with it.

This is in order for Government to sustain the kind of expenditures we have in order to sustain them for the people we serve. This includes the little man on the street to the multi-national cooperation in the many initiatives that abound today. The Government, I believe, can help stimulate the economy. We have to have ideas, Madam Speaker, and we have to be willing to take criticism for our ideas. If you do not have ideas you cannot govern. I believe the one good thing we have shown in the past was to be friendly; we have to remain so in all areas. We have to be friendly to foreign investment because that is where we get our funds from, be it a company or just the nameplate, or be it a person that comes in who is legally accepted and has run the legal parameters and set up a business of whatever kind.

We have talked about efficiencies in Government—I believe that we have to look at the whole spectrum of development and entice investors again to this country. Much talk has gone on about the Port development. The Government has reached a decision to support the development of a new port facility in the eastern districts to handle the offloading of cargo and supplies. I still have to meet with some people in the private sector and I would hope to do that before the New Year. This decision is based on the premise that the George Town dock has limited space for expansion to accommodate cruise passengers while supporting the long range cargo handling needs of the country. It has become abundantly clear that the country is not properly accommodating our visiting cruise ship passengers due to the lack of proper facilities at the dock.

Government has been approached by a private investment group which has offered to develop a

new harbour facility complex in partnership with the Government. The United Democratic Party believes that this is the best long term strategy for the country, as it allows a new first class facility without having to borrow to fund the project. This public/private sector project will be operated by the Port Authority and is expected to commence the approval process early next year. Madam Speaker, the advantages of moving the cargo facilities from the George Town dock are many. There will be very little environmental impact and very little, if any, dredging is required at the new site. Deep water is relatively close to shore.

The scheme is self-financing at no direct cost to Government. It relocates trucking of cargo and aggregate from the centre of George Town and allows for continued expansion in the future. It contributes to the Bodden Town by-pass completion. It will diversify the economy redistributing an important industry sector to the eastern districts. This will allow the George Town dock to develop into a first class cruise ship facility. It enables the relocation however near, whether it is medium or long term, of the gasoline and diesel storage tanks from their existing environmentally sensitive residential areas in George Town.

It is a major private sector investment in the economy, particularly during these slow times. In conjunction with that, an oil transfer operation can be developed at this new port facility. This will open up a new industry in these Islands and we will encourage such an operation. We believe this is the way to go; it is public and private sector partnership without Government having to come up with the money. We have agreed on this and now we will go to the public. I hope to meet with one group here in George Town before the New Year. We had to talk with the representatives for the eastern districts but I believe that this can work and what we need is to plan for the long term. Certainly, in the short to medium term, it will help drive the economy to a better position than it is today. People now unemployed will get work again.

As we said in the Budget Address, we are setting up the Cayman Islands Investment and Development Authority (CIDA) to create a focused and specific group which has a mandate to identify specific sectors where we have or can create a competitive advantage. The Authority will seek out leading companies in those fields to attract them to come to the Cayman Islands. Madam Speaker, the main objectives for the Cayman Islands Investment and Development Authority are:

To encourage inward and foreign investment and local investment opportunities.

To serve as a one-stop agency for developers and investors to coordinate and streamline the processing of Government applications for inward foreign investment and development.

To distribute the collateral material and information prepared by a marketing and promotions team.

To review and submit applications for consideration by Executive Council.

The CIDA structure would operate on two primary levels; policy and administrative. A board would help the Government to develop policy and would comprise Government and private sector representatives. The administration would be responsible for the day-to-day operations of the Authority and would serve as the public face of CIDA. The administration would also ensure the expeditious internal processing and review of applications.

Madam Speaker, I know that you would want to hear about Cayman Brac. I would say to you that in all of this Cayman Brac will be well represented. We are not going to forget any district. As you know, I have always had a close affinity with the people in Cayman Brac and I will do all in my power . . . and I know the Government never slouches on any matter for Cayman Brac. That is where we stand as a party.

We must expand the service we provide to the country. This Authority is to assist with facilitating foreign investment and helping local investment, overseas and locally of course, for the benefit of these Islands. We have talked to the Honourable Financial Secretary about absorbing the current resources of the financial services marketing and promotion unit into the new Investment and Development Authority.

Madam Speaker, one of the problems we have in this country is the absence of consistency in the marketing done by various government and private sector entities. This leads to a dilution of the Cayman Islands' brand. The establishment of this Authority will advance Grand Cayman and provide efficient one-stop shopping for potential local or foreign investors.

We talk about the New Millennium; well, let us come into it. We need to create opportunity for wealth to come here. Madam Speaker, this country, our people, these legislators, have to welcome the people who, for example, can bring their large yacht to Cayman or who can come on their private plane. We want to welcome them to come and buy a home in the Cayman Islands and to make it their home. These are the kinds of clients that the Cayman Islands want and need. These are the people who will go to the supermarket, drug stores, gas stations, and good restaurants. These are the people who will form a company and invest in new training for their staff. These are people who will build new homes and other buildings or renovate their older ones. These clients will buy our goods and services and hire our people and put our people to work.

Madam Speaker, this is creating wealth. This is the kind of environment that will stop any future administration or government from having to increase fees as we have been forced to do. This will prevent them from having to put in place income tax and property tax. Creating wealth will provide us with balanced budgets and healthy surpluses. This is what we need to do. The question is how do we get these peo-

ple here? How do we encourage them when people are going to write nasty letters in the media and accuse every politician of wanting something for themselves?

Madam Speaker, when are we going to change? I can also direct that to politicians who are making these kinds of accusations. When are we going to learn that we have to grow up and look beyond what somebody else might get out of a business? If that business can be good for one and all, why not allow it to thrive and blossom and bear fruit? Attitudes need to change.

Madam Speaker, for larger yachts to come we need to clear the channel in the North Sound and give those craft the opportunity to come into a safe harbour. In order to develop those areas we also need to clear the bureaucratic channels so that registration for yachts here in the Cayman Islands is simple and straightforward. We are committed to doing this in all areas where it will help our economy to grow. We have to do this and this House should agree without complaining, accusing, and finding fault.

We will always have to protect our environment and the North Sound is one that we will always protect. That is why we are developing strategies within my Ministry for proper growth management and this will work in conjunction with the Department of Environment—it will work, Madam Speaker, through Vision 2008. It will work with the human resources arm in the country, the legal arm, and it will work with the financial sector. That is how growth management is determined.

Due to the lack of industries which provide Government with revenues . . . instead of sitting on the Opposition bench and criticizing and finding fault, we in the Cayman Islands should encourage our people to make more sacrifices in order to create wealth and maintain the lifestyle that we all enjoy. This includes all Members of the House who enjoy their salaries, including the Opposition Members. Madam Speaker, how are we going to pay for the kinds of schools, roads and the health services we enjoy, and the security that ensures we can sleep at night without worrying? The above suggestions are how we pay for the police and fire service.

Madam Speaker, we have to have money in the Treasury for all of these services. Where does this money come from? On taking over the Government we could have introduced income tax and property tax but the United Democratic Party decided to adopt a different route because we are against those kinds of taxes. We decided that if we adopted those kinds of taxes, it would create an environment that would destroy the economy of these beautiful Islands. I know that the budget team has come under fire. While the Second Elected Member from George Town said on 17 December that he is the only one (or words to that effect) who really understands the financial industry, he has a long way to go to get the kind of experience which is on this side of the House

To stimulate the economy as I have been talking about we need to address issues that relate to air traffic. We need to lengthen our runway to welcome the larger jets, increase our availability to the marketplace and establish other markets for our product.

We also need to address our attitudes; whether people arrive on a jumbo jet or on private planes, we must welcome them. Customs must be a welcoming home not an interrogation process. We must treat our arrivals as honoured guests, not refugees. The first and last impression that we provide to our clients has to be a good one and it will continue to be a good one under this administration. Attitudes have to change for the better.

I hear the Member from East End grumbling, but he has had his say and if he has an intelligent question [he can] pass me a piece of paper and he will get an intelligent answer. The creation of this Budget has not been an easy task for the United Democratic Party. We must realise that we are currently experiencing a worldwide economic downturn; a reduction in tourism arrivals and the general uneasiness of consumers.

As a Government, this is potentially one of our most difficult times. How do we continue to provide the public goods and social programmes when the traditional revenue-generating strategies of previous governments have not worked as planned? We all know, Madam Speaker, regardless of what side of the political spectrum we come from, which government we have been in, who we like or do not like, we all know, as Elected Members, that the path we have trodden over the past several years since the late '80s has been one that would bring us to this day because there has been no real generation of income into this country. Instead of being a welcoming people who can bring income, we deride others, we accuse them, we accuse politicians, we accuse everybody and nobody is the better off for it.

Madam Speaker, I wish some of the decisions taken to create the recent Budget were not necessary but, unfortunately, that is not the case. We had to make some difficult decisions. However, it is during these difficult times when, as the Leader, an Executive Council, and Ministers in Government, we must make hard, unpopular decisions to ensure that this country remains successful. That is what good leaders do! We all enjoy the benefits of living in such a wonderful country. We have a quality of life that is unsurpassed by [but a] very few countries. In order to maintain this way of life we all enjoy, we all have to do our part to maintain it—from the fishermen in East End and West Bay, to the managers of the financial and legal firms. We have all benefited from the environment that has made these Islands so successful and, therefore, we must contribute to ensure that it continues.

I do not want anyone to look at this Budget as a strategy by the Government to target any particular group. This Budget should not be labeled as a battle

between them and us. We must not take this issue and make it into a political statement to raise people's emotions. Let emotions be raised in love and hard work. We have to instill confidence instead of despair and rhetoric. It will not benefit the country if we continue to use scare tactics to create loyalty. We are stakeholders. I challenge everyone to work together to allow us, as the Government, to get through this very difficult time. While I am mentioning this, I must say that the Opposition must allow us to get our business done in the House. They do not have to raise every frivolous point of order when something has to be suspended, Madam Speaker.

After meetings with the private sector over the weekend to discuss the Budget and hearing their concerns, some amendments were made to the Budget. I certainly felt that the meetings were productive and clearly demonstrated the benefit of having these open and frank discussions. Some of the individuals representing the private sector also said that they clearly understand the difficult position the Government is facing and that we must work together to ensure that we remain successful as a country.

Madam Speaker, it cannot be overstated that it is evident the Government must continue to implement strategies to improve the efficiency and the provision of services and, therefore, costs. In this Budget we have made some significant steps to reduce our recurrent expenditure. As a result of new cost-cutting measures we have reduced recurrent expenditure by over 2 percent from the 2001 Budget. This is a significant achievement if we consider that between 1999 and 2001 Government's recurrent expenditure grew by 18 percent.

This reduction was achieved by implementing the following measures: no funding of civil service vacancies was allowed in this Budget (except when the recruitment process was underway); no civil service cost of living adjustments were allowed; no civil service increments or merit increases were allowed; no creation of new civil service posts was allowed; no filling of civil service vacant posts (a system will be implemented to ensure compliance); a reduction of grants, waivers, and reimbursements provided by Government to the various not-for-profit associations; no new public services that require additional expenditure were allowed. So, we can say that there were efficiencies and attempts made to streamline.

*[Inaudible comment]*

**Hon. W. McKeever Bush:** Madam Speaker, some of the measures taken will affect civil servants. As I said no civil service increments or merit increases were allowed. Who does anyone believe this is hurting if it is not civil servants? No civil service cost of living adjustments were allowed—who is this hurting, if not our people? I recall the Second Elected Member from George Town saying that these measures were started prior to 8 November. I have not heard what the

Opposition was going to offer to balance their Budget. Were they going to introduce property or income tax? I have not heard anything about the Opposition's strategy for balancing the Budget. Were they going to get more loans to balance the Budget?

The Council of Associations this year told us they were not going to support any more large borrowing from Government. I can say this, that one of the discussions that I held with Baroness Amos also said that they were not going to support anymore \$55 million or \$60 million loans. So where was the money going to come from? Why did not the Opposition raise that point?

I believe they are saying they still have somebody to come. Well, I hope I hear how they were going to balance the Budget, because we also have other people that will come.

The fact is that the Opposition must have their say in a democracy, but they must offer solutions and alternatives if they are going to be the credible Opposition they claim to be. Where are the solutions? Where is the difference between them and us as a Government in this Budget? Where? They have offered none!

Madam Speaker, the Second Elected Member for George Town must understand that deriding people and criticizing people, while it might make him feel good, does not offer solutions to our problems and the Opposition has not offered any single solution to the problems we face—not one!

The above measures have reduced personal emoluments spending by 5 percent. Considering between 1999 and 2001 personal emoluments expenditure increased by over 65 percent to \$152 million dollars in 2001, this is a major development.

The United Democratic Party will continue to develop and enact cost-cutting measures and will be attempting to make the civil service more efficient without affecting the quality of service that it is providing. The Government's objective is also to privatise as many services that are considered appropriate and safe.

Madam Speaker, we did take some action after the discussions with the Chamber and the Council of Associations. The fee levels and bands for law firms for the new licence charged under the Trade and Business License Law have been brought in line with the accounting firms. To minimise the impact of the fee increases to those most affected, the Government is prepared to offer a payment plan for the increase portion of the fees to be paid quarterly in advance. This was one of the suggestions coming out of the Council of Association's meeting with us. They made these—

*[Inaudible comment]*

**The Speaker:** Honourable Member for East End do you have a point of order?

*[Inaudible response]*

**The Speaker:** Then I would ask that you and all other Honourable Members please adhere to Standing Order 39(c) and (d).

**Hon. W. McKeever Bush:** Madam Speaker, thank you.

These revisions will affect the Government's cash flow somewhat and also reduce the total amount collected. However, the Government is prepared to make the necessary cuts in expenditure to compensate if that is what it takes. This will then preserve the balanced Budget.

There is a popular belief that if Government's recurrent expenditures were reduced even further there would be no need to propose the current level of measures in the 2002 Budget. Government believes that much of the objection to the proposed revenue measures arises from a belief that not enough has been done to reduce recurrent expenditures. This is not the case. I would like to enlighten the House that much has been done to reduce the level of recurrent expenditure shown in the draft 2002 Budget.

There are also plans in 2002 to keep a tighter control of expenditure. The Government is not just content with the above major achievements but other initiatives will be put in place in 2002. A manpower procedure will be established to ensure that all posts are properly justified.

The implementation of the United Kingdom Civil Service College Review by the Cayman Islands civil service will involve, among other things, the setting up of an internal consultancy unit to assist managers to become more effective and efficient. Also, in conjunction with private sector efficiency scrutiny will be conducted on certain agencies of Government. Also the implementation of a bond issue in the first quarter of 2002 will significantly reduce the cost of our debt servicing and, therefore, we will gain some efficiencies there.

Madam Speaker, while there has only been a small reduction in the budgeted figures for other operating and maintenance expenses over 2001, this involved a combination of reductions and additions. There is a reduction of two in the advertising costs; there are additions of \$0.9 million to cover money laundering prosecutions and \$0.64 million for the running of the juvenile services. Similarly, there has been a small reduction of \$100,000 in budgeted figures for grants, contribution and subsidies. Again this is a combination of reductions and additions. However, overseas medical increased by \$2.4 million, scholarships have increased by over a half million dollars and a grant of \$0.9 million has been included to set up the ICT (Information, Communications and Technology) Authority. The 2002 budgeted figure for insurance costs show a reduction of \$2.3 million when compared to the 2001 approved Budget. This results from the

Government's decision to embark on self-funded health insurance scheme.

In summary, the Government has reduced its recurrent expenditures in 2002 as compared to 2001 and will continue to do whatever is possible to keep expenditure at a very reasonable level. The 2002 revenue measures of approximately \$55 million arises because of two factors, namely, that the public (and including the private sector) has come to expect a certain quality of life in these Islands which necessitates a certain level of expenditure by the Government on essential services; the Government is committed to its obligation under the Public Management and Finance Law 2001, which requires it to act in a fiscally responsible manner. Therefore, it is not prepared to increase the debt burden to cover recurrent expenditure as was done before.

Madam Speaker, in this Budget exercise thus far, our Opposition has not offered any contribution that could make this position better. Three persons have thus far spoken from the Opposition, including the former leader of Government Business, and (I guess his second in command) the Member from East End. They have not offered one single improvement on the Budget—not one! And this House and the country should take note. There has been no credible solution offered [by] them and if they were still the government nobody would know what they would have done.

Madam Speaker, I am turning now to the Department of Tourism.

**The Speaker:** Honourable Leader would you wish to take the morning break or continue with you debate?

**Hon. W. McKeeva Bush:** Thank you Madam Speaker.

**The Speaker:** We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.24 AM

#### PROCEEDINGS RESUMED AT 11.56 AM

**The Speaker:** Please be seated. Proceedings are now resumed.

I call on the Honourable Minister for Community Affairs to make his statement.

### STATEMENT BY MEMBERS/MINISTERS OF GOVERNMENT

#### CAYMAN ISLANDS MARINE INSTITUTUE

**Dr. the Hon. Frank S. McField:** Thank you, Madam Speaker.

Madam Speaker and Honourable Members of the Legislative Assembly, I would like to make a statement on the recent developments on the Cayman Islands Marine Institute (CIMI). As Honourable Ministers

and Members are aware the Associated Marine Institute (AMI) which is based in Tampa, Florida, manages Cayman Islands Marine Institute. It is a basic behavioural modification programme. The average annual cost of CIMI is \$1,336,416 of which 15 percent of this total \$2,000,462 goes to AMI. The programme was set to cater to 30 clients. At no time did the Government intend to leave the youth at Cayman Islands Marine Institute without a facility and programme, nor the staff of CIMI without jobs or job security.

The Government's position was and still is that there was dissatisfaction with the manner in which the contract between Government and AMI was carried out. It did not provide these Islands with the acceptable results in youth rehabilitation or appropriate programmes for youth behavioral reform.

There was no evidence supporting the fulfillment of aspects of the contract which were: increasing each student's academic level by 2 grade levels, counselling students 50 hours per week and 70 percent successful termination by favourable graduation. For the 68 students attending CIMI over a four-year period only 14 graduated from the programme. Following discussions with representatives from Associated Marine Institute (AMI) the Ministry of Community Services, Women's Affairs, Youth & Sports is currently negotiating the extension of the contract. In this regard the Ministry invited AMI to submit a proposal for both a number of short-term initiatives and a long-term strategy for CIMI's future.

The short-term proposals should include revised codes of conduct for both staff and students, the introduction of additional vocational subjects into the school's curriculum and a clear and straightforward system of disciplined specifying rewards and consequences.

The long term strategy should embrace multi-agency coordination and cooperation in addressing the problems of youth anti-social behaviour within departments such as Social Services, Alternative Education, CIMI, Youth and Sports Department, Justices of the Peace Association, Her Majesty's prisons and Royal Cayman Islands Police. These agencies will be combined to create an integrated, locally formulated system of youth behavioural modification and reform. We are concerned with the sustainability of our youth programmes and in obtaining value for money

To achieve this we must exercise flexibility and apply social science concepts along with common sense and a sense of rational self-interest. Additionally, we are also prepared to work with AMI but not under the previous terms and conditions, nor with a view to attaining the same results. Our children are our future and we must spare no effort in doing our best for them. If this means that we engage in hard negotiations with our service providers then so be it.

With reference to recent media reports on how these initiatives impact the pro-social proposals for the national football team, let me state unequivocally that we are not giving CIFA (Cayman Islands



Football Association) any money directly. This will be done through performance contracts between team members and the Department of Youth and Sports that will ensure that the contracts are being complied with. I want to clarify that this proposal is designed to compliment future initiatives. I also want to make it abundantly clear that these initiatives are not a mutually exclusive proposition wherein we either reorganise CIMI or provide our youth with pro-social opportunities. In keeping with our multi-faceted approach to problem-solving we must do this and more. For anyone to suggest otherwise is a false dichotomy, an argument with no substance.

The Ministry for which I hold responsibility has received a programme improvement plan from AMI yesterday, 18 December and is now in the process of reviewing this proposal. The major components of their proposed plans are as follows:

1. Enrolment – this entails working more closely with the Department of Social Services and Courts on increasing enrolment and screening potential clients for appropriate referrals to CIMI.
2. Drug/alcohol treatment – CIMI is proposing to identify and assist with treatment those students who are involved with drugs.
3. Family inclusion initiatives – CIMI will implement a parent involvement plan that provides parents with support and helps them become a part of the programme. Additionally, CIMI will also facilitate training programmes for parents through in-house and outside resources; organized quarterly family nights, as well as implementing family dynamics' training for staff.
4. Safety and supervision – this aspect of CIMI's proposal will put in place more rigid safety and supervision procedures for students.
5. Facility upkeep – this part of CIMI's proposals entails developing the facility maintenance programme that will involve the students in order to instill a sense of ownership in them. It will also be aimed at making the facility more secure and conducive to their mission with the assistance of the Director of Prisons.
6. Staff training and development – CIMI will implement an annual training plan for all staff. Part of this training will entail drug awareness, prevention and attempt to make the staff connect more with the youth and families they are trying to assist.
7. Faith initiatives – CIMI will work closer with Ministers and representatives of local churches to determine ways how churches can be more involved with the youth at CIMI.
8. Inter-agency collaboration – CIMI staff will participate in a strategic planning meeting in order to con-

tribute to the proposed programme improvement plan and the goals of the institute for 2002. Additionally with the assistance of the Ministry for which I hold responsibility and the Department of Social Services, a committee of a cross section of youth agencies will be formed for the purpose of collaboration and information sharing.

While the recent reorganisation undertaken by AMI is welcome and has taken positive steps to address the inadequacies of the operations, government asserts and AMI acknowledges that more is needed to provide value for money expended on these operations. Following this new proposal by AMI the Ministry intends to submit a paper to Executive Council to renew the contract with AMI for an initial six months period and, if the performance is satisfactory, it is proposed to extend the programme for another six months. The main purpose of the revised contract is to address the drug problem of the students. Replace behaviour and reaction with self-awareness and self discipline, coping skills and sound academic performance. I hope that this clarifies my position and commitment to the programme offered to our young people at CIMI and gives a better understanding on the reasoning behind the Government's decision on the contract renewal with CIMI.

Madam Speaker, I thank you.

**The Speaker:** Thank you, Honourable Minister. Continuation of debate by the Leader of Government Business.

## THE APPROPRIATION (2002) BILL, 2001

### DEBATE ON THE BUDGET ADDRESS

*(Continuation of debate thereon)*

**Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

Madam Speaker, the creation of the Cayman Islands Development Bank has afforded the sum of over \$5 million from Caribbean Development Bank, which has now approved the loan for housing and a sum for small business development. This would not have been done if we did not create the Bank. The Bank is not involved with in retail business and the next time that the Second Elected Member for George Town raises that I am going to let the manager talk to him.

While I talk at some length about creating wealth and allowing good, legal, foreign investors and investments to come here, we are including in the new initiative support for our small local business.

Madam Speaker, before I move on I want to alert the House and yourself that we intend to work until 6 o'clock this afternoon. So, all Members should take note. I am turning now to the Department of Tourism.

In terms of the role of the Department of Tourism, Madam Speaker, it is the National Tourism Organisation that seeks to optimise the benefits of sustainable tourism for the people of the Cayman Islands, through effective management of the industry and its public sector resources. The strategic objectives are all placed in the Budget and Members and the public can easily find them there. I think there are eight such objectives.

Since I took over responsibility for Tourism I have challenged the Department of Tourism to critically assess the organisation of its systems and its performance. Madam Speaker, a study was done some time ago (as far back as 1998), but adherence to that report was not taken. When Members question the various happenings, and after they have seen the strides and efficiencies made by the department, they should really think before they question why certain people are not there. The Financial Secretary and the country will be pleased to note that over the past year the Department of Tourism has been revisiting and renewing the existing systems that work, reforming those that do not work and, where necessary introducing new systems and procedures.

No doubt the past year was a difficult one for the Department of Tourism and for the wider tourism industry. We have had many challenges, setbacks and tense moments. In light of the global travel industry, the current financial position of the Cayman Islands Government and the expectations of the Department of Tourism to in some cases lead and manage and in other cases to support the local tourism industry, the urgent need for real change in the tourism public sector was obvious. We had to change to meet the challenges—change or die a natural death.

There were many challenges and, consequently, many changes, many of which were straightforward and only made common sense. Yet for years, the people before me refused to fix the problems and allowed the country to waste thousands of dollars while our tourism industry suffered. This goes from the previous Minister to the previous Director. When we look at the returns from the Argentina market, we realise that despite the best efforts of the representation company, S&S Representations, the economic and airlift issues prevented a real breakthrough in the Argentina market. In November 2001 the decision was made to discontinue the department's formal contractual agreement with the representation company in order to achieve the budget targets and redirect the funds to markets with greater returns for our destination. I would like to take this opportunity to thank the people of S&S Representation who worked very hard to support the destination.

The European market, Madam Speaker, is a market which I believe has good potential for the Cayman Islands and one which will be given a fair chance to produce for the Cayman Islands. However, this was yet another area of the department's operation that needed reform in light of systems that were

not working and the introduction of systems necessary to move the provision of the Cayman Islands tourism promotion to the European markets. The restructuring of the European operation of the Department of Tourism resulted from an assessment by the regional manager for the United Kingdom and Europe.

Madam Speaker and Members, historically the DoT's European region of representation has been expanded to include on-the-ground marketing representatives in each of four countries, namely Germany, France, Italy and Spain, costing the Government close to US \$1 million per annum for the representation and marketing activities. Yet, over the years, there were insignificant visitor arrivals coming from continental Europe to warrant such coverage and neither was there sufficient airlift in place to grow the business. Several of these representatives, had responsibilities for areas that did not conform to their preference. For instance, the representative office in Paris was responsible for Scandinavian countries when it is generally accepted that these countries prefer dealing directly with the United Kingdom in English language. There were four continental European offices and, based on revised 2000 arrival numbers, these offices covered markets producing 5,221 visitors. Cost of operations in these four representative offices was well near up to \$700,000 for the year 2000.

Madam Speaker, the restructuring plan for continental Europe saw the department discontinue the paid representation services in three countries: Spain, Italy and France and a significantly reduced expenditure in Germany. Revised structure includes recruitment of one additional department staff member who will be a specialist in tourism sales and marketing and fluent with several foreign languages. This person will be accommodated within the existing London office infrastructure. The initial savings resulting from the European restructuring and consolidation is approximately well over \$275,000 in 2002.

In terms of the effectiveness of new structure, there is no doubt that by having local representatives in place we could offer a higher degree of service. However, the real test is whether there was sufficient demand for such a high level of service and the visitor arrival figures clearly show that there was not. We were over servicing a limited market. Added to that, the changing market conditions and travel industry trends, the revised structure, where there was only an office to manage instead of five, clearly makes more fiscal sense.

In the United Kingdom, like other DoT operations, there were long-standing contractual relationship with agencies which had not been reviewed in many years. Therefore, in keeping with good business practice started in the United States, there will be a formal review of all agencies currently engaged in advertising and public relations communications by the department in London. The review process for the United Kingdom advertising agency has already

commenced and the public relations agency will be reviewed towards the end of 2002.

Currently, Madam Speaker, the department and Ministry are evaluating the second phase of European restructuring to pursue further opportunities for increased efficiencies and increased integration in the market of the Cayman Islands from the London based DoT operations. I expect that, over the next few weeks, the final recommendations will be submitted and I look forward to updating the Members of the Legislative Assembly and the general public early in the New Year.

Turning now, Madam Speaker, to the United States restructuring for which I and the United States Director of Sales and Marketing have got much criticism. This office of the Department of Tourism in the United States is responsible for coordinating and implementing the marketing and public relations strategy of the Cayman Islands in the largest and most important market to the local tourism industry. Over the past three to five years the Cayman Islands has lost its premier position in the competitive set for warm weather vacation destinations.

Although not a marketing expert, I believe that was largely the result of ineffective marketing. The most obvious evidence of this was the declining consumer and trade awareness and declining visitor arrivals from the United States. There was no United States marketing strategy, only a series of ad hoc and tactical initiatives. The recommendations submitted by the United States Director and approved by the Ministry and the Executive Council would develop on the premise to carry out the primary business of the Government. That is, the marketing and public relations, the United States Department of Tourism must at a minimum, be restructured, resourced and managed in strategic alignment with its business purpose.

The restructuring plan addresses four main areas in its first phase: 1) size or work force; 2) lease arrangement and lease expense in Miami; 3) strategic location of the head office; and 4) contracted agencies. Madam Speaker, the changes will generate annual savings in recurrent expenditure starting at about US\$900,000 to a million dollars which can then be redirected to the marketing efforts of the department. In January 2001, as the newly appointed Minister for Tourism, I recognised the need for change. A new director for United States marketing and sales was recruited in February 2001 to lead the business operations turn around and steer the development of a strategic marketing plan to reposition the Cayman Islands as the premier market leader in its category.

After a preliminary assessment of the organisation it became very clear indeed that the development and implementation of the new marketing strategy was predicated on addressing three fundamental areas: 1) organisation structure and human resources; 2) cost structure; and 3) quality and competence of external marketing agencies. The organisation as we found it was not structured, staffed or equipped with

the operational systems to achieve the necessary results for the Cayman Islands.

The inadequacies of the United States' operations, particularly in its staffing structure and its financial systems, were obstacles for the success of the business operations. It operated in a divergent manner from the country's needs and expectations of the United States Department of Tourism. The declining visitor arrivals, severe budget cuts and the new Ministry's expectation for the United States operation, a new business plan and marketing strategy are being developed. Many systems were outdated by operating in manual labour-intensive ways and failing to produce the efficiencies that the current business environment demands and the current Government Budget dictates, particularly after 11 September.

In an already declining market, the events of 11 September caused most organisations to review business plans and, in many cases, change the business focus. As a result of this, organisational structures had to be reviewed to ensure that the human resources were closely aligned with the business objectives. The Cayman Islands Department of Tourism in the United States was no different than similar tourism related organisations within the United States. That is, organisations operating for foreign governments, carriers or groups are going through similar processes and reviews and some for instance have already downsized or closed United States operations. I believe Curaçao has made that step.

Some alternatives, Madam Speaker, that were considered included instituting a hiring freeze. However, this would only worsen the situation as the only positions being recruited for were those involving core skills that were already lacking or missing entirely within the organisation. Downsizing by attrition was impractical due to the relatively low turnover rate.

As a result, it was determined that the only practical alternative would be to downsize the United States organisation and restructure it in such a way that it would better meet the needs and expected service outputs on behalf of the Government and industry in these Islands. The aim was to restructure the US Department of Tourism in such a way that downsizing is affected and yet the organisation would become better equipped with the skills and necessary experience to better accomplish its goals. The initial proposal was to move from a work force of 48 to 35 persons.

The majority of the downsizing is to be accomplished through the closure of the Cayman Islands reservation office and the Los Angeles office. The national office formerly called the Miami administration will be established in New York. Many issues addressed by the restructuring were raised time and time again in various internal and external audits of the department. Yet corrective action and the fundamental issues of value for money, strategy organisational structure and managerial accountability for results were really not addressed. Yet Members say,

why change? Do not get me wrong, the responses written on minor procedures were changed but the department continued to spend money in markets or units that did not make an adequate return for the Government's investments.

The restructuring of the United States Department of Tourism is now underway. Some of the organisational and marketing agency issues have been addressed and the United States Director is in the final stages of putting together the best possible team of the Department of Tourism staff and contracted agencies to reestablish the Cayman Islands in the United States

Madam Speaker, it was a mess, a complete mess from the Ministry to the Department . . . and Members ask, why change? Change is obvious. On a matter of the lease expenses, the Department of Tourism and Cayman Airways Limited share of 15,376 square feet of corporate space at 6100 Blue Lagoon Drive in the Waterford Business Complex of Miami, Florida. Cayman Airways use of the space includes a telephone reservation centre for up to 24 agents, a ticket office for three agents, currently unoccupied space previously used for Cayman Airways holidays cooperate head offices in the United States and the offices of the airline's United States marketing and sales unit.

The Department of Tourism's use of the space is twofold: the national office including the Cayman Islands reservation service and the Miami based regional sales office for the ten states of the south eastern United States. The combined space costs approximately \$37,650 per month of which the United States Department of Tourism portion amounts to \$15,060.

The goal, Madam Speaker, was to reduce the United States Department of Tourism's total expenditure on real estate leases by reducing square footage and/or relocating the less costly addresses while maintaining the image of the Cayman Islands. The United States based firm of Ernst & Young was retained by the United States Department of Tourism to conduct a real estate analysis and make recommendations to the Government regarding its options. Essentially, the findings of the Ernst & Young assessment were that:

- 1) Current lease rates at Blue Lagoon were significantly above current market rates for similar places in the same complex.
- 2) There is a cancellation option in the existing agreement which allows the Cayman Islands Government to get out of the current lease prior to the end of the lease in 2004.
- 3) The penalty for getting out of the Blue Lagoon lease was approximately \$180,000 compared to the United States \$1 million NPV of the cash flows if

Cayman Islands Government was to remain for the duration of the lease; and

- 4) The relocation of the United States department's national office to New York. The Government could realise \$18,785 per month in recurrent savings with 2001 as the base year including the one time cancellation cost of the Blue Lagoon space and the one time setting up cost of establishing a new office.

The rationale for moving the head office to New York is twofold: one is as purely a department of tourism and the other is the longer term plans for the wider Cayman Islands Government.

The northeast, Madam Speaker, particularly the tri-state area, remains the largest and most important source market for our destination. The business strategy of the Department of Tourism and Ministry has determined that the corporate head office and the head of marketing sales should be situated in the most important market rather than that be delegated to a middle manager; while the United States Director of Marketing and Sales is removed and based in Florida purely for proximity to the Cayman Islands.

Most of the national and strategic level marketing partnerships for the Cayman Islands US marketing strategy are also centered in New York. These are media, airlines, external marketing agencies, trade partners, and wholesalers and tour operators. Madam Speaker, if the United States Department of Tourism could only have one location in the United States, the most important geographical location in which to have a physical presence would be the northeast.

Secondly, over the past year there has been discussion on plans towards integrating Cayman Islands marketing overseas under the working committee made up of Ms. Jennifer Dilbert, Debra Drummond, Christopher Rose and Pilar Bush and facilitated by Harris McCoy. The integration and consolidation the Cayman Islands Government's Overseas Offices was presented to and approved in principle by a special meeting of Executive Council and the private sector consultative committee.

It is the long-term view of the Government to, as far as possible, coordinate its marketing public relations promotions and representation services in one location in each country it has offices, that is, in the United Kingdom and the United States.

In the United Kingdom everything has historically been situated in London, that is, the office of the Government, shipping, registry, financial services and DoT. The move now is to consolidate these in one location with a similar long-term view of the Cayman Islands Government's United States operation. The strategic location must be in New York to reflect the financial services. These offices would have become the Cayman Islands tourism and investment offices.

We have agreed that it will no longer be called just the Cayman Islands Tourism Offices, but the Cayman Islands Tourism and Investment Offices, and would provide a one-stop for information on tourism, commerce and investment in the Cayman Islands. I believe, Madam Speaker, that that should be done in the United Kingdom and the United States and even one person in the United Kingdom. The person would look after the Cayman Islands Government and do all that there. I believe we do have the right person, who is the Government's current representative. I am going to make that proposal to government.

The success of the DoT's US marketing strategy will be measured primarily by: 1) the increase in the number of visitor arrivals from identified target markets and the associated positive economic impact of the visitor arrivals; 2) the average spend of visitors while in the Cayman Islands from the diversity of accommodations activities and attractions that visitors choose to avail themselves of while on our shores and 3) the perception of the Cayman Islands with key trade media and consumer groups as measured by objective research.

Madam Speaker, it is no secret that the success of many local businesses in the tourism industry is contingent, in large part, upon the effectiveness of the DoT in the United States market. Through the multiplier effect a large part of the Cayman Islands economy is dependent upon the effectiveness of the US Department of Tourism.

In 2002, the US will begin phase two of its restructuring which involves: 1) brand repositioning development and implementation of the marketing strategy; 2) rebuilding internal marketing teams in New York; 3) implementation of new financial systems; 4) consolidation of United States Department of Tourism operation from New York head and 5) further reduction in the work force.

Some are going to holler about this again, but I do not care how often they get up on the talk show and lambaste me or lambaste the Director for US operations. I believe that what we are doing is safe and sound for the Cayman Islands. If one or two people had to find another job, well, that is unfortunate. However, that is the position and we did our endeavour best to help those persons and prepare them for the wider marketplace.

Madam Speaker, the department has just completed an extensive search and selection process for a new creative agency. The department gave the old agency, O' Leary, Clark and Partners, notice earlier this year and sent out a request for a proposal, which outlined what the Cayman Islands Government was looking for. What we were looking for, unfortunately, was not forthcoming from the previous agency. The Government received 67 responses and systematically evaluated these and short-listed ten agencies. The department, using a system of interviews, capabilities presentations and objective assessments narrowed this down further to five agencies. These five

agencies were then given an assignment and a combined private and public sector panel made the final selection.

On Friday, the 14 December the central tenders committee approved the department's recommendation and today the agency named the Lord Group ( Lord as in Lord) was on the Island to make a presentation to the private sector on the 2002 summer programme called 'Cayman Islands H2go'.

Madam Speaker, I would also like to take this opportunity to address some remarks made by the Second Elected Member for George Town regarding the 2001 summer programme called 'Get Re-energized'. I would like to point out that this programme was initiated very early in 2001 under the leadership of the then director of Tourism and the then deputy director of Tourism. I relied on their advice and that also of the private sector in supporting the programme.

To call the programme a colossal failure is firstly not true. The Member does not have any figures to substantiate that but just a big word. It is rather insulting to the previous director of Tourism who only left office in August 2001 towards the end of the 'Get Re-energized' summer programme. The same Second Elected Member also suggested that a post-mortem should be conducted before embarking on any new programmes.

Madam Speaker, I think I have one of the best track records for open dialogue and performance review than any tourism Minister in recent history. I would like the House to know there was a post-mortem, as he called it, done on 'Get Re-energized'. It was done at Showcase 2001, a meeting of the wholesale travel trade held in Grand Cayman in August of this year put on by DoT and the Cayman Islands Tourism Association.

During Showcase 2001, the DoT and the Tourism Association organised a panel discussion with three of the leading wholesalers, that is, Go-Go Tours, Cayman Connection and Caradonna Tours. They gave us an assessment of the 'Get Re-energized' programme and our marketing in general. This assessment, led by the panel with involvement from the floor, was captured in a document and made available through the Department of Tourism and the Tourism Association to anyone who wanted it— including that Member if he was so interested. Moreover, the discussion on 'Get Re-energized' made front page news in the *Caymanian Compass*. I would have imagined that a supposedly highly educated, qualified lawyer would have been sure to do his research and establish the facts before he opened his case on this matter. Obviously, he cannot trust the source of his information.

For the record, the main shortcomings of 'Get Re-energized' (this year's summer programme) were: 1) The programme started too late; and 2), On Island suppliers, That is, hoteliers and restaurants made their offers too complicated, which made them not

easy to sell nor easy for consumers to use. More importantly, Madam Speaker, I must stress the context in which 'Get Re-energized' was developed and, since they made such erroneous statements, they should listen to the information.

When I took office at the end of 2000 there was no marketing programmes in place to drive business in the summer and no plans to develop any. Early in the New Year (this year) it was obvious that something had to be done and 'Get Re-energized' was put together to make up for the complete absence of programmes. DoT and the private sector knew, from the time of the 'Get Re-energized' launch, that they were batting on a weak wicket because there was no preparation the year before and so the programme was coming to the market late. The Second Elected Member for George Town would have known this, Madam Speaker, because I spoke about it in the House at the time the programme was announced. Furthermore, the same Member said he understood where I was coming from but now that he is in Opposition he has a selective memory and is trying to create blame and lay it at our feet. I do not mind if he wants to lay blame but what he must do is get his information right.

Returning to the DoT and marketing of these Islands: I am not here for rhetoric Madam Speaker, I am here for results and I am pleased to say that just yesterday afternoon, the Department of Tourism and its United States agencies outlined the 2002 summer programme to the industry. This was not only months ahead of this year's timing, it was also well received and we are slated for a March launch of the summer programme which is in three month's time.

I can only say that these types of productivity gains and improvements and effectiveness are because I am proactive. The United States Director is proactive and now the department is becoming more so. This programme can only work if the private sector comes on board and they are right now evaluating what their offers will be for the summer programme.

One thing the DoT and the private sector both agree on is that the DoT must use the H2go programme to generate awareness of the Cayman Islands in the North American markets and build consumer demand. The reason, Madam Speaker, it is so important is because of the complete absence of effective marketing over the years and so the Cayman Islands has been off the consumer radar, so to speak.

Madam Speaker, the same Second Elected Member for George Town joined a few critics who had much to say about the Port Authority Board's decision regarding a quota put on two operators at the Port. From the Budget debate in March of this year (and this House will recall this because there are at least three pages in the *Hansard* where I dealt with it) I made it clear that I would do what I had to do to ensure a more even distribution of business and make certain that the small operators in this country have a chance to get business. Some of the same operators

paid no attention to my various suggestions over the past year and they even laughed in my face. Warnings were issued to them and they were put on notice that some action would be taken (just as I did) to the FCCA (Florida Caribbean Cruise Association) over the past year on the matter. This just did not happen overnight as he tried to impute.

We are all for encouraging people to build up their business and make a profit and we will give them every opportunity to do that. If they thought I was a weak leader they would still be doing today what they have been doing for so many years, if I had not dared to put on that quota. While the situation was not a perfect one, it was not intended to be. It was intended to make a statement to them that they do not own the dock, the Government of the Cayman Islands owns the dock and I am directing the policy for the Port. I am the Chairman of the Port Authority.

While the situation is not perfect, Madam Speaker, they have now come to realise that what I have been saying made some sense and agreed on set rates on certain tours. This again shows leadership and a willingness to take smart risks. While the Second Elected Member for George Town gets up and expounds on how he is for the people, he obviously did not care enough about the small operators to even mention it in any of his debates. I know his modus operandi and I understand where he is coming from, but he is not going to mislead and get away with it.

Madam Speaker, I should say that the Second Elected Member from George Town somehow equated the 11 September tragedy with the reshuffle on 8 November by putting them in the same basket. I figured he would do something like that but I considered this to be the most insensitive comparison. One was a constitutional reshuffle; the other, callous murder of thousands of innocent humans. It shows the arrogance and the belief that power in the Government must reside where there is no support in the House. Madam Speaker, many people have brought that statement to my attention and I apologise to the country and say that United Democratic Party and the Executive Council disassociate themselves from those kinds of insensitive, irresponsible statements.

I apologise, but I do not know if anybody over there would do so, Madam Speaker. I just have about 5 minutes left in my debate. Now I do not know if you want to take the break or come back

**The Speaker:** Are you at a convenient point where you are about to commence with a new item?

**Hon. W. McKeever Bush:** Yes.

**The Speaker:** If that is the case, I will suspend for the luncheon break and we shall return at 2.30 p.m.

**PROCEEDINGS SUSPENDED AT 12.49 PM**

### PROCEEDINGS RESUMED AT 3.03 PM

**The Speaker:** Please be seated. Proceedings are resumed. Continuing the debate, the Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Madam Speaker. When we took the lunch break we were dealing with the cruise industry and the complaints that were made by the Second Elected Member from George Town. He also complained about the amount of tourist cruise visitors. Some time ago, they were complaining about no cruise visitors here; now they are complaining about too many. I doubt that I would be able to please them because it is very easy to complain and to criticize but hard when you have to actually manage a situation.

Madam Speaker, looking forward to the 2002 Budget, Members will note that the Department of Tourism's budget has been submitted at \$18.6 million. The marketing and promotion aspects of the department have to be flexible as the dynamics of the industry can change quickly and force the department to reassess its plans. The tragic events of 11 September 2001 brought the global industry to a standstill in the days immediately afterwards and, since then, most pre-existing marketing plans were rendered invalid sending executives back to the planning table with no certainty in what the future trends will be.

While the 2002 Budget has been submitted for the head office and overseas offices, we may have to redirect funds within the marketing promotions and advertising components of the Budget as we get into the new year and the world travel trends start to stabilize after the volatile fourth quarter of 2001.

I note that the Second Elected Member for George Town—who criticized that this aspect of the Budget—mentioned about the \$900,000 or \$1 million, and he said that we were now embarking to spend a million dollars. It is obvious that he has just taken the attitude that he must criticize everything. It has not been well thought out because what we were saying in the Budget about the expenditure of money he was referring to was \$900,000 or thereabouts; which we were spending after the 11 September tragedy to help boost things in the various cities and connections that offered direct traffic to these Islands. Again, the Second Elected Member from George Town was completely lost as to what we were doing and really did not take time to understand what was being said in the Budget but just offered constant criticism. He is a good taskmaster at criticizing.

Madam Speaker, I would also like to highlight that, starting with the 2002 Budget, I have asked the department to prepare the Budget to be more transparent than in previous years. While we have been able to bring some items out in the open, further transparency will ensue in future years when we can work

with the Budget and Financial Management Unit on the actual names and descriptions of the accounts.

One example of my attempt to bring greater transparency to the department's budget is in the area of official travel. For the year 2001 the official travel budget was shown as \$85,000. This is because it only reflected travel for administrative staff, that is, Director, Assistant Director of Finance and Administration and Information Technology Manager. There was a significantly greater travel budget but it was budgeted for under the marketing and public relations subheads and therefore not evident as official travel.

In 2002, it was decided that all official travel whether for administrative, marketing or public relations would be kept separate from the recurrent budget of core business activities in order to bring greater transparency.

Therefore, Madam Speaker, while 2002 official travel appears much greater than the \$85,000 depicted in this year's 2001 Budget, in reality the 2002 official Budget is actually lower overall for official travel than 2001. In the 2002 Budget the department has been challenged to reduce waste, and reduce expenditure on overhead, administration and non-core business activities wherever possible. In some cases, these cuts were easy to identify. For example, for years in the Miami office the department rented the office plants and then paid someone to water them.

Another example is that the department used to pay someone to replace the stock in the first-aid kits. I mean that! With 23 people in office the department of Tourism in Miami literally paid someone to bring in the Band-Aids and aspirin to replenish the kit. It was several hundred dollars a year and, while not a huge sum of money, it shows the waste and poor judgment that existed in the department for years. Where was the accountability?

The Tourism industry has taken a beating over this year, and in several years past (as I should say), but I am confident because of the measures we have put in place that it will rebound and arrival figures will inch up. I note that the Second Elected Member [for George Town], who criticized us and this aspect of the Budget, said that tourism was up in the Bahamas, the Dominican Republic and in Aruba. These are three places that he named. Let me just say that Cayman does not cater to mass tourism; that is what is in the Dominican Republic and also in the Bahamas. While the Bahamas is well diversified, if I should say so, they have gambling, they have all sorts of other things we do not cater to. Therefore, I do not think it is suitable to compare Cayman and those two destinations.

What we do need is diversification in our product. I have said that, and I was prepared to take the criticism for trying to offer diversification when we said that the restaurants and entertainment should have longer hours. I have taken some beating on that but that is what we have to do. We are a tourist destination and for us to be competitive in what we offer

even in, let us say, in places like Barbados, Bermuda and somewhat in the Bahamas, we need to diversify. And we are doing that.

The Throne Speech, Madam Speaker. I intend to lay further plans on the Table. In fact, we intend to look at how Pirates Week is made up and what the effect is and I have a taskforce now working on that. We will come in February, God willing, to lay the groundwork for putting in place festivals at two separate times, that is, one early in the year, such as April, and one later down in the year to draw visitors but also to have high energy festivals.

This will take some time, and there are other things that we will bring to enhance our product. It takes time and, as I said, we have taken a beating. But I believe that this year when we are down is the time that we need to take to do all these things; to review, to train, to make the necessary changes and to have the efficiencies. Therefore, when times get better Government and the country can actually be, hopefully, making more from tourism.

It has been a difficult year; one of many changes. Since the United States director was brought into the organisation there has been a lot of focus on restructuring the organisation, its systems and procedure, to better align the department with its business purpose. These changes have been put in place. We have changed to meet the challenges and the department is becoming more efficient, more effective and better able to deliver the results the Government and the industry requires of it.

One thing that I am proud of is that when I took over this, there were strange relations between the department and the industry and really there was hardly any contact. You cannot be a tourism destination if the arm doing the marketing does not talk to the people who provide the product, the room, the tours, the private sector. I received a letter recently from the CITA saying how good the relationship has been and how much improved it has been and the contact they now have. Questions can be answered through the kind of management style of the United States director.

Madam Speaker, Cayman Brac's tourism product is doing excellently and I commend all those over there who are managing—Mr. Moses Kirkconnell and that organization, the Cayman Brac and Little Cayman tourism group. They have done an excellent job providing their marketing and we have offered some assistance, but it is not something that is giving us a lot of problems. We find that tourists like to go to Little Cayman and Cayman Brac and there is much to offer. I believe that the management from our end is much easier when we have the two representatives, at least, talking to us, corresponding with us and showing an interest in what is taking place.

I will continue to offer my support to Cayman Brac and Little Cayman because there is a lot to be done with the product. This includes day tours, even from Grand Cayman to Cayman Brac and Little Cay-

man. Recently, we went to the Florida Caribbean Cruise Association and the Second Elected Member from Cayman Brac was there. I am sure, Madam Speaker, that you (the First Elected Member) heard about this and there is a better working relationship now and this is what we need. This is what Cayman Brac needs and this is what the product needs.

Madam Speaker, the Budget is difficult, we still have many problems to face. We have Cayman Airways. I made a well-rounded statement on the matter but it seems that some people are still talking nonsense about us selling out Cayman Airways. It is a real pity some people have to go on the radio and spread nonsense around like the gospel. Madam Speaker, who would we sell it to? Who would buy it? I wish that I could get somebody to come in and say, 'Here's \$30 million or \$60 million, \$10 million or \$15 million; we want to join partnership with you.' I would recommend that right away to Government. But I can tell you, as I told the staff at the staff meeting, there is nobody willing to put money into Cayman Airways except the Cayman Islands Government. That is why changes must take place at the national airline but nobody can say that we are doing an injustice. The injustice is being done by those persons calling on the radio and talking nonsense.

I believe this Budget is one which we can all live with, even with some difficulties in some areas. Madam Speaker, I know that it was said that on 8 November the two Members leaving at the time had left some \$12 million which was the difference between recurrent expenditure and revenue but the truth is there was \$96 million. The Member from North Side is saying that she did not see the Budget. Well, that is true. I did not see it either on 8 November when it was going to be produced. At that time I think it was set down for 14 November. That is one reason why some changes had to be made . . . and there was no \$12 million difference, there was a gap of \$93 million. So, when they get up and tell the world that they left such a glowing position they need to explain what they mean because the efficiency did not result at that time.

The Opposition, apart from one or two matters which they claim could help, has not offered any real alternative to the Budget. Madam Speaker, we must now all genuinely work together, not to complain about small matters in this House, such as when the House is going to adjourn, and when it is going to meet, but rather to understand and appreciate the complexity of the problem facing the country. As an alternative government, the Opposition needs to go out and help the people understand why we need the revenue. They understand the complexity of the problem. It is their duty to tell the people why we need it, why we got this far and where they would go forward from here.

Madam Speaker, in closing I would like to offer my sincere gratitude to the US Director, Ms. Pillar Bush, other DoT staff, the Senior Assistant . . . I have



a new staff member, Ms. McField, a well-qualified and intelligent young lady, and my Permanent Secretary and other Ministry staff. It has been a difficult year and they have done their jobs as best they could considering the circumstances. I would like to offer sincere thanks to Members, Ministers of the United Democratic Party and to say that a good working relationship exists with our official colleagues of Executive Council. There is no derision from the United Democratic Party in their case.

Madam Speaker, I would like to thank, again, the Budget team for the excellent job they have done in such trying circumstances. As for me, I re-dedicate myself to the service of this land, of this colony, our people and our community.

Before I close, I want to put on record my sincere appreciation to the staff of the Turtle Farm for the valiant job when we experienced the damage during the passing of Hurricane Michelle. There was a tremendous outpouring of assistance by the general public, not just from West Bay, from foreign people who were just staying here as visitors at that time and other residents who came and assisted us that day. It is going to be a long haul for the Cayman Turtle Farm but we are up and running again, tours are beginning to move and there is now a redevelopment plan being prepared. We are going to move across the street and enhance our product down there. I want to thank everyone, Madam Speaker, who worked so hard to help to save whatever was possible that day at the Turtle Farm.

It is important that I say at this time we intend to propose that the House will close on Friday of this week. We will work until 6 o'clock tomorrow and on Friday of this week. Monday of next week is Christmas Eve. Tuesday is Christmas Day. We propose to resume on the 27<sup>th</sup> and the 28<sup>th</sup>.

Madam Speaker, thank you very much. I thank Members for their indulgence. I would just like to wish you and your family a very blessed Christmas. This is the season to be happy and it is an important time of the year when we forgive and we look at our lives. We ask ourselves what can we do better next time, we reassess and move forward. I certainly want to extend sincere holiday greetings to every Member in this House and to wish for everybody a very joyous Christmas and a very healthy and prosperous 2002. We look forward to working together for the betterment of these Islands. I certainly would like to wish all of my constituents and friends throughout these Islands a very blessed, prosperous Christmas and very happy New Year.

**The Speaker:** Thank you, Honourable Leader of Government Business.

Does any other Member wish to speak?

The Second Elected Member from the district of Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker.

Madam Speaker, it is with great pleasure that I stand in this Honourable Legislative Assembly to debate my second Budget and to find myself debating it with you in the high position of Speaker of the Legislative Assembly. I join with the Leader of Government Business in congratulating you on adjusting and making a smooth transition from that of a vibrant Member of the Government (then a vibrant member of an Opposition), now to the dignified position of Speaker of the Legislative Assembly. You have made not only the Members of the Legislative Assembly proud, but you have certainly made the people of our districts of Cayman Brac and Little Cayman exceedingly proud to have another Cayman Bracker in this high position.

I would like to commence by assuring the good people of Cayman Brac and Little Cayman that, as a result of the recent changes in the Legislative Assembly, including your position to Speaker of the Legislative Assembly, Cayman Brac and Little Cayman are now equally or better represented. You have certainly demonstrated to me over the past month and a half that even in your capacity of Speaker of the Legislative Assembly, your first priority is the people that you have been elected to represent.

You have demonstrated through the Budget process that you can objectively sit and rule in the Legislative Assembly. However, you made sure that throughout the Budget process your district was represented; you made sure that your input was represented and that your people received their fair share of the Cayman Islands' National Budget.

I commend you on carrying out that role as the First Elected Member of Cayman Brac and Little Cayman. I also add that the unique and close kinship that we have compounded over the past year goes beyond the premise of this Legislative Assembly. It is one that I hope and trust, and will give my commitment, will continue and grow and strengthen as we jointly work for the betterment of our people. With such a relationship the people of Cayman Brac can be assured that they will be getting optimum representation from what I termed during the campaign of 2000, from the 'dynamic duo' that represents Cayman Brac and Little Cayman.

Madam Speaker, I have quite a bit to cover in my contribution, but, in adhering to the United Democratic Party's policy of improving efficiency, I will ensure that we are not treading over the same grounds as my colleagues who ably detailed the Budget document. I give great recognition to the Second Elected Member from the district of West Bay, who was part of what has been now termed as the 'fiscal team' that worked in preparing this Budget.

I commend him on his deliberation on the first day of the debate. I think he did an excellent job in representing the United Democratic Party's view on the Budget.

*[Applause]*

**Mr. Lyndon L. Martin:** I also commend the Leader of Government Business and the Leader of the United Democratic Party for his excellent, high quality presentation to this nation that will surely give hope and spirit to our people.

Madam Speaker, I have been here for just over one year which can be characterised as dynamic. In the space of one year I was part of the Government between November 8 of 2000 and November 10. I became a Member of the Opposition in November 15 of 2000. Now I find myself on the Backbench of the Government again. This is carrying out three different roles in the space of one year and that has matured me, politically. I can understand the role of an Opposition. I was over on that side forty days ago. While I [sat] in the chair of the Opposition, I attempted to give my best to the role of an Opposition. I tried to heighten and emphasise the importance of an Opposition and I do recognise the important role that the Members now play.

Madam Speaker, I read in an editorial in the *Cayman Net News* that the First Elected Member from George Town, and those with whom he is aligned, will be assuming the role as the 'watch dog.' Madam Speaker, it is important, and recent occurrences in this Parliament have shown that it is not only the Opposition that acts as the 'watch dog' but the Government Backbench itself is sometimes the greatest 'watch dog' of the Government. In this particular case, in this particular Government, the four Members who sit on the Floor of this Legislative Assembly, who represent the Government Backbench . . . I can assure the general public and everyone in this Legislative Assembly, including the Ministers that make up Executive Council, [they] are hungry and aggressive 'watch dogs.' They will be monitoring their activities on behalf of the people of these beloved Cayman Islands.

I say to the Opposition Members who have stated themselves as the 'watch dogs,' that we, 'malinois', on this side certainly welcome you 'poodles' to join us! Madam Speaker, that is just humour to lighten up the atmosphere around here and not intended to be insulting in any manner. I do, however, note that after the Government presented its case and its arguments the 'watch dogs' from the Opposition hesitated to bark and almost caused the Parliament to close down early. I am here on this side of the Government Backbench with no alliance to any of the Members of Executive Council. I am here because I truly wholeheartedly believe that the Members making up the United Democratic Party and the current Executive Council of the Cayman Islands, are those who are best fit to govern this country during this trying period.

Madam Speaker, I state that to clear my objectivity in this analysis of the Budget. I also wish to say that, following my analysis of the past Budget, many people, not only in our district of Cayman Brac and Little Cayman but throughout the Cayman Is-

lands, have come to me and told me they appreciated my analysis of the past Budget and will be looking for equal analysis of the Budget of 2002. So I take my responsibility seriously.

I thank the Second Elected Member from George Town when, in his contribution, he recognised the merit of my economic assessment made during my past contribution. I must say that was by far the only interesting part of his debate. Madam Speaker, I find it ironic that he now finds it extremely pertinent to even mention and restate some of the economic theories I submitted to this House during my last debate.

I will tell you what he said. As he rose in the Legislative Assembly immediately following my debate in April of this year, he said . . . and I am reading from the *Hansard* of 18 April of 2001, at page 457. "**I do not believe that his [referring to me] tortured exposition of economics warrant a substantive response, but I will say this for his contribution: so loud the thunder but so little it rains!**"

Madam Speaker, the rain is here today and it is pouring down upon us! I would like to let you know why I think it is important that this country should listen to my assessment of the Budget rather than some of those who would like to paint a different picture. It is because those who were painting the picture that this Budget is not realistic, that the revenue objectives are easy to achieve on paper but hard to realise are those same Members who were standing up in the Legislative Assembly earlier this year saying the 2001 Budget, "is a good Budget, it is a Budget that we should give a chance to."

In my debate about the 2001 Budget, I outlined quite clearly my concern about the Budget projections. I do not believe that we were learning from the past. I believe that rather than the Budget of \$31,000,000 as projected . . . I stated in my Budget contribution on April 9 [2001], at page 399; "**Mr. Speaker, if we use my assumption of 4.7 percent decline this would mean that the revenue of this country is over estimated by \$33.5 million.**" A year later we are here assessing the performance of this very same Budget and it is \$28.723 million short, my projection was \$33 million instead it is \$28.3 million; that is 1.38 percent difference from my projection. Just to emphasise for the sake of the importance and accuracy of this projection, if this was a sniper aiming between the eyes of a human it would at least take out an eye.

It was such an accurate forecast and projection not only for critical purposes, but I also outlined my reasons this Budget was not going to be on target. I assure the Members of the Opposition and all the citizens of this country I would not risk my professional reputation by associating with a Budget that did not have realistic and achievable forecasts because that is my area of specialty. When you are sick you go to a doctor; when you need legal advice you go to a lawyer; when you need an economic forecast you come to an economist.

I need now to do some house cleaning exercises as I clear up some of the matters put out by the Second Elected Member for George Town in what can only be described as an eloquent and articulate dispensation of the most venomous, political rhetoric that I have heard in this Legislative Assembly, in my short time here. The Member from George Town spoke about bank licences moving from \$123,000 to \$400,000 and how outrageous it was. He commented about how this proposal was hurried, not properly thought through. He said those who were making the proposal, those who developed the Budget did not have a proper understanding of the financial industry.

He boasted, and gave credence to what he was saying by boasting of his experience—some 18 years of experience—and, insultingly, even referred to how that amount of years was greater than the sum of all of the Members' experience on this side of the House. I learned during his contribution [that], unlike what he said in the year 2001 Budget Address (where the math problem laid on the teacher from the district of Bodden Town and the economist from Cayman Brac) [that it] actually lay straight on the Second Elected Member from George Town—18 years he said!

Is he insulting the vast amount of experience and the number of years that the Minister for Communication and Works has had within this industry, qualified as an Accountant from 1978, managing partner in his accounting firm, Deputy Financial Secretary sitting in this Legislative Assembly on the official side on occasions, and on two occasions now as an Elected Member of Executive Council? Is he overlooking the fact that the Second Elected Member from the district of West Bay is a Certified Public Accountant with 19 months experience in the heartbeat of finance?

Madam Speaker, the Second Elected Member for West Bay is a past member of one of the most prominent accounting firms in Cayman; conducting audits [all] over the world; conducting audits on multi-million dollar mutual funds and auditing institutions that I can assure the general public, the Second Elected Member for George Town would not have had experience. Madam Speaker, he demonstrates his lack of understanding of the financial industry and how this lack of understanding can instill panic, and he must be more responsible for what he is saying.

When he referred to class 'A' banks going from \$123,000 to \$400,000, did he overlook that [we] are talking about six banks which fall into that category? Your six clearing banks in this country are the only banks that fall into that category that go from \$123,000 to \$400,000. He went on to say at least two banks of these banks have informed him that they will be dropping their 'A' license, which is just prestige; that they will be dropping this 'A' retail license to go to a 'B'.

Madam Speaker, that is a blatant attempt, in my opinion, to mislead the public and instill panic.

I can assure you the Canadian Imperial Bank of Commerce (CIBC), the Cayman National Bank (CNB), Barclays, Royal Bank, and Scotia Bank are not going to downgrade to a B-class. The public should not be alarmed; they are being misled. We do not need sensationalism in the responsible positions we hold. The Second Elected Member for George Town seems to know it all but when the facts are put forward he is not even present in the Chamber to be corrected.

I would also like to refer to a comment that I read in the *Caymanian Compass* as they covered the contribution made by the Member from East End. Madam Speaker, I assume the *Caymanian Compass* article is right when [it] said it was not made clear that Caribbean Utilities Company (CUC) was being exempted from the increase in diesel fuel duty. I take time to draw to the attention of the honourable Member that on the first page, the second category that covers gasoline and diesel duty simply states and notes that **"diesels used by CUC will not be subjected to this increase."** It could not be clearer than to print it right on the front page of the revenue measures. For his benefit and the sake of the public, I want it to be understood that it was made clear from day one, as the statement says, the diesel used by CUC will not be subjected to this increase.

Madam Speaker, it is important to note that the United Democratic Party took cognisance of the fact that whatever diesel fuel cost increases CUC got would have been passed on to the common man and that was not the objective of this Budget. We exempted CUC from the increase. It is with great interest that I note that that Member, and his good friend from George Town, spent a substantial portion of their debates talking about CUC and talking about the law firms in Cayman. Out of respect and my appreciation for the roles those two Members play, I urge them to remember they are no longer working at CUC; they are no longer working in the law firm. They are representing the people of these Islands; the people who elected them, Madam Speaker.

Let us stop talking about reducing CUC's duty and about reducing the bands for lawyers. Let us talk about what we can do for the common man, the little man; the people who elected us. I have fulfilled my obligation in introducing my debate and where I am coming from and why my debate should be listened to—I have done my house cleaning. I would like to say now that the Cayman Islands have gone through what can only be classified as a typical development path. We have transformed from a fishing village, from a turtling village, to that of a sophisticated, dynamic community; the fifth largest financial centre in the world; a key destination that tourists consider whenever spending their tourist dollars. Throughout that transition we have had many challenges, one has been our revenue base.

Madam Speaker, I think it is important that every Member in this House and the general public as

a whole, understands that when we were a fishing and turtling village, a village of seamen, and we had to institute a government, we had to come up with a method of deriving revenue from that body. In those days and now there are only three methods of collecting revenue. One is income tax, one is a wealth tax, and the other is the current system that we use, a consumption tax.

In those early days, there was no income in this community, no income generated here in Cayman that could have been taxed. The income was generated overseas. There was no wealth accumulated here; no one had big parcels of land. The Land Registry was not in place. The cadastral survey had not been conducted so there was no value; there was no wealth that could have been taxed. The only system of revenue collection that was available to our forefathers was a consumption tax.

When the money was remitted home, the people then went to the grocery stores and it was the items on sale you could tax. The import duty, the excise is on consumption—that is where our tax system has come from. However, it has worked in our favour. Now we find that our industries, one of our main pillars, revolve around it. More importantly, our people have been cultured to that system and there is no possibility of favourably introducing any other form of tax system.

Madam Speaker, this is nothing unique to Cayman. We must remember that the great United States of America started as an agricultural society where the tax on cattle was the main income at one time. Prior to 1913, the passage of the 16<sup>th</sup> Amendment, there was no income taxation in the United States of America, it was only consumption tax.

As a country grows and develops, the greater will be the necessity for income and for government, irrespective of the Cayman Islands Real Estate Brokers' Association (CIREBA) position. Government is a necessary entity and it is vital to the development process. As a country grows so does the need for government services and therefore, government grows.

The United States were able to sustain themselves during the 19<sup>th</sup> Century and the first part of the 20<sup>th</sup> Century by having a consumption tax. They then introduced income tax. Even if we start to chart their income tax and their total tax package as a percentage of their gross domestic product, we will see, Madam Speaker, that in 1902, it only represented 6.2 percent and I am quoting this from the "Development of the United States Tax Structure Statistics" as published in what is an authoritative document on public finance, "The Public Finance in Theory and Practice", written by Musgrave.

Madam Speaker, from 1902 the percentage of Gross Domestic Product (GDP) represented in tax from the United States was 6.2. In 1922 it went to 10.2 percent; then it grew to 14.5 percent by 1940, and in 1960 to 26.5 percent. It has now leveled off some-

where around 30-33 percent. We see as a country grows so does the demand for government services. What is important to note is that we saw a substantial jump as we entered the decade of the 1960s. This year saw the birth of social consciousness. It followed World War II when man discovered that he was more powerful than nature itself as General [Paul] Tibbets dropped the atomic bomb on Hiroshima.

Madam Speaker, the 1960s created a new burden on government finances as we had to take on environmental concerns regarding the physical environment as well as social environment. We have also experienced the same situation in the demand for government services right here in these beloved Cayman Islands.

It all depends on the Government's philosophy. In weighing the burden government has on an economy with the amount of taxes it is able to extract it has to then transform and spend either through a redistributive method, or through a method that would not have been provided by the private sector. The philosophy of government is very important because certain countries that are more socialistic spend a greater portion, such as Sweden which spends 49.6 percent. This is coming from "The International Comparison of Tax Structures in 1989", updated in 1998.

When we look at our structure here and our philosophy we see we have subsidised garbage, we have subsidised medical and we have almost free education. We have a partial system we are trying to slant towards being more socialist. We are trying to achieve too much as a country. However, we have been able to achieve all of this and maintain where the Government Budget represents 25 percent of our Gross Domestic Product; relative to other countries, that is extremely good. The United States of America is at 33 percent; the United Kingdom is 37.4 percent; Japan is 26 percent and Norway 47 percent.

Madam Speaker, out of interest I logged on to the internet and found one report I will share with all Members who would like to see how we compare to the rest of the world. The site lists all available GDP figures and each government's budget in relation to its GDP figure. Looking through this list I can assure Members we are relatively in good shape. Our Budget is representing an acceptable level of our Gross Domestic Product. I do not accept the argument that this country's problem is because Government is too big. The civil service might be too large but Government is not too big, two very different subjects.

Madam Speaker, the pressures that are placed on the finances of this country are nothing new. It has slowly built up; it is nothing that we should be surprised about. It is normal, every country has faced it. These are the growing pains of development. We cannot look at our Budget in isolation. We must look at how it compares to other countries. We have chosen a development model in this country where we have developed on two single pillars; tourism and offshore finances. Both aspects are extremely depend-

ent on foreign capital. Thus, profits from these operations are remitted overseas.

The economic benefit of these two pillars comes to us in wage benefits in the economy. However, we have attempted to fulfill a model that requires the benefits to come through labour without having proper labour and immigration policies in place. Thus, the economic benefit of our development to this point has not been as great as it could have been. During our formative ages; during the time when we were building condos on West Bay Road building our hotels, and setting up the Islands for tourism and when we were constructing the office complexes in George Town to house the financial industry; our consumption-based tax worked well.

We are now at a different phase in our development where the structure is there so our growth is now occurring without having the foreign investment coming in. Madam Speaker, the next phase of our development would be expected as a reconstruction phase, which we have heard the Leader of Government Business talk about. We have talked about redoing West Bay beach—removing the height limitations for structures, to instill and offer motivation to developers, to remodel and refurbish. We have heard the Leader of Government Business and the Third Official Member outline the formation of the Cayman Islands Investment Authority. Madam Speaker, this authority will aim at promoting and making us user friendly towards foreign capital. It is necessary as we move to the next phase of our development. We have also failed in our development by not getting the benefits into the community. We have failed because our people have not had the accumulation of capital to invest in business ventures or to secure a business out of the tourism industry.

We have failed because our education system and the investment by the private sector into education have not been adequate. It is time we rewarded those companies that invested in Caymanians which got them to high positions. Those companies which did not do so should now be given a monetary and economic incentive to curtail their current practice and look at investing in Caymanians. That is why I support the increase in immigration fees, Madam Speaker.

For us to move forward, our goal must be sustainable economic development. There are three main goals in order to achieve sustainable economic development in the Cayman Islands. Firstly, we have to maintain our existing revenue system, to maintain a consumption based tax system. It is my position that if we derive 25 percent of the Gross Domestic Product in the Cayman Islands through this system, it is adequate. We must now learn how to live within that particular system. Fiscal prudence is necessary to achieve the number one goal of maintaining our existing tax system.

The Budget before this Legislative Assembly is necessary to achieve the number one objective that will lead to sustainable economic development. The

second goal is to maintain our current fixed exchange with the United States. In order to do this we must maintain a good balance of payments. We must keep both a vital tourism industry and a financial industry to keep good flows of the United States currency coming to these shores.

The final goal, Madam Speaker, is to maintain financial and economic autonomy in these Islands, in these Chambers and in the planning of government finances. To do that, we must operate on no deficit financing. We must increase efficiencies among the Government's operations. This Budget is also necessary to achieve this goal. I would now like to touch on the necessity of having vibrant tourism and financial service industries.

I was recently at a conference in which the speaker said the goose that laid the golden egg is now sick. Madam Speaker, it is so true for the Cayman Islands. Tourism is sick. Tourism needs help; tourism needs every one of us together to make tourism recover. We must understand the problems that are faced in the tourism industry are not as a result of 11 September.

The problem that we face in the Caribbean is those previous jurisdictions that were seen as a source of tourists are now promoting themselves as a destination for tourists. We have had a complete change. We can no longer look at the United States as just a blanket market of possible tourists who come to the Cayman Islands because in the domestic United States of America you have numerous tourist destinations. We must carefully look at our product; we must look at what is here. We have to look at the attitudes of our people, and the traditional Cayman smile that welcomed everyone and why that smile is disappearing.

We must look at educating and training our people within the tourism industry. It is very important that we understand the connection between promoting the benefit of tourism down into the community and maintaining a competitive position. If our people can see for themselves the benefit of their neighbour now having a tour operation or their neighbour demonstrating that rope and that their own family member is gaining a benefit, their motivation and interest to promote tourism will improve. We cannot hope to remain competitive in the tourism industry if our people are not benefiting, because our people have traditionally been our greatest asset. Madam Speaker, I bring to your attention that we lack a quorum.

#### LACK OF QUORUM

**The Speaker:** We shall suspend for five minutes and enable the Serjeant to allow the House to have a quorum of eight.

[Pause]

**PROCEEDINGS SUSPENDED AT 4:10 P.M.**

**PROCEEDINGS RESUMED AT 4:27 P.M.**

**The Speaker:** Please be seated.

Continuing his debate, the Second Elected Member from Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker, and the Serjeant-at-Arms for summoning an audience in the Chamber. I thank the Members of the Opposition for rejoining us.

Madam Speaker when we were—

**POINT OF ELUCIDATION**

**Mr. V. Arden McLean:** Madam Speaker, a point of elucidation.

**The Speaker:** Will the Member give way?

**Mr. Lyndon L. Martin:** No, Madam Speaker.  
Madam Speaker—

**Mr. V. Arden McLean:** On a point of order, Madam Speaker.

**POINT OF ORDER**

**The Speaker:** Please state your Point of Order Member from East End.

**Mr. V. Arden McLean:** Misleading the House, Madam Speaker.

**The Speaker:** Could you please state in what regard Honourable Member?

**Mr. V. Arden McLean:** Madam Speaker, the Member is saying that he thanks the Opposition for rejoining him in the House. There were Members here inside this Honourable House, because I was. Not every person from this side was outside this Chamber.

**The Speaker:** Honourable Member [for Cayman Brac and Little Cayman], the Member for East End is correct in saying that not all the Opposition was [not] there, so if you would withdraw that section. You have the liberty to specify if it is your desire to so do.

**Mr. Lyndon L. Martin:** I certainly will withdraw that section, Madam Speaker. I was simply referring to those Members who were currently present at the time of my deliberation and when calling for a quorum, were not. That included all who are present now, including the Member who just spoke.

At the time of the break I was talking of our two pillars and why they are important in maintaining one of the three goals that I listed for sustainable economic development. That was, maintaining a good balance of payment, the importance of tourism and

where we needed to put greater emphasis on tourism in this country.

Madam Speaker, I am very confident and have great assurance that the current Minister responsible for Tourism is at the head of this effort. I have had the privilege of accompanying the Minister on several rounds of negotiations, meetings and conferences on Tourism. I am pleased to report to this country that the Minister has a good grasp on the need for product improvement; a good grasp on the importance of ensuring that our indigenous Caymanians are benefiting from Tourism, because then their attitudes will be positive towards tourism.

The Ministry, in conjunction with the Minister of Education, has launched a campaign on training and educating people within the Tourism industry and educating the general public, and our young people that tourism, that working within tourism is a dignified and noble profession. Madam Speaker, this country can be assured that the United Democratic Party, through the Minister of Tourism, is well-gearred and equipped for bringing back tourism and taking it to an even greater level within the Cayman Islands.

Madam Speaker, the current Minister for Tourism has great interest as expressed during his speech. He has contributed to this debate to assist you and me in achieving our responsibilities to the people of Cayman Brac and Little Cayman by diversifying and enhancing tourism in Cayman Brac and Little Cayman. I now move quickly to financial services because the current revenue measures impact financial services and I will outline my views on this particular industry.

I want to mention that previously I spoke of the benefits derived from these two pillars, and I talked of the model that relied on wages and labour coming from these two industries. There are other trickle-down effects such as local consumption and I credit the industries for that. I believe we can do greater in that particular area to ensure a greater trickle down in our local economy. I know the Minister for Tourism is pushing to have the visiting cruise ships purchase certain products locally.

Madam Speaker, development is something that we get one chance at. We do not have the ability to erase and start over. We are operating with a limited amount of physical resources and that is especially important for island economies. With the limitation of our physical resources we must ensure that throughout our development path the people for which we are developing, the indigenous Caymanians and those who have made Cayman their home, are deriving benefits from them.

I truly appreciate and respect the added sophistication brought to this development process by the introduction of the Financial Services' Centre, which now employs in excess of 21.2 percent of our labour force according to recently produced statistics. Madam Speaker, this particular industry is a very competitive market which is always intensifying. When

competing we must learn what our product is about and how it is positioned.

We have never competed on the basis of being the most affordable financial centre. We have always been the 'blue-chip' financial centre, the premium financial centre, for the following reasons: the quality of our professional service; the quality of our infrastructure; our ability to process and approve a mutual fund in a shorter time span than the competition. It is these attributes of our product which have differentiated us. We have never competed on price and we have never competed on cost. I agree that in the product mix price is one variable, but it has never been the variable that differentiates us.

Madam Speaker, I am cognisant of the need for us to ensure that there is value. When an individual pays that higher price there is good value to be derived. That is a challenge I throw down to all sections of the industry; to Government who is interacting with the financial services; to the Company Registry, to the Monetary Authority. Let us ensure that there is value. I am asking our international partners, those entities or individuals who utilise the Cayman Islands as a financial centre, to understand that this is not a Budget in isolation; this is a Budget that seeks to achieve a longer term goal

**The Speaker:** Honourable Member, I will call to the attention of the Leader of Government Business that we have reached the hour of interruption.

#### **SUSPENSION OF STANDING ORDER 10(2)**

**Hon. W. McKeeva Bush:** Madam Speaker, I will move the suspension in order to complete business this afternoon and we could go on until around 6.30. We originally said 6 o'clock but we are trying to speed the debate along and hopefully by 6.30 we would complete those wishing to speak today.

**The Speaker:** The Question is that the Honourable House continues beyond 4.30 pm to allow Members wishing to contribute to the debate to continue and conclude this afternoon.

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

**AYES.**

**The Speaker:** The Ayes have it. Proceedings will continue.

#### **AGREED: STANDING ORDER 10(2) SUSPENDED TO ALLOW PROCEEDINGS TO CONTINUE.**

**The Speaker:** The Second Elected Member for the district of Cayman Brac.

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker.

Madam Speaker, this Budget seeks to achieve sustainable economic development. It seeks to balance the gap between recurrent revenue and recurrent expenditure. It then outlines that we intend to cut costs so we can envision 2003 as a surplus year and 2004 as a surplus year to assist us in meeting the goal that is now part of legislation passed in this Chamber requiring us to make a contribution to general reserve to bring it to a level equal to three months of Government recurrent expenditure. Once we have achieved that fiscal balancing and acquired a general reserve of \$90 million (which is an estimate based on projected revenue and expenditure) then we are in a better position to ensure that this country remains competitive. This includes all the variables that go towards a person deciding to utilise this safe, clean, well connected jurisdiction with great telecommunications, and this jurisdiction which has a high level of professionalism in its intermediaries as well as trained Caymanians. We will have a Government that can invest to the level necessary in preparing Caymanians, so that these very same financial service providers will not have to pay high work permit fees, they will have Caymanians.

Madam Speaker, we will subsequently find ourselves in a country with a Government that has fiscal flexibility, whereas we are now guided strictly because of fiscal limitations. Our actions are governed by the things we cannot do—we cannot borrow to fund recurrent expenditure. I ask the financial industry, the intermediaries here in Cayman and those who utilise our services, to understand the process we need to establish. We have been good to the intermediaries here, as well as to our overseas clients and we are asking for them to bear the ride with us until we see better times.

The financial industry has been good to Cayman, but Cayman has also been good to the financial industry. One of the limitations of an indirect tax structure is that Government is unable to pinpoint with a degree of accuracy where the tax incidence lies; who actually bears the cost of a revenue measure. In an income tax we can specifically design exactly who we want to hit. In our current system we do not have that flexibility. When we impose a specific fee upon the intermediaries, the banks, the insurance managers, the accountants, the lawyers, it is based on our belief after consultation and review that those intermediaries earn a greater return on investment in Cayman than they would in other jurisdictions.

In the interest of being fair, I can say that observation was made by the Second Elected Member, who, in his contribution last year stated that the financial industry was making a return greater than they would have in other jurisdictions. I commend him and give him credit for that. Madam Speaker, we are hoping that by design these intermediaries will not pass the cost down, they will absorb it in their accounting. When they say they have already billed their clients, to me it is a positive thing. They cannot pass it on to

their clients, they can absorb it. They have the ability within their return on investment to absorb it.

Madam Speaker, there is no reason those specific charges should affect the services or the cost of services which those intermediaries are providing. The specific fees that were attached to the actual product, such as the increase on the licence for a mutual fund (as the Elected Member from East End rightly pointed out) . . . it is possible to add a fee that amount may not be realised and yet there may be a fall off in quantity. It is important to understand we did not make a guess at these, we assumed there would be a possibility of a fall off.

We have done what is known as sensitivity analysis. This current year where mutual funds are formed, 60 percent of these were registered in Cayman. We assumed that because of this fee, realistically, we might not get the 60 percent of the next group to be registered. However, to say that the revenue figures will fall down because of an increase in fee we must remember . . .

[pause]

Madam Speaker, I have been reliably informed that when we talk about 60 percent of mutual funds we are talking about 600 mutual funds. It is possible that that number may not grow at the previous growth rate. It is possible that some of those who were there might choose not to renew a licence. What you hope and what we analyse is that we must remember those who remain, and remain at a higher cost. We have had historical studies. We can look at the hotel accommodation tax, and when it was increased. I am not suggesting that that increase caused a slow down in tourism arrivals, tourism arrivals decreased and the revenue generated from that particular head increased. It is a simple relationship between quantity and price. Madam Speaker, in my discipline we call it elasticity. We have looked and we have undertaken to start in January. The United Democratic Party will collate a greater amount of statistical information to assist us in analysing such variables and what the changes would be as a result of a fee, because we will have a historical trend.

It is not fair for anyone to suggest this Budget was hurried and not well thought through and prepared by individuals who did not truly know the industry. This Budget was prepared within the first thirty days of this new Government taking office. In that thirty days we performed what can only be characterised as a miracle. We prepared a great Budget whereas the past Government came with a budget four months after taking office. All they could say was that we are going to borrow \$55 million and tax milk, bread and eggs. This Budget has depth, it has thought put into it. It has a degree of understanding of our economy. There has been no Budget which has previously come before in this country which equals it.

Madam Speaker, having contacted the intermediaries upon whom we have increased fees and given them a fair analysis of our situation, we have asked them for alternatives. The only alternative they can always come forward with is to cut civil service as if that is something that we can do overnight. We are committed to improving efficiency with the models of development we have gone through. This House must realise the industries in the private sector have not recruited as many Caymanians as they should have. So we do have a civil service that is a little bit packed. We do have the need to improve efficiency. But I will not be a part of a process that will constantly look at the civil service and call them inefficient. Some of our most capable Caymanians, some of our brightest Caymanians, some of the hardest working Caymanians are part of the civil service. The United Democratic Party truly supports and appreciates the civil service of this country.

We do not accept it as an option that we should not increase the licences of these institutions [and that] rather we should simply cut the civil service. Are they prepared to observe our civil service that has reached a high level in our hierarchy to an equal point in their hierarchy? We have people in managerial levels. When we cut their posts, as they suggest, are they suggesting that they will also see this and provide them with managerial positions and managerial pay? Madam Speaker, the United Democratic Party will not be a party to such an act. We will make the necessary cuts when the private sector partners with us agree to observe directly these individuals as outlined without any question by the leader of the private sector.

Madam Speaker, the issue of Government finances and how Government raises revenue is not a new challenge and it is not one in which we must try and reinvent the wheel. As far back as 1776, the greatest bank of economic knowledge was accumulated by Adam Smith in his *Wealth of Nations*, which is still being quoted by all of us when we talk about demand and supply. These same notions, when he developed the four Canons of Taxation, are still being used. They have still been proven to be the premise under which governments should design tax structures.

Adam Smith's notions have been ratified up until 1998 by Steil Guzzer, who is an outstanding Economist. In *Wealth of Nations*, from the four Canons of Taxation, Canon one states: "**The subjects of every state ought to contribute toward the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state.**" Madam Speaker, that particular Canon bears directly on the year 2002 Budget. The financial industry that we so enjoy, respect, and appreciate has been provided an environment under the protection of the State that allows them to reap great rewards. This Canon simply



states that the contribution to maintaining government should be proportional to their ability to earn.

Madam Speaker, the second Canon says: **“The tax which each individual is bound to pay ought to be certain, and not arbitrary. The time of payment, the manner of payment, the quantity to be paid, ought all to be clear and plain.”** This Budget has attempted that. We have clearly laid out, even compromised and stated they can pay us quarterly but the industry understands the terms and conditions of the revenue package.

Third Canon states; **“Every tax ought to be levied at the time, or in the manner in which it is most likely to be convenient for the contributor to pay it.”** Under that Canon we have stretched the obligation over the year

Fourth Canon states; **“Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible, over and above what it brings into the public treasury.”** That Canon is simply saying that the cost of administering the collection of a tax must be maintained as low as possible. We must understand that, when we extract money from an economy, government is then hoping to reinvest it, to redistribute it; but we are hoping not to pay too much in the middle for that redistribution and for that reallocation. These are the four Canons under which tax structures are to be designed and revenue measures are to be enforced. Two hundred and twenty years after they invented an introduction of these Canons Adam Smith received an award for those Canons.

Madam Speaker, in recent literature we see requirements for a good tax structure. Revenue yield should be adequate. We should not be imposing a revenue measure that is not generating an adequate amount. If it is not generating a few hundred dollars it is best to leave it alone. When we touch a revenue measure we should touch it adequately so that we do not have to revisit it next year.

The distribution of the tax burden should be equitable. What matters in this context is not only the impact point at which the tax is imposed but also the final resting place. I only read this to say, this Budget we are debating is one that is well thought through and one that adheres to time-proven and time-tested principles of revenue collection. We are simply asking for the financial industry in this country to pay a percentage to the government's revenue coffers proportional to their income. Madam Speaker, I want to highlight this point by adding that the financial industry of the Cayman Islands contributes 30 percent to the Gross Domestic Product. That is representative of the portion of earnings that they have under the protection of the state. The contribution to maintaining the state under this Budget is now equal to 25.6 percent. We are simply attempting to realign in accordance with the Canons of taxation the contribution to government 'coffers' with that of the benefits as reflected in the

financial sector's earning potential under the protection of the State.

Madam Speaker, I would like to simply reread Canon number 1; **“The subjects of every state ought to contribute towards the support of the government, as nearly as possible, in proportion to their respective abilities; that is, in proportion to the revenue which they respectively enjoy under the protection of the state.”** We are simply adhering to this particular principle. Now the financial industry will be paying proportionately.

Madam Speaker, I have outlined in a very short time frame the basis under which I am able to give my support for this Budget, under which I find myself for the first time as a representative of the people. Hopefully, I can be a part of delivering a Budget to this country that is balanced.

In my last contribution I attempted to find a label for the Budget that best represented what I considered the spirit of the Budget and I labeled it 'impotent budget.' I also searched this Budget but the one thing that always kept coming out is the reality; it is simply a balanced Budget. This Budget is not only balanced quantitatively but also balanced socially; a Budget that is balanced in the form that we are not borrowing for recurrent expenditure and making a positive contribution (close to 5 percent) of revenue towards our capital. It is balanced in that those who are receiving benefits under the protection of the state are now paying a balanced contribution to the state.

Madam Speaker, there are so many areas that I would like to go into. However, I do know that following me we have very able members of the United Democratic Party who will certainly fill in any blanks that have been left. The United Democratic Party is committed to the three Cayman Islands. They are committed to ensuring the right direction for this country. It would be remiss of me not to highlight what I consider to be one of the strong attributes of the Constitution of the United Democratic Party, that is that the decision body, the General Council, will be composed of equal representation from the six districts. Each of the districts will have seven Members to form the Council.

Madam Speaker, that is especially important for you and me and the other smaller districts with single representation. You and I know that when you come to these Chambers and you have districts with a greater number of representatives, those who have the small numbers have a lesser degree of weight. However, under the United Democratic Party structure each and every district is met at the table on an equal footing. Each and every district, the six Electoral districts of the Cayman Islands, is equally weighted when we are sitting down to make decisions.

I encourage this country to draw forces behind the United Democratic Party. We welcome input; we are an inclusive Government; an inclusive party; one in which not only the Elected Members, but all our members contributed to this process.

Madam Speaker, if I have said too little or too much, may it please you.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak?

The Fourth Elected Member from the district of West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker.

As I stand here in this Honourable Chamber to deliver my second Budget Address, I too would like to take this opportunity to extend my congratulations to you on the attainment of that high office of Speaker. I would like to say how in your short time there you have impressed not only the Members of this Honourable House and your constituents of Cayman Brac, but also the general populace of Cayman.

Also, I would add I have been pleased with the very positive responses given to you on your performances so far. I can say that in my duties as Deputy Speaker I can only hope that you will be there to assist me on those occasions when I will be deputizing for you. When those occasions do arise, I hope that I am able to conduct myself in a manner similar to the example you have so far set.

Madam Speaker, times have surely changed since my last contribution. Even though it is less than a year ago it has been nine months of change. In my humble opinion (and I know this is not shared by all Members of this Honourable House but, thankfully, by the majority of Members) those changes have been for the positive benefit of the Cayman Islands.

When I stood here during the last Budget it was to support it because I was a part of the last Government; the Government that made up the 2001 Budget. I did offer my support but I also made it quite clear at that time, I was not comfortable in supporting that particular Budget due to the fact that to achieve the Budget for 2001 it was required to not only increase fees of some \$19 million but also to engage in the unprecedented borrowing of some \$55 million. We know that those fees, where they were levied last, had an effect on what we all referred to as the 'common man.' That was a bit of an unpopular decision to make during those times.

Madam Speaker, looking back at that Budget and seeing that even with those fees and even with the borrowing at the end of this year we still had \$15 million short fall, it makes me realise that I should have been more worried than I was. Looking at the hard decisions that had to be taken at that time, and taxing the little man that we speak about, as hard as that was, in hindsight I can only say that I wish that I was part of a Government a year ago that was more willing to take the necessary hard decisions.

Now I sit in the House this year and listen to the contributions. So far, I hear Opposition Members, as well as the ex-Leader of Government Business, questioning all that could go wrong in the country be-

cause of our current Budget. We stand and we name the areas of concern and, in doing so, we hope to spread some alarm both locally and internationally. Those Members would hope that alarm would then transcend into an outcry from the masses because, as Opposition Members, I guess that is what they feel their job is—to try to alarm the masses. Well, Madam Speaker, I too would love to be able to see what the future holds. But in all our wisdom and greatness, the good Lord has not given us that ability. We have to then make the decisions based on the best judgment that we have.

The truth of the matter is that when we offer ourselves for these high offices as leaders, the people who elect us do not elect us to stand in here and question what could happen if we make decisions. That is what they are doing on the outside, Madam Speaker. They elect us to come in here and to use the information that we have available to us to make decisions regardless of how hard those decisions may be.

They expect that the responsibility given to us is to make the hard decisions necessary to carry our country forward. If all they wanted was for us to stand in here and question what may happen if we raise taxes, and who may leave, who may be upset . . . they can do the same thing from the outside of these hallowed Chambers. What they expect us to do is to come in here and make a decision and be willing to stand by it. We cannot be so afraid of making a decision or making a mistake that we do not make a decision and then we find ourselves in the same position one year later. Ironically, we do find ourselves almost in the exact position as where we were a year ago.

We had to borrow \$55 million last year and here we are presenting a revenue package for some \$54 million. It is not a coincidence that the shortfall we had last year—some \$55 million—is the same shortfall that we are looking to get this year. I assume the decision to borrow was easier than the decision to tax the financial industry one year ago. What that easy decision has forced on us is that, one year later, we are faced with the same decision again. If we were able to go out and borrow \$55 million again that would get us through this year and next year we would be back in the same position again trying to make up the shortfall of the \$55 million.

Thankfully, Madam Speaker, one of those changes that I talked about at the very start was the change in the leadership. This new leadership is now moving the country forward. The United Democratic Party is bold enough to make the hard decisions that are necessary to move us forward as a country.

Madam Speaker, in the contribution of the Second Elected Member for George Town [he stated] that decisions needed to be taken. "[The] **Government needs to sit down with the financial community just as it did when crafting the 2001 Budget. There is no point in shunning away from what many in the past have considered the 'sacred cow.'** The surest way to destroy this country is to

**increase the tax burden on the little man on the street who has a very limited share in the tremendous profits generated by the financial industry and big businesses.”**

**The Speaker:** Honourable Member, could you please refer to the date and page number for purposes of the record.

**Mr. Cline A. Glidden, Jr.:** It is 18 April 2001, and page 460 [of the Official Hansard Report].

Madam Speaker, how things have changed! One year ago, the Second Elected Member for George Town expressed his concern that the surest way to destroy this country was to increase the tax burden on the little man in the street. Now, one year later in his contribution, that does not seem to be that same concern. The concern has switched in one year to being a concern for the destruction, not of the little man or the Cayman Islands, but for the financial industry. The same industry he felt that having worked there for some 17 years, was not bearing its fair share of the tax burden.

I think it is very important to note he makes mention of the fact that the Government needs to sit down with the financial community just as it did when trying to put together the 2001 Budget. I want to say for the record that this Government and the team of which I was a part did sit down with the financial industry. The outcome is quite a bit different from what was achieved in 2001, but the initial start, the consultation, was the same.

The different outcome came about because when we sat to talk with the financial industry to explain to them there was a shortfall, to explain to them that the country was faced with a spiraling debt that was heading us in the wrong direction, once again that association made the same offer as in 2001. They said, *“Well, we appreciate you guys sitting down with us and we want to play our part. We want to be good partners, but we feel we cannot pay any more fees. However, we will be willing to lend you the \$55 million again.”*

The consultation process was the same but when we recognised that was the solution they were willing to offer we quickly realised that under the United Democratic Party leadership borrowing \$55 million to balance the Budget was not a realistic alternative—although under the past leadership that may have been acceptable as a solution.

When we met with them again we told them borrowing \$55 million to balance the Budget was not an option. The days of that type of partnership are over. We said we needed some new ideas. We needed them to step up to the plate and contribute. They replied, *“Well, if you cannot charge us anymore, there are other entities in the financial industry namely the lawyers and the accountants. For some reason you have not been charging them lately, so our fees are too high but we feel you can charge them.”* With

them we tried to come up with what we saw as a feasible plan to the dire financial situation the country faced.

When we spoke to them we mentioned that the fees were going to be increased not only for the lawyers and the accountants but for the banks as well. However, they got into scare tactics that have been used in the past. The fact was that, if we started charging the financial industry, they would leave and the country would be in a worse position. Indeed, a lot of the things we heard were very similar to what we have been hearing from the Opposition. Some of it was verbatim. In particular, when the Second Elected Member was quoting from the Cayman Bar Association. Those things were—

#### POINT OF ORDER

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, on a point of order.

**The Speaker:** Please state your point of order.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I am sure it was not deliberate, but the last remark [by the] Fourth Elected Member for West Bay was misleading. I never read a quote from the Cayman Bar Association in anything I said.

**The Speaker:** Honourable Fourth Elected Member from West Bay, would you care to expound as to why you said what you said before I make a ruling?

**Mr. Cline A. Glidden, Jr.:** Yes, Madam Speaker. The reason is that I was presented with a copy of the submission from the Cayman Bar Association about an hour before the Member started to speak on that topic. The presentation that he subsequently made was verbatim to the document that was given to all Members.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, perhaps we can check the *Hansard*. I did not read from any submission of the Cayman Bar Association. I did not have it.

**The Speaker:** Honourable Member, I do not have before me the copy of the *Hansard*. If the House wishes I can take a short suspension to look on that. Otherwise, it is going to be impossible to rule that he was stating verbatim. I remember the discussion and there was a lot of similarity. It does not mean from where I sit ... unless I can see the document that he was stating, because he did not ask for leave to state. I take it that moving within the integrity of the honourable Member that he was not actually stating verbatim.

**Mr. Cline A. Glidden, Jr.:** Thank you Madam Speaker. My apologies. I can say that it was very similar. So Madam Speaker, I will move on from there.

**The Speaker:** Thank you, Honourable Member, please proceed.

**Mr. Cline A. Glidden, Jr.:** Thank you too, Madam Speaker and again my apologies. It was very similar.

Our position with the financial institutions was that we did understand their concerns about having to leave the Cayman Islands based on the fee structure that we were proposing. We also recognised that faced with the dire position we were in and that money being the coward that it is, if we were not in a position to provide the suitable environment for those companies to do business here, they would be leaving anyway. If they were leaving because of the fees, or if they were leaving because of the social degradation and the fact that we could no longer continue to have the suitable and necessary authority to maintain the infrastructure allowing them to do business here, their departure would be imminent anyway.

We looked at our choices and realised there were none. The old methods of collecting revenue have been used over and over and we felt it was time to maybe get some fees from (as the Second Elected Member from George Town mentioned) the 'sacred cow' so many previous governments had been reluctant for whatever reason to go after.

So, Madam Speaker, when the reference is made to the need for consultation, let all know that there was much consultation. It is interesting that there is great cry for consultation now with the financial industry. None of those Members in opposition seemed to have been concerned or expressed the need one year ago for consultation with the little man when we found it necessary to put back duty on milk and eggs and whatever else.

Why is it that as representatives we seem to very quickly forget we are not only put here to represent the interests of the financial institutions and the big business on the Island, we are also here to represent the little man; the little person who is living on their \$400 allowance that Government provides; the little man that has to go to the store and pay the same thing for milk and bread that you, I, and the partners in those law firms have to pay. All of a sudden we are concerned about consultation.

You know it is funny. On 8 November I heard the same thing. I heard the Members that were against the Cabinet reshuffling and they were talking about the need for consultation. However, a lot of those same Members were involved in a process of making up a government less than a year before that. There had been much demonstration on the steps in front of the Court House. Actually, those Members were even a part of those demonstrations and so there was no call for consultation. It seems like the Members only know about consultation or the need for consultation when it is convenient for them.

Madam Speaker, these are difficult times. It is sad when Members think the responsibilities given to them as representatives are only supposed to cater to

certain aspects of the community. I am glad to say that the Government of which I am a part, the United Democratic Party Government, is an inclusive government. They are a Government that looks after and weighs up the balance and not just including the financial industry. When they are preparing a Budget they do not only look at what affects the financial industry and whether they are going to be upset, or whether the people have a council of associations that can represent their case. The United Democratic Party Government also looks out for the little man.

Again, Madam Speaker, one of the complaints we have heard about this Budget is that the timing was bad; there was not enough notice given; it was done in an ad hoc fashion. Maybe it is different for me, but in my short life I have received a lot of notices from those big institutions as well. On many occasions, I have received a notice from those banks to tell me my interest rates are going up. There is no consultation and there is no notice. I get a letter saying on such-and-such a date the rates are going up.

I saw an advertisement in the newspaper saying that all the banks have decided the prime rate is going to go up. It does not seem to work for me when I go to those banks and tell them it is the middle of the year and I already prepared my budget and I do not have the funds to pay the additional increases. I would like them to wait until next year when I do my budget again and then I will be able to pay the increase. That does not work. Given all the foreclosures I see, I know it is not only me that it does not work for.

There are a lot of people with whom the banks just do not seem to be that understanding and they cannot accept, such as those people who are living on a fixed income; those people who cannot pass on the cost to their clients. Those people that cannot get the additional raise or bonus now have to find additional money to pay for their mortgage to keep additional shelter over their head. It is not only the banks. I know the same thing happens to the law firms. If they are raising their rates there is no consultation.

I get notices from the health insurance as well. In the middle of the year they will come out and say they have decided that our premiums need to be increased. In the little man's case, maybe his Christmas bonus got cut because the partners decided they needed a bigger increase this year. Those little men do not have the choice of saying they cannot pay the increases and the creditors have to wait because their budget was already done for the year.

So, Madam Speaker, the argument put forward as to timing is just one of those things we also appreciate. No one wants to pay more. The good thing about this Budget is that we see it as strictly remedial. We have seen this increase as necessary for a while now. Successive governments in the past, whether because of their makeup or because of their lack of political will, did not have the foresight in making the increases that were necessary. We found a

situation where we were trying to play catch up to our budgets in the past.

In preparation for this speech I did a bit of research and I found it interesting to note that in 1999, the budgeted amount was actually \$283 million and we received \$279 million. In 2000, the budgeted amount for recurrent revenue was actually \$305 million and we received \$273.2 million. That is significant, Madam Speaker, because in the past what we have done is always come up with these balanced budgets because it is easy to project your revenue to match your expenditure. The reality of the situation is that for many years now we recognised that our revenue base was not sufficient to receive the revenue necessary to carry the country forward. Even though these increases seem to be very significant and of concern we are very optimistic that having made a change in our revenue base for this year this sort of increase will not be necessary for quite a while to come. We feel that this would have put us in the catch up position we needed to be in.

Once we have caught up and closed the gap between recurrent revenue and recurrent expenditure, the good ship Cayman will be on a good course for its future. Hopefully that will delay some of the concerns of those institutions out there who are talking about what will happen next year, wondering if we will be coming back for the same increase next year. We recognised, Madam Speaker, that the base which had been abused for so long, the import duties and the other licensing fee, we could not touch that again this year because it had reached saturation point. We also feel that the contributions from these sectors that have been increased this year have reached the point where the financial contribution is equivalent to the services they expect to receive from the country.

I think it is important to note that when we talk about the service in the financial industry and brag about Cayman being the fifth largest financial centre in the world, and the fact that we have some \$800 billion on deposit; we also have to take into account that the international powers that be see that bragging right of ours as a huge liability. They look at the fact that we have \$800 billion on deposit and ask how can a little Island of some 33,000 to 40,000 people with a Monetary Authority that is 1/8 the size of the Authority in New York (which is managing some \$250 or \$300 billion) regulate correctly an \$800 billion industry? We all know the international pressures that have come to bear because of those bragging rights associated with those deposits we have. That has caused us to look more closely and beef up our regulatory authorities in order to satisfy the international community that we are doing our part in regulating this money for which we have responsibility.

When we talk about the size of the civil service and we look at the big increases that have occurred, we will very quickly see the biggest growth has been in the Monetary Authority. There is good reason for that, Madam Speaker. We are trying to catch up as

well. Someone has to bear that cost and we feel the balance has been spread around. We now have a balance between what the normal citizens and our financial industry are contributing. We see good things for our future.

We know that the Opposition has a responsibility as far as they are concerned, to spread the gloom and doom. From a realistic standpoint, we see a bright future.

Madam Speaker, one of the things we see is a new efficiency in terms of the contributions of the Members. Before the formation of the Party, it was necessary for each Member to express their independent views; we now have the capability of having the views expressed for the Party. The other Members of the Party will only have to make the necessary contributions to maybe clarify some of the questions asked. I am happy to see that my colleague, the Second Elected Member for West Bay, did such a good job with his clarifications when he first did his presentation so that there very few questions that were asked afterward.

Believe it or not, I actually have a question about this process. I will only be able to get my question answered by the Third Official Member during his wind up. My clarification is strictly on the point that I have heard raised during this current Budget process and also during the 8 November Cabinet reshuffle. My clarification is concerned with a statement made by the First Elected Member for George Town, saying that on 1 November 2001 he had been told by the Honourable Financial Secretary that there was only a \$12 million short fall with the established targets.

Madam Speaker, the reason this is confusing for me is that I got involved long after 1 November when that Member would have been given the information. When I spoke to the Financial Secretary after we sat down to start going over the budget process, he informed me that there was some \$93 million difference. We all know there is quite a significant difference between \$93 million and \$12 million that has been stated. Therefore, I only can ask for a clarification as to those numbers because I know people have actually equated the 11 September tragedy to the Cabinet reshuffle on 8 November.

The Leader of Government Business has already done his part in saying how insensitive that was. If between the 1 November and, I guess around the 12 or 14 November when we would have been involved, there is some \$80 million difference, I agreed at the time that there seemed to be some sort of tragedy in the making. I am sure because I have every confidence in the Third Official Member, the Honourable Financial Secretary, that he will be able to clarify this misunderstanding.

Madam Speaker, it is interesting to note that it appears that the financial industry has decided that some of their employees will bear the brunt of the fees. I can only hope that was a bit of political manoeuvring and that they recognise the value of their

employees. When the Member from East End was making his contribution, he spoke about the world economy being down and things being tough all around. He then went on to list his concerns about the local employees of some firms whose bonuses or Christmas parties are reduced. Well, Madam Speaker, I too was given that letter from a private law firm whose employees are saying that their partners have decided that instead of them taking their cuts they are going to pass those along; or instead of the fees coming out of the shareholders equity at the end of the year they are going to take that money from the bonuses. As the Member from East End said, times are tough and as a Government we instituted a policy with the civil service in September when they placed a moratorium on pay increases and bonuses. This is what happens during hard times, Madam Speaker. Those are the things that accompany the financial downturns in the economy.

What really disappointed me is that having stated the case with the civil service that was in the Budget it did not bother the Member from East End. I did not hear him arguing or debating that the civil service was not getting a bonus. He was not coming here telling us, "*Well, why did you guys put a moratorium on them you are hurting those hard working civil servants?*" There seems to be a concern for the private sector. He had received a letter as well stating that some of them would have to do without bonuses or Christmas parties. My question would have to be whether that Honourable Member feels that the private sector employees are more important than our hard working civil servants? I would hope that that is not the case, Madam Speaker, but the question begs to be answered.

There are a few points of clarification needed on the issues of the Budget. I will try as quickly as possible to go through them, although I feel that those Members who were seeking clarification do know quite well as to what was being proposed. For the benefit of the listening audience and for the whole Cayman Islands I will try as much as possible to clarify the questions that have been asked.

The first one was on garbage fees. The Member from East End, being an ex employee actually a very high-level employee, of Caribbean Utilities Company, spoke about his knowledge of the industry and the fact that he did not see that system working. Well, Madam Speaker, I am happy to inform him that a system of tying garbage fees to utilities is a tried and tested system. It is used in many areas of the world, and the concept being not that you tie the garbage fees or the garbage collection to specific energy usage but that you create bands that would allow households that fall into those bands to be charged a fee. So if we have two households . . . I remember in his contribution he stated that you may have two households that are exactly alike but they do not use exactly the same amount.

With my limited knowledge of the way the power is distributed, I know that the variation between those two households will be slight if the households are exact. Of course, we will not have the exact usage but they will be within a reasonable and calculable range and so the proposal is that four bands will be established. I do not remember exactly but let us say the range from 100 to 200 kW hours and will fall within one band and then from 200 to 400 will fall within another band and the fees will be charged based on which band the user is in, not in a specific charge. So the fee will not have to be calculated. There was a concern about information being private from CUC. The fees will not have to be calculated on every day or every week or month that the individual uses because the individual will fall into an average band and that will be the fee that they are charged.

The Member also made a point of saying that Government should have its own database and Government should be doing its own billing, and I agree with him. I think that information systems are something that is very important to the country and I think that databases and information is very critical. The situation that exists is that the only current database that is correct, as far as households are concerned, would be CUC's database. I am happy to say that CUC has agreed to allow us to use that database.

It really surprised me to know that the Member from East End with his many years of experience in customer service and the whole billing aspect of utility services, would state that government should not get into allowing someone else to do what he felt was government's job of collecting their revenue or billing. The reason that amazes me is because on many occasions I have heard the need for government to use their partnerships.

It amazes me that if we looked at doing a billing cycle on a monthly basis and had some bands of bills, that an average person will be paying some \$5 a month or \$10 a month for garbage. One would have thought that that Member would think with all the experience that he has it would be feasible to do billing on a monthly basis for a \$5 charge. We know, Madam Speaker, that billing is one of the most expensive aspects. When you print the bills, you then have to mail those bills out and then you have to follow up. For a \$5 monthly charge it would be an inefficient Government that would be sending out some 16,000 or 20,000 bills at \$5 each when they could use electricity company that already have the database that already sends bills out on a monthly basis anyway who just has to simply add a line item and add garbage fees to that bill.

Once again, Madam Speaker, I am not sure whether I should attribute that to the Member not understanding, or I should take that with pride to say that the Budget having been presented so well, the Member really could not find anything of value to criticise. I guess I could take it as a compliment. Since I know the Member quite well, that is the way I will take it.

The other reason I know that the Member knew quite well how the system was proposed to work is because, when we go back to the consultation, this system was one of the proposals presented by the financial group of which Mr. Bobby Bodden was the chairperson. He has informed me that, during the development of the system he consulted with that same Member and the latter actually gave advice on how the system would work. Again, Madam Speaker, I am happy to say that it is a positive indication to me that the Budget was so good that doing what he saw as his job (being a worthy Member of the Opposition) he had to try to find something to oppose.

This is just for the general public, because I know that Member has this information. The reason it was important to go to CUC—and when we talk about the fact that the fees are not recognisable, they do not really think we will get the fees—was that our database for garbage collection is some 8,000 residential consumers. The CUC database for metered households is some 16,000 residences. That goes to show that we have somewhere around 50 percent of the people actually being charged for garbage who are using electricity. Even the Council of Associations had difficulty understanding why we would put those together.

It is pretty clear to me, Madam Speaker, that if someone is generating garbage in Cayman a good indication would be that they are using electricity. We cannot say that all houses that are generating garbage have pipe water. We cannot say that all houses that are generating garbage have cable TV. We cannot say that all houses that are generating garbage have telephone. But it is a pretty safe assumption that if you are generating garbage you have power from CUC. It is also a pretty safe assumption that for those vacation homes only generating garbage for one month or two months of the year their averages will be a lot less than the other people. This ties in very closely with the system that has been implemented of getting revenue comparative to the services you are providing.

Hopefully, Madam Speaker, the garbage situation is a bit clearer to those people who may not have understood. I think it is also necessary to state that it was very clearly stated that there is not a problem with the collection of commercial or apartment units. The system with a database in place currently working is pretty much spot on as far as information goes. The problem was with the residential collections and that is where we looked at tying it to the electricity usage.

While I am speaking of CUC, I need to also mention the Member's suggestion of reducing the duty on diesel for CUC. Now, Madam Speaker, I would hope that that recommendation is done to reduce the overall cost of living for our citizens. We have seen many instances when duties are reduced but those costs are not passed to the consumer. Regarding those savings, the Government would pass on by re-

ducing duty. Sadly enough, Government has no way of ensuring that those duties would be passed on to the consumer. Even though that might work out well for CUC or its shareholders, until there is a system in place that you can ensure that the duties are passed on the benefits that would be derived for the little man cannot be measured at this stage.

Madam Speaker, I think it is important to note that when the Member would talk about reducing that duty, I think the contribution is somewhere between 4 and 5 million dollars. It is unbelievable that a responsible Member could get up in the House and make recommendations about reducing duty on the one hand, then criticise the Government for raising fees to balance the Budget on the other. Is he proposing that if we expect to take that 4 or 5 million dollars from CUC that we have should charge the banks or the financial industry a bit more? It baffles me as to the method of accounting that is used.

We get up and we talk about reducing the fees (the revenue to Government) on the one hand, but then criticise it for raising fees on the other hand. Madam Speaker, I do not know if he was hoping we could get that change in revenue from the Drug Task Force or their confiscation of assets . . . or I heard him speaking of some other items, I am not sure where it was. All I can say is that type of accounting is baffling to me. Even though I do not have the accounting degrees of some of my colleagues, I would suggest that maybe that Member should either buy a new calculator or maybe hire one of our accountants on this side.

I think it is also necessary to say that the increase of fuel we are speaking about will go to the roads fund. He spoke at length on the fact that that would be an increase for the common man. He even mentioned how it would increase the cost of transportation for the little person using the bus. Madam Speaker, once again, I take his remarks as praise for a good Budget because 10 cents increase is insignificant on a gallon of gas. I could almost guarantee that if I was to ask that Member what the current cost of gas is now he could not tell me the cost of gas per gallon within 10 cents. The point is that a 10 cents increase is insignificant. We do not have the bus drivers adjusting their prices based on gas fluctuating by 10 cents. He knows that just as well as I know.

The problem is when you do not have anything good to say and you want to say something and you cannot even find something bad to say then all you can say is nonsense. That is the situation that we are at, even though that figure (10 cents per gallon) will not significantly increase the cost of transportation. I heard him make reference, hopefully mistakenly, to some 10 percent increase. It is an increase of 10 cents per gallon.

I know, Madam Speaker, when you go the gas station, as I do, you tell them to put \$10 worth in or you tell them to fill the car up; you do not ask what the price of gas is today. The cost fluctuates and you accept that a 10 cent fluctuation is within reason. As

to how that will affect the small man, it will be a very insignificant increase in the cost.

Now we go on to speak about the parking. There were some questions as to how the parking system would work. This included the fact that \$2.50 an hour for parking would be a great increase for the person who was paying for parking working and making \$1,500 a month. He would not be able to afford to pay. Madam Speaker, the parking proposal . . . and I hasten to add that this is another proposal that came through much consultation. This is another recommendation that came through from the financial advisory group.

For parking in George Town, the concept was that we would have specific zones. Depending on the type of parking you were attracting, there would be different fees. If you had a zone, the maximum one would be at a cost of \$2.50 per hour. That could be broken down into 15-minute increments or however it is decided to be done. However, if you were parking in front of the bank, and you are going to be parking for a 15-minute time frame you would pay a dollar for 15 minutes. If you decided you wanted to stay there for an hour, because it is a premium spot, you would be charged \$2.50. Most people, according to our feedback, who need to park in front of the bank and need to run in for a maximum of an hour maybe once a day or once a week, would be more than willing, if they had the opportunity, to pay \$2.50 for an hour parking in those highly needed areas of parking, but only on a temporary basis.

Right now what happens, Madam Speaker, is that whoever gets there at 7 o'clock in the morning parks there and they stay there for the day. So when the next person arrives and needs to use the banks they will not have anywhere to park so the parking system would be set up on a zone system—the more temporary the zone the higher the price. For those zones, like at the back of the Public Library where people park for long periods of time, then for time zones they would have maybe a dollar for every two hours; maybe a dollar for every hour and a half; maybe a dollar a day.

Recommendations have been made and the Second Elected Member from George Town said this is one of the ideas that he mentioned almost a year ago. The good thing, Madam Speaker, is that for some reason that Government of which he was a part made those good recommendations, however, for whatever reason, whether it was a lack of political will or maybe a lack of communication, or maybe it was any one of those things that caused the change in leadership . . . . The difference now we have a Government that has the leadership and has the ability to implement those good ideas that are being made by himself as well. That is why I can honestly say that I look forward to the future of the great Cayman Islands.

When I heard the contribution by the Second Elected Member for George Town, he also made

some very good suggestions as to what could be done with company registration and how those fees could be increased. He made reference to the fact that he got that information of knowing how the systems work from his experience of some 17 years in the industry.

Again, I do not understand why that Member who has those great ideas, who was an integral part of the Government of 2001, could not come forward with those ideas so that we did not have to go down the unpredictable and unprecedented route of borrowing some \$55 million to balance the Budget. Where were those ideas at the time when the Leader for whom he campaigned and got elected in George Town, was leading the Government? Why could those ideas not be implemented at that time? I am sure that it cannot just be that he wanted or he felt it was not in the best interest of the country to go down the route. I heard him say before in his contribution yesterday (on Monday) something about the Cayman Islands always being predictable. The financial industry had some idea so the fees would be predictable or the cost would be predictable.

What the last Government did was not predictable—when we go out and borrow \$55 million in one year it is not something that we can say . . . maybe it was predictable for the banks because their fees did not increase. However, I can guarantee Her Majesty's Government that, as one of her contingent liabilities, one of her Overseas Territories, it was not something that was predictable as far as she was concerned. If it was predictable it was in an area that she did not like predicting, so much so that she decided that in case that does become the predictable style of government and the predictable style of balancing the budget, she was going to make sure she would have a little bit to do with that prediction. She sent down one of her economists to ensure that that type of predictability was short-lived. Madam Speaker, I guess the news might have reached her late, but we recognised that was not the kind of predictability we wanted either. As a result, before she even sent her economist we made the necessary changes.

It took us a year to do it but we recognised that was the route we wanted to go. We made those changes and I am happy to say that, one year later, we are on a whole different footing. We have some of the private sector out there that are concerned. However, I am also happy to say that a huge majority of the private sector, even the private sector that came to meet with the Government on Friday and Saturday evening, gave its support.

The membership of that group, after having the open dialogue with the Government (again, on Friday and Saturday), on Monday expressed to us that they now recognised the position the country is in. The fact is that because of the reality of the situation, the choices they have are very limited. Actually some lawyers in the group said even though they do not want to necessarily pay more, they recognised the



country is facing a dire financial situation. They recognised they will have to pay more and all they requested is that they could have a bit of time to stagger their payments.

The good Government, recognising the value of the financial industry and wanting to ensure the vibrant economy we have grown accustomed to, very readily agreed to stagger those payments. To make it as easy as possible for our corporate partners to make their contribution, without finding themselves in such a difficult position that they could no longer continue to enjoy doing business in the Cayman Islands.

Madam Speaker, I think it is important to note as well, that when we get those individuals out there talking about how uncompetitive we are becoming as a jurisdiction, a lot of that is also the scare-mongering and the tactics that have been used in the past. If you have a company and you are doing business in the Cayman Islands and you are making a healthy profit, (and we know that they are not here because they are not making a profit), but your fees are such that you are now going to have an increase in fees. You are complaining that the reason Cayman is becoming uncompetitive is because you are going to have to pass those fees along.

As a responsible business person, if you think your fees are making you uncompetitive, the sensible thing to do is to reduce your profit instead of passing those fees along that would now make you uncompetitive and drive you out of business. When we talk about the fact we are going to be uncompetitive with other jurisdictions the only reason why those fees will go up is if those Members insist on retaining the same profit levels.

When economic times are tough everyone has to make reductions. If those Members really are worried about us becoming uncompetitive, I would humbly suggest that they take (and instead of passing them on to those clients which may now go to other jurisdictions to operate) a reduction in profits for this year and maybe next year, until our economy is back where we want it to be. I do not think that the businesses we have are that silly or greedy to pass the fees along which would mean they would now have to shut down the business so that this year they can maintain their usual levels of profitability. If that was the argument coming from maybe the Opposition just trying to find something to say, I could understand it.

Madam Speaker, the other thing I need to clarify before leaving is that when we talk about what the actual tax package is to the financial industry. I have heard Members of the Opposition get up and talk about the \$55 million or the fact that it is close to around \$50 million. Maybe they are using the same calculator but from the \$54 million I take out \$9 million in health fees, \$3 million in parking fees, \$1 million in gasoline tax and \$1 million in parking, and I get to somewhere around a tax package of \$36 million that is being presented to the financial industry. The Opposition spoke about how high the package is if we

take into account that our tax package this year we also have to consider that last year we borrowed \$55 million, we raised taxes of \$19 million and at the end of this year we still have \$15 million shortfall. So, even though the Opposition would try to express the bad state that the Cayman Islands are in, I am already happy with where we are going for 2002.

Other Members have spoken about how the Government has already instituted cost-saving measures. I want to say that a lot of those measures have been very difficult political decisions. When we talk about cutting the civil service or grants, that some people may feel are not deserved, the people who are used to getting those are the civil servants who are now employed. They are going to be very negatively affected. Like the Second Elected Member for Cayman Brac rightly said, we are not going to arbitrarily do anything to negatively affect our Caymanian people. We want and we support a very scientific approach to making the reductions that are possible to increase the efficiencies of Government.

I also need to speak about the bands that were established. There was much discussion about the bands that were established for the firms and how it appeared that those bands were intended to be a disincentive for the law firms or the accounting firms to increase in size. This is one of those points that I see as complementary, but just to make sure that everyone understands the reason for bands; there was some discussion or recommendations made that it should be on an individual basis. The problem with doing it on an individual basis is, if you have a company and you have five members and you have to move to six members there is going to be an increase in your trade and business licence of some \$5,000 or \$10,000, so you are going to think about that increase. Then when you want to move from six to seven you are going to have another \$5,000 or \$10,000 so you are also going to be thinking about that increase and for every increase there will be further consideration of the costs.

What the band system will accomplish is that when the company grows from the size of five and they move to six and they pay that additional fee, very quickly they will realise that they have the leeway now from going from five to ten without worrying about any other increases. From a business perspective it makes sense for them to then go out and invest in more Caymanians and train more people to move from being at the start of that band to now being at the end of it, because they are paying the same amount anyway. What company would want to stay at six members knowing they could also be at ten and not pay any more? If I had to pay additional for moving from six or seven, and from seven to eight, and from eight to nine I can see that as being a disincentive.

Madam Speaker, when we have the Opposition Members who are getting up talking about the half-baked ideas, I want to say to them that these measures were well thought out and well-baked. We

see these plans working not only to raise revenue but also to encourage our corporate citizens out there to increase the size of the companies and in doing so to train Caymanians. We have also tied the work permit fees, the dependents' fees, whatever we could tie, to encourage people to see the value in training Caymanians and making the investment in Caymanians. That is what the United Democratic Party Government is about—moving the country forward and building Cayman for us Caymanians.

Madam Speaker, the time is late and even though there is much more that could be said about such a good balanced Budget...

*[Pause with laughter and chattering]*

**Mr. Cline A. Glidden, Jr.:** Madam Speaker, those Members who are saying they have not heard anything good about this Budget may be listening with the same ears they have been listening with in the financial industry for 18 years, which have not allowed them to be able to make a significant contribution to a budget.

*[Background outburst of laughter]*

**Mr. Cline A. Glidden, Jr.:** Maybe it would be good that when we are moving Cayman forward, when we are training our Caymanians, we also offer training for those Members who, even though they have been in the industry for a long time, are still only able to make a very limited contribution.

**The Speaker:** Honourable Member, will you be near completion within the next few minutes?

**Mr. Cline A. Glidden, Jr.:** Yes, Madam Speaker.

Madam Speaker, my only duty left is a very pleasant one, that is to take this opportunity to wish you and all the great staff who have allowed us to continue the country's business for the last year and to wish all the people of the Cayman Islands a very happy, safe Christmas, and a blessed New Year. Also to say, knowing you will be doing quite a bit of travelling between here and Cayman Brac and Little Cayman during this season, I wish you and your family safe travel and look forward to the continued working relationship with you.

I also want to say, Madam Speaker, that, as the Leader of Government Business and the United Democratic Party have said, we recognise the value of the position which you have offered yourself to hold and we will do whatever is possible to ensure that your job as a representative of the people of Cayman Brac and Little Cayman is as good if not better than in the past.

With that I finish, Madam Speaker, and to say thank you to all Members for their indulgence and for staying to this extended late hour to conduct the country's business.

**The Speaker:** Thank you, Honourable Member.

Before calling on the Leader of Government Business I should wish, by way of information, to inform all honourable Members that tomorrow the Deputy Speaker will indeed take the Chair to allow me to attend official duties in my constituency and I wish in advance to thank him for his courtesy. I call now upon the Leader of Government Business for the adjournment.

## ADJOURNMENT

**Hon. W. McKeeva Bush:** Madam Speaker, I move the adjournment of this honourable House until tomorrow, that is, 10 am Thursday, 20 December.

**The Speaker:** Thank you Honourable Leader.

The question is that the House be now adjourned until 10 am tomorrow, 20 December. All those in favour please say Aye. All those against, No.

**AYES.**

**The Speaker:** The House now stands adjourned until 10 am tomorrow.

**AT 6.24 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 20 DECEMBER 2001.**



**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**20 DECEMBER 2001**  
**10.20 AM**  
*Ninth Sitting*

*[Hon. Cline A. Glidden, Jr., Deputy Speaker,  
In the Chair]*

**The Speaker:** I would like to invite the Second Elected Member for George Town to say prayers.

**PRAYERS**

**Mr. Alden M. McLaughlin, Jr.:** Let us pray:

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

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

Let us say the Lord's Prayer together:

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

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

**Proceedings Resumed at 10.22 am**

**The Speaker:** Please be seated. Proceedings are resumed.

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

**The Speaker:** I have received no apologies.

**The Clerk:** Item 3 - Statements by Members of the Government.

**Mr. D. Kurt Tibbetts:** Mr. Speaker, just before you allow statements by the Government, there were two documents that I was supposed to table from two days ago. I crave your indulgence to be able to table the documents.

**The Speaker:** So ordered.

The Honourable Minister for Education, Human Resources and Culture.

**STATEMENTS BY MEMBERS  
OF THE GOVERNMENT**

**PARTIAL COLLAPSE OF SOME CEILINGS AT THE  
GEORGE HICKS HIGH SCHOOL**

**Hon. Roy Bodden:** Mr. Speaker. Thank you for your kind permission to make a preliminary statement on the partial collapse of some ceilings of the George Hicks High School and the implications related thereto.

On Monday when staff arrived at school and prior to school starting, it was discovered that the ceiling in a Social Studies classroom building, phase 3 of the George Hicks High School had collapsed. I visited the school this morning having received reports from my senior staff on Monday and Tuesday, as well as preliminary reports from the Public Works Department and the firm of engineers.

I regret to inform you that the damage is substantial and that further investigation has put 15 classrooms out of commission. Students and teachers from the Social Studies block were relocated following the discovery and upon the recommendation of the engineers; the use of the aforementioned classrooms has been discontinued until a more detailed examination of the structures can be done.

Mr. Speaker, I am disturbed to find out from the principals that the Public Works Department's verbal report indicates that 6 two-storey blocks are showing structural weaknesses. The Department is expected to give their written report as well as an indication of what action they recommend by the end of the week.

In the meantime, end of term activities at the school as usual and school will close as scheduled at 12 noon today. Arrangements have been negotiated with Pastor French of the adjoining Church of God Chapel Family Life building for temporary use of some classrooms when school reopens on the 7 January. In

the meantime, I shall give a full report on the cost and other implications for this unfortunate situation as soon as this information becomes available. Thank you, Sir.

**Mr. V. Arden McLean:** Mr. Speaker, can I be recognised?

**The Speaker:** The Elected Member for East End.

### POINT OF CLARIFICATION

**Mr. V. Arden McLean:** Thank you, Mr. Speaker. For the last three days I have noticed that there are no questions on the Order Paper and maybe we could get an explanation from the Government as to why there are no questions being placed on the Order Paper.

**The Speaker:** I will ask the Deputy Chairman of the Business Committee if he would like to respond.  
The Honourable Minister.

**Hon. Linford A. Pierson:** Mr. Speaker, it was taken that we would give every opportunity to Members of the Honourable House to debate the Budget once started, without interruption. I understand the query raised by the Honourable Member from East End and I will certainly convey his sentiments to the Business Committee.

**The Speaker:** Does any other Member wish to speak?

The Honourable Minister for Health.

## GOVERNMENT BUSINESS

### BILLS

#### SECOND READING

##### THE APPROPRIATION (2002) BILL, 2001

##### DEBATE ON THE BUDGET ADDRESS

*(Continuation of debate thereon)*

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker, and I assure you that I too am somewhat confused at getting it right because only 42 days ago I was the Second Elected Member from Bodden Town and I now find myself as Minister of Health.

Mr. Speaker, I think I am privileged to see politics and parliamentary practice and procedure grow and evolve while I am a Member of this House. For you, today, are in the Chair filling in for the Speaker, you being the Deputy Speaker. In most territories, the Deputy never reaches the Speaker's Chair. As I recall, certainly your predecessor did not have

such an occasion to do so. So, I would like to compliment you and I am sure you must be feeling a bit strange but up until now you have done a good job. I have every confidence you will continue during the course of the day. I think it is also quite historical and I do not know if it has happened in any Parliament that you are in the chair as Speaker, and your father is the Serjeant-at-Arms. It is indeed something that I think is very unique and perhaps it is the first, and I would like to compliment you both.

Mr. Speaker, as I have noted, changes in political conditions in the Cayman Islands took place over the past 42 days to where I find myself as a Minister of Government and the Minister for Health, District Administration and Agriculture. I am not altogether lost in the business of Government since most of my early career was spent as a Civil Servant and indeed I left Government as the Permanent Secretary for Tourism. So now, instead of just preparing submissions for Executive Council, I have the opportunity of actually presenting the papers in the Executive Council and I do claim to know something about something. I do claim to have some knowledge about government and its workings.

I am also proud to be a Member of the United Democratic Party. It is not the first time there have been political parties in the Cayman Islands. There were large political parties in the 60s and for various reasons, these parties fell away. I heard an explanation given by Mr. Burns Ruddy, a few weeks ago when we made the formal announcement that he believes that one of the reasons was that the Cayman Islands Constitution was not that advanced at that time in the 60s. Indeed at that point there was not a Cayman Islands Constitution—we were being ruled directly from Jamaica and those among others were the reasons the parties fell away.

I have been an advocate that the only way to properly carry out the business of parliamentary democracy under the Westminster system is through political parties. Unfortunately, over the years there have been persons, among whom have been Elected Members of this House, who have used the very thought of having a political party to create fear and anxiety in the population. It continues even up until now. For I have heard all sorts of remarks made regarding the formation of a political party. I have heard people unknowing go so far to say that it is illegal to have one because it is not in the Cayman Islands Constitution.

I suppose the only constitution that one could find any mention made of political parties might be that of the former Czechoslovakia, the USSR or Cuba and those types of countries. A political party is no more than a social club brought together or started by people who subscribe to certain political aims and objectives. They declare, hold their first meeting and they carry on the business as it is set down in their constitution and you have a political party and the workings of a political party. Now, anyone else may

choose to challenge that but I would ask them to bring clear proof otherwise. Including the Labour Party in England, the Conservative Party in the United States and the Democrats, I do not know that anyone can go to the Constitution of the United States and find where that constitution talks about the Democratic Party or the Conservative Party.

So, to say the least, it is nonsense, but then nonsense is spread around our society in immense portions. Having said that, I know I am not part of an illegal organisation in the country. Also, if it was illegal, no doubt we would have the police, the Legal Department and all other such entities taking steps to stop or to hinder it. So those of us who are members, our great task is to do what parties do; live under the discipline of the views of the majority in the party. That is, not the Elected Members or the Parliamentary Members of the party but indeed the citizens who direct and instruct the Parliamentary people as to what and where they want to see priorities placed and the way forward to achieve them.

In the weeks, months and years ahead, of course the task will be of living under the discipline. As a people we tend to break up into factions and discipline tends to be the last thing we want to deal with. I believe that this is one case that that will not be so. The strength of the Members that I see in the United Democratic Party, particularly the new Members of this House gives me every belief that the discipline will have to be maintained and particularly, I think the Ministers will be well advised to stay within what is the majority position.

Mr. Speaker, the fact that I am only 42 days old as a Minister of Government, needless to say I have no past to defend but I do believe I have a future not to offend. It is my intention as far as is possible and to the best of my knowledge to live within the Laws, regulations, practices and procedures of this House and also that of the Executive Council.

Today, Mr. Speaker, we are here to debate the Budget Address for the year 2002. I would like to make some general remarks on that before I go on the specifics, which have been assigned to the Ministry for which I am responsible. Before proceeding there, I would like to thank the staff that I found in the Ministry of Health who has been extremely supportive since I have been there. I find them well informed on the subjects for which they have been assigned and must attend to.

I have also had the opportunity of meeting with staff from some of the other departments and they have also pledged their support to me in the way forward. I wish for it to be known that it is my desire to work with all staff in all departments. As I have noted, I am not a stranger to the Civil Service therefore, I do have some advantage in working in my present capacity.

I wish all staff in the departments to know that I do not see my role as one of punishment or of upsetting persons or systems or whatever. My role is to of-

fer management and administration of these departments to set the broad policy outlines and to work towards seeing them being carried out. The Governor who is in charge of the Civil Service has given me his commitment that he will support my efforts regarding staffing and matters relating to staffing and I take him at his word that he will do. So, I think the stage is set where I can proceed and hopefully, we can proceed together. All of the staff in the departments with whom I have to work; I ask them for their professionalism, which as far as I am concerned from a practical stand point, is no more than doing the job which is required of them in the best and most efficient manner.

Mr. Speaker, this Budget is indeed a balanced Budget. I also think of it as a reality Budget for we have reached a point in the Cayman Islands where all of the years of plenty has come to the years of not so much. There is a scarcity of money in this country at this time, particularly, what is available to Government for Government to carry on its business. This was found by the Government prior to this one and various statements were made with regards to this fact. Certain steps were taken to alter that situation but on the brink of reaching the year 2002, the present Government was faced with some serious realities. These realities were that one of two things that could be done; either the Government could borrow more money which the banks indicated they would lend at favourable, reduced interest rates or there was opened to the Government to bring some revenue measures.

Mr. Speaker, I now know because of where I am at this time, that the British Government does not want the Cayman Islands borrowing any more money. I have seen documentary proof of it. In fact, I have also heard this said in many words. Our country has reached the point where this little country of 40,000 people is dealing with Budgets of \$300 million. That in itself is an unrealistic condition but for us it is reality.

The costs to the Government have risen to a point where we as a developing country — I will not term as a Third World because I think we have moved beyond that — are attempting to live a First World life. We have to have paved roads, the very best in technology, the very best in education, the best in health services; we have to have the very best in everything. I am not saying that that is a bad concept; what I am saying, Mr. Speaker, is that it costs money.

There is always the criticism of how effectively and efficiently the Government handles money. In every country of the world that is a criticism directed at governments but that is where we are. The normal and usual way is to tax the poor people. I opposed the taxes earlier this year brought by the previous Government because it came in areas that hit directly at the average poor citizen—milk, eggs, bread—that type of thing. There are certain staples which are normally affordable because an egg is one of the best sources of protein there is and we know that bread from biblical times was referred to as the staff of life,

so if they can be available, at least we know there is some reasonable survival.

The last Government saw coming into effect this year, certain fees on banks; on some businesses at a certain level and amounts. However, the reality now is of necessity that those fees be increased because that is the only way forward, for it is not possible anymore to tax the consumer items. We cannot tax spirits or cigarettes anymore, what is referred to generally as the *sin* tax, we cannot do it. It has reached the point where we cannot do it anymore, we cannot go beyond that. So, Mr. Speaker, this Government was faced with the reality as is shown in the revenue measures which have been placed before this Honourable House.

Mr. Speaker, much has been said via the newspaper, the television, the radio, people calling in and all the rest of it. They have been going on and on about the evils that have been brought on by the tax measures which have been proposed. I think this Honourable House and the country need to know that the voices of the private sector were heard. I have been in meetings with representatives of the Bankers' Association and I was very glad I was there for more reasons than one; I got an education. I learned, for example, that our claims about having 600 banks are not true; that is not a reality. I understand that in reality, we have about 125 banks. The others referred to, actually do business as banks would do but for one thing do not reach that real criteria where there are people doing business on a daily basis, in fact, banks are managing banks!

So, that is not a reality for us. I also learnt that the business about us having \$800 billion of assets being managed in the Cayman Islands; is also not true. We may have about \$250 billion I am informed and these people have to know. I make that point to say that it seems to me that unreal boasting has placed us in a position where we have to pay for that boasting. The OECD (Organization for Economic Cooperation and Development), the FATF (Financial Action Task Force) and all of those other organisations are making us pay for this unreal boasting. They are making us pay for that by the \$13 million expense for the Monetary Authority, which supposedly must be set up to manage assets of \$800 billion, when it is not true. There are demands right now on this country and on this Government to increase staff in certain areas in the Monetary Authority, which is an additional expense. So, we are paying for boasting for what cannot be established in reality.

My position, Mr Speaker, it is very simple. We are to get to reality and stop the foolish boasting and talking about things that are not so; working with what is real and not dealing with the unreal. The costs include the Monetary Authority, the demands by the OECD and external forces to the Cayman Islands that are forcing the Government to add more costs to its revenue. Now who do we seek revenue from to meet the cost for government? Do we go again to the little

man with the eggs, milk and the bread or do we ask our partners in the financial sector to come to the assistance? That is, if they do not exist perhaps the Monetary Authority exists because it is a vehicle needed to monitor, supervise and report on the financial sector. Those costs can be directly related to the financial services in this country so in turn it is only logical that we look to them to contribute some more to the revenue so that we can meet the mounting costs.

The Monetary Authority is expected to regulate and supervise this \$800 billion on deposit but if I ever had an education, it was listening to those learned bankers talking about how these are little blips on the computer screen in and out overnight supposedly deposited here but they never . . . there is no such reality. If managed locally, the monies would be in much, much lower amounts. So, Mr. Speaker, I think the House should know and the public should know that we met with representatives of the financial sector.

Last Friday evening we met at 4.30 until almost 9.30 in the night with persons from the financial sector. It was about 17 people. We met with some of those people on Saturday morning, just past 9 o'clock until 6 o'clock in the evening. On Monday, the House started late, while we were meeting with persons from that sector and I think that the meetings were good from this perspective. Those persons were given the hard cold facts of the Government's financial condition and they heard the Government's position.

Those persons were asked to tell us if there was an alternative and we would make the changes, but please realise that this is the amount we need to have to run Government for 2002. There were no alternatives; so those persons said, *'Well, it should be spread out over a longer period of years.'* However, how are we going to spread it out from 2002 to 2004 when you need it in 2002? That was the reality of the situation and time was not cut. Everybody took as long as it was possible and necessary for everybody to have their say.

I hear and see what is said on the outside and what they are saying through the media. However, when we were meeting with them they were not saying the same thing. They understand well and they were not telling us that it was going to cause any law firms or any banks to shut down or any such thing, but of course, everyone must play to the media and there is no entity in the world that is better for criticism than government; any government including this one.

Therefore, Mr. Speaker, this House needs to understand that what we heard when we were in closed sessions with these persons that it was possible for the revenue measures to be brought into place but as they put it and I repeat, *'It will have considerable impact.'* It has to; nobody is trying to deny that. It has to, but what is the alternative? No one came up with any alternative. I do not know that there is any alternative.

Mr. Speaker, they said that the Government has to do more to reduce expenditure. I think every day that Government operates it should be looking at ways to save to be more efficient. There are ongoing measures; in fact, the last Government put out an edict that says; *'Look, salaries are frozen where they are. No more increments will be given. We are not going to fill posts which exist in the Budget because we cannot maintain or reduce the cost to Government'*.

There have been cutbacks in the Seamen's and Veteran grants to make it possible for Government to realise the savings. Mr. Speaker, it is not fair or responsible what the media is doing at this time. Generally speaking, it does not take sufficient time to really find out what the situation is and they are more than happy to publish anything to sensationalise. Let me give you an example of how serious it was from my perspective. The day before we finalised the Budget, persons from the Budget office came to the Ministry and said we need to cut back Health Services by another million dollars. I did not try to argue with them. The Permanent Secretary and I discussed the matter. I said well, call the management in and see if it is possible.

Over the weekend they came up with ways of cutting another million dollars out of the Budget for the Health Services, but it included cutting something like 27 staff which included Caymanian nurses and otherwise and when that came to me I said how can this be real. Well, they said that is the only way that we can do it. I said well, how will it affect the delivery of Health Services, well it could not. If we had made those cuts there would be problems at Accidents and Emergency, and in different parts of the Hospital to deliver the service that is there. That is the kind of reality that we are dealing with. Now when I think of those types of conditions, Mr. Speaker, I see the people who live in the multi-storey buildings here and do business and manage the millions and the billions and collect the large fees for it.

However, I know there are only two stops when people become sick. That is, the Chrissie Tomlinson Memorial Hospital and that one up there off Smith Road, that gets a lot of bad mouthing. However, no matter how much they have or how many planes they can bring to Cayman to fly them out, they have to find some place to perch if they become seriously ill in a moment, then that is one of those places. Do they want that? Do they want us to reduce the capability of the hospital so that in emergencies we cannot meet them, because supposedly Government needs to cut back more? I do not think any of them would advocate that, yet they keep saying Government has to cut back more.

There is, Mr. Speaker, right now in place a process of cutting back. There is in place an ongoing exercise to review the whole civil service by members of the Civil Service College in England and they will be going department by department to see if it is pos-

sible or where it is necessary to cut back posts. However, we cannot allow efficiencies to be cut back because if we cut back those efficiencies it will be the financial services sector and the private sector the first to claim they are not getting service, they cannot get replies and the Civil Service is not performing. It is a vicious cycle.

Mr. Speaker, I think it is right that a petition (it is titled) was hand delivered to the Legislative Assembly from persons who state that they are Caymanian administrative staff and trainee attorneys at Hunter & Hunter and HuntLaw Corporate Services Limited. It was hand delivered here to all Members of this House. They supposedly were petitioning us to not bring any revenue measures, which would mean that the Budget would be short of \$54 million which would be deficit budgeting or we would have to cut back \$54 million worth of service. Some arguments were put forward on this which I think is very sad, for I do not believe that this emanated from the lower administrative staff on their own. In fact, I know it did not if I am to believe what the petition says.

I would like to read a part of it and I quote, **"In our opinion the increases which have been declared are altogether so exorbitant that they should be labelled as irrational. Our firm has had to immediately eliminate all staff Christmas bonuses and all anticipated 2002 salary increases which were due in January in an attempt to meet the new Government demands that will become payable shortly if passed into law."**

The civil servants lost their bonuses from August of this year, no more increments for them and that was well before Christmas. Christmas bonuses (if I remember correctly) were due the 14<sup>th</sup> of this month when the Budget was delivered. Further on in the letter they asked what they must do and so forth. I quote, "With the loss of our yearend bonuses the Merry in our Christmas has been completely removed." Mr. Speaker, I say to those persons (and I do not know who they are) I believe that their management took a hideous position as a means of terrorising them to try to terrorise us into attempting to do something which was inescapable. If five or six days before Christmas day they are going to stop their bonuses, I say that they did not want to pay them their bonuses in the first instance. If there was a Christmas party that was being held it could not have cost that much that they should not have a little merriment in their offices. That is my position.

I would invite the Minister for Labour to instruct his Labour Department (he has a better name for it now; Employment Services Centre) to take a careful look at the situation in Hunter & Hunter Corporation to make sure that there is not afoot what is called constructive dismissal.

**The Speaker:** Could I ask the Honourable Minister if he would lay the document that he is reading from, on the Table?



**Hon. Gilbert A. McLean:** With pleasure, Mr. Speaker. I will have a copy made and laid on the Table.

Mr. Speaker, this is the kind of situation which exists in our society—one of reaction and one of unreality. Do I believe that by this firm or other large law firms having to pay an increased fee to the levels that the bands provide, they are going to go out of business? No, I do not. And they will increase their fees and pass it on to people like you and me when we use their services or those whom they serve in the financial sector. Is it going to have that shocking situation that everybody is going to withdraw their business from the Cayman Islands? No, I do not believe that.

Where do they take it? Do they take it to Turks and Caicos, like we hear they are doing, or do they take it the British Virgin Islands? Well, the fact is (and I have been reliably told since I have been in Government) that those other territories who are doing more business in quantity than us right now are in for some belt tightening too because they are going to have to dance to the same music the Cayman Islands is dancing to with regards to the external forces; FATF, OECD and the like. So, again we want to keep this in real perspective instead of unreal perspective, Mr. Speaker.

However, do I think it was good to meet with the private sector? I do, Mr. Speaker. In fact, it is something I recommend to the Government and all of my colleagues that we make it a regular practice to meet with those stakeholders, if not partners. So that they know what is happening, what is ongoing and that they know the reality of what is happening in Government. There is one thing that I think that we have to be grateful for and that is the passage of the Management and Finance Law.

I think we have to be very grateful for the simple reason when the members from the private sector said it was sudden and they did not know about it, that is the truth. But why? We have a foolish way of developing a budget that it virtually remains secret until it is tabled in this House. I think that is the height of foolishness. At least the new Law makes it possible that Government finances will be reported on quarterly and that budgets, henceforth and forward, must be circularised to everybody affected; all of the associations, all of the private sector, civil servants and Government alike, and feedback is taken. That is the kind of budget that I am proud to be associated with.

Of course, another major thing that is coming into effect with that is that the fiscal year in the Cayman Islands will be from the 1 July to the end of June, which means that fees and taxes will not come crashing down on everybody in Christmas time when everybody is spending what they do not have anyway. So, that is a most positive thing to look forward to.

Mr. Speaker, the Cayman Islands have created an environment over the years that has made it possible for banks, law firms, accounting firms, company management firms and all and sundry to come here and set up business in the Cayman Islands and

make large profits. However, they have never been called upon to contribute to what they could do and to the extent that would be representative of the amount of business and profits that they make. Mr. Speaker, when there is a crunch smart business will try to absorb some of the expenses by lowering their profit margin and also find ways and means forward.

Does anyone want to see mutual funds leave the country or banks shut down or accounting firms shut down? That would be madness to believe that such would be the case. Nobody wants that to happen, that is the last thing we want to happen, but it is the reality that this coming year the Government finds itself in a position where that money is needed. It is shown in the Budget; it was shown to the furthest extent to those persons with whom the Government met over the past days.

One of the areas that Government might be able to save money is through being able to reduce the requirements in the Monetary Authority. When we find out that we are really not as big and great as we say we are, that might have been a feel good situation but in reality it is not. I believe that the Government, and particularly the Financial Secretary, will all have to sit down and factor in reality to deal with the forces external to us and then we can all come to some kind of reality.

Mr. Speaker, I can assure you that as recent as yesterday my colleague, the Minister for Community Services . . . we are the new boys on the block and only yesterday we had our hands on a document which showed us an analysis of Cayman's financial standing which was quite sobering and belt tightening. It has been all over and is in progress even now. I think it is appropriate to say that one of the most difficult conditions in dealing with this Budget has been the way it has been treated by the media.

I would like at this time to draw attention, Mr. Speaker, to something which has occurred in very recent times in relation to what I called irresponsibility on the part of the daily newspaper, the *Caymanian Compass*. Cayman is such a strange country. We are a society that would instantly like to believe something bad about one another rather than something good. If it is something good we instantly want to treat it in a derogatory fashion or to be critical of it. It seems to me the *Caymanian Compass* has fallen directly into that culture or perhaps is enhancing it. I want to point out where it could have been a wonderful opportunity to have informed an unknowing public . . . and I would like now to refer to a few quotes, Mr. Speaker, from the *Caymanian Compass* dated Thursday, 6 December 2001, on the front page under the Caption "New House Seating Order." I quote:

**"Members of the Legislative Assembly appear to have engaged in a game of musical chairs. When the House resumed yesterday morning, few of the Members were sitting in their usual chairs. The United Democratic Party was moved enbloc to the seating on the right hand side of the Speaker.**

**In the past these seats have been occupied only by the Elected Official Members of Executive Council. Also, the Official Members have been moved down the Chamber.**

**“The seats where the Official Members sat to the immediate right of the Speaker are now occupied by the Elected Members of Executive Council. The front bench contains the Leader of Government Business, Mr. McKeeva Bush, the Deputy Leader, Mr. Linford Pierson and Education Minister, Mr. Roy Bodden. Behind them are Ministers Mr. Gilbert McLean and Dr. Frank McField with a lone Backbencher, Mr. Lyndon Martin. In the next block of six seats, in front of the three Official Members in their normal order; Chief Secretary, Attorney General and Financial Secretary.**

**“Behind them are Backbenchers Mr. Cline Glidden, Captain Eugene Ebanks and Mr. Rolston Anglin. On what must now be considered ‘Opposition side’ Mr. Kurt Tibbetts occupies the front seat to the immediate left of the Speaker; Mrs. Edna Moyle sits behind him; Mr. Alden McLaughlin is in seat three at the front and Mr. Anthony Eden behind him. East End MLA, Mr. Arden McLean cuts a rather lonely figure as he sits on his own at the far end and back of the second block of seats.”**

Now, Mr. Speaker, I believe that this was written in a way and with a tone to continue to stir the upset in some quarters in this country since the reshuffling of Government. I believe it was deliberate because had anyone associated with this newspaper who has editorial authority or whatever inquired of the Speaker or Clerk they could have been told why the changes were made. Mr. Speaker, since it relates to the proceedings of this House, I would like to say why.

*[Inaudible comment]*

Mr. Speaker, as I noted earlier a political party has been formed in this country—namely, the United Democratic Party. It carries with it certain responsibilities and certain things that must be done in a certain way. In Executive Council we the Members spoke with His Excellency, the Governor on the issue of seating in the House, to bring the seating in line with convention and practice and procedure under the Westminster system of Government.

His Excellency contacted his superiors in the United Kingdom at our request to inquire if anything would be wrong with it, they said no. It has nothing to do with changing the precedence, that is, the hierarchy of the Official Members in the House. The seating in the House is purely a matter for the House. Of course, they would not have been so contemptuous of Parliament to talk about playing musical chairs. I am coming to that comment in a moment too.

We, the Elected Ministers, naturally conferred with our colleagues (the Official Members) who understood clearly what was being done, who received the communication from the Clerk that the House

Committee’s recommendation from the early part of this year, that is, the seating should be done by function rather than district and they knew what was happening. Copies were left as well and circulated to all the other Members and everything was set down on that except the seating of the Government side.

It was left to the decision of the Honourable Members on what is the Opposition side. Whether they want to call themselves Opposition or not that is strictly their business but that brass object on the dais, Mr Speaker, is representative of the Crown on one end and the foot of it on the other. Opposite that mace is six: the Government to the right of the Speaker and the person who is the Leader of Government Business (or if he had an advance constitution would be chief minister, prime minister or premier) who would sit directly opposite the head of it.

The senior Ministers sits on what is called the Front Bench and the other Ministers would sit on what would be the Backbench and their Backbench Members would sit with them. That is where the word ‘Backbench’ comes from, and that too is set down in text. The Opposition side or the side for any independents or whatever, sit on the left of the Speaker. Now I have an authority for that Mr. Speaker, it is called Erskine May *Parliamentary Practice and Procedure*, and I have also a ton of other books that I have been consulting over the past days that pose this point. But I would like to quote Erskine May, page 178, 22nd Edition, where seating of Members is concerned, the ‘Places of Members’; it is stated here and I read first on the Lords:

**“The arrangements for the seating of Members of the House of Lords are, in theory, governed by the House of Lords Precedence Act 1539. In practice, these arrangements have been modified for the sake of convenience in debate on modern party lines, with the Government and its supporters sitting to the right of the Speaker and the Opposition parties sitting on his left. Members of the House who do not wish to attach themselves to any particular party usually sit on the Cross Benches.”**

Under Commons: **“In the Commons no place is allotted to any Member.”**

I stop there and tell the reason why. There are 650 Members of Parliament in the House of Commons and there are about 400 seats so there are not enough seats for all of them. I learned that in 1989 when I went as an attachment and was there three weeks with the Commonwealth Parliamentary Association. If you want a seat in the Commons get there early or you will not get a seat. And if you do not, you stay outside.

Therefore, **“... no place is allotted to any Member: but by custom the front bench on the right hand of the chair, called the Treasury Bench or Government front bench, is appropriated for the members of the administration.”** The Front Bench on the opposite side (although other Members occa-

sionally sit there) is reserved by convention for the leading Members of the Opposition.

Now I wonder whether the *Caymanian Compass* will go and publish that for the benefit of the general public instead of letting it appear that people like me and others can chase the Attorney General and the Chief Secretary out of their seats.

Mr. Speaker, for some reason the media in this country have never chosen me as one of their friends, although I do not know anything that I have done except (like now) get up and have the courage to tell the truth and they do not like it. They have a role to play in this country and if they are playing the role that they should, they should understand that informing the public factually about what is happening in the country is part of their duty. However, like so many things it is not done the right way.

There is another matter that we need to get right here when carrying out the business of this House and of this country. There is in Government the Executive arm, the Judicial and the Legislative arm. Never in a democracy should the three meet. The *Caymanian Compass* does not (nor does the other media) go writing stories in a similar manner, fashion and tone, about the courts across the street. They would fear contempt of court. They can give the court 'respect' (since I do not know if that is a reality) but they do not do that. However, the people that sit in this Parliament regularly get disrespected by name or by things that they do.

Mr. Speaker, the media should also be aware of one thing: Parliament is the court of last resort. Parliament can sit as a court and they may want to read up a little on parliamentary history to understand that and what it means. They may want to understand that it is contempt for them to have anything to say or spread on the streets through the media even about the behaviour of Members in this House. That is also the case here. This is a very special place, this Legislative Assembly, and misbehaviour is handled by the House. If Members do something that is in contempt of the Chair or otherwise it is handled by the House just like the judges handle misbehaviour among the lawyers. Somebody has to get that right and understand that.

It is a shame what is going on, particularly since 8 November, where the *Caymanian Compass* seems to have taken a dislike to what has occurred or with whom it has occurred. It is not their business! It is the business of the people! Their reporting must be accurate and to the point without any dressing or flair or whatever else—that is the way it should be. I believe it is important, Mr. Speaker, because it also relates to the Budget and the way things are said about the Budget.

[Inaudible comments]

**The Speaker:** Honourable Minister, I just wanted to ask whether the House would want to take its morning break or whether we wanted to continue.

**Hon. Gilbert A. McLean:** Mr. Speaker, if you would, I would not mind having the break. That is all right with me anyway.

**The Speaker:** I will suspend proceedings for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.51 AM

#### PROCEEDINGS RESUMED AT 12.22 PM

**The Speaker:** Proceedings are resumed.  
The Minister of Health, continuing.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker. When we took a suspension I was speaking on matters of proceedings in the House. This debate is a proceeding and I took the opportunity to comment on the fact that there three arms of Government—the Executive, the Judiciary and Parliament—and that the three have separate functions and in a civilised society the three do not meet because then it would be a perversion of democracy.

Mr. Speaker, I would just like to make a few other comments in regards to the freedom of speech in Parliament. I think that is very necessary because again what has been happening, particularly here in recent times, is that anything that is said by the political directorate of the day or indeed here in the House is latched onto as being criminal. For example, the most common remark that I have heard from the time I can remember is 'you getting away with murder' and so on as an expression that became something here in recent times. That remark supposedly made in here was creating even a greater fear and anxiety in the world about the things that are supposedly happening on the world scene.

The Cayman Islands Government was distressed and bleeding and needed us to attempt to bring a budget which has some revenue measures which will impact on a sector of the society, but that has become something far beyond that.

Mr. Speaker, I think we should also, at this point in time, know the concept of freedom of speech in Parliament. I would like to quote again Mr. Speaker, from Erskine May, *Parliamentary Practice*, 22<sup>nd</sup> Edition, page 83, which says, "... **final legal recognition of the privilege of freedom of speech in both Houses of Parliament is to be found in article IX of the Bill of Rights 1689, which states that the 'freedom of speech and debate on proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.'**"

It goes on to say that, "This chapter considers in turn the practical effect of article IX on freedom of speech within Parliament itself, its applica-

tion to the publication of parliamentary proceedings beyond the precincts, Parliament's exclusive cognisance of its own proceedings, and the significance of expressions in article IX, 'proceedings in Parliament', 'impeaching' and 'questioning'."

Mr. Speaker, to further make the point I would like to quote from a book called *Parliament Functions Practice and Procedures* by J.A.G. Griffiths and Michael Riley. On page 94, under "Application of Privilege Today", it is very enlightening. I am still speaking to our proceedings in the House as it relates to this Budget debate, the media, and the way the media is treating the matter. It reads, and I quote: "Parliamentary privilege has been developed over a very long period. Some matters are firmly established especially the freedom of speech and debate and other proceedings."

"The central point has not been challenged since 1887 when in *Dillon v. Balfour* the court declared that it had no jurisdiction in a matter involving words spoken in the House. This freedom is essential for the effective working of the House. Under it everyday Members are able to make statements or allegations about outside bodies of persons and sometimes inoffensive language which they would hesitate to make without the protection of privilege."

"This is often criticised and undoubtedly the privilege may occasionally be abused. However, the freedom to make allegations—which the Member genuinely believes at the time to be true or at least worthy of investigation—is fundamental. Such allegations for example, might relate to possible corruption by a police man or abuse of power by some powerful person or public body or sale of dangerous toys or fraud by financial businesses or breaches of health and safety regulations in a factory. The Member might not be able to present detail evidence in support of his statements which would stand up in a court of law. However, without this freedom, parliamentary scrutiny of the executive would be muzzled and individual Members' defence of the interest of their constituents and others would be severely constrained."

Mr. Speaker, as I have said, the media and the country on a whole believe that they respect their Executive and show the courts great respect. However, it seems in some instances that the court may be misled or not well enough informed about the freedom of speech in Parliament to be able to support what I am saying and what happens to one in their personal life, is what one knows best.

I wish to refer to two pieces of correspondence I have. I personally am growing tired of the disrespect paid to the institution of Parliament and the Members of Parliament. I do not necessarily speak here of myself, I speak to all of us, for as I said, for whatever reasons I do not seem to be the golden boy of the media and there have been many of them now.

However, Mr. Speaker, on 7 June the Clerk of the Legislative Assembly got a Memorandum from the Commissioner of Police, which was rightly copied to me since it affected matters relating to this House and its proceedings and I would like to read it—

**"Request for Transcript. As a result of inquiries being conducted by the Royal Cayman Islands Police Service it has become necessary to obtain a transcript of MLA, Mr. Gilbert McLean's contribution to the debate on the Throne Speech which took place on the 29 March 2001. In the event a transcript is not yet available a tape recording of Mr. McLean's speech will also suffice. Thank you in advance for your assistance to this matter. Please do not hesitate to contact me should you require any further information."**

**"Yours sincerely,**

**"D. Thursfield, Commissioner of Police."**

Now Mr. Speaker, I know the Police can arrest me on lots of things—if I break the Law. However, I guarantee the world that he or no one else can arrest me for what I say in this House! There has also been a more recent correspondence from the Attorney-General who wishes to review my speech in the House and this was sent to the Attorney-General on 23 October by the Clerk of the Assembly and it reads:

**"Dear Mr. Ballentyne,**

**"Further to your request I enclose a copy of Hansard, unedited extract of the proceedings held the 26 March 2001."**

**"Yours sincerely,**

**"The Clerk."**

That relates to March when I spoke about the court that was held on Sunday and at the time was buzzing around the place in all the media. However, now it seems that somebody, definitely under false impression or without knowledge or not understanding, believes that they can investigate me for what I said in here related to that. I understand that this comes via entities associated with the Judiciary. I will ask them to stop. And, Mr. Speaker, I would like to table these two documents.

**The Speaker:** So ordered

**Hon. Gilbert A. McLean:** I respect the courts, Mr. Speaker. I respect the Executive Council. In fact, I try to show respect to everybody. That is the way I was raised and that is the way I want to live and the way I want to die. I think it is time that we as Members show each other the required respect in all instances. That is not to say that we will not have disagreements and arguments or we will not criticise one another. However, when it comes to Parliament and the things which can be said in here, they cannot be challenged

or in anyway questioned before the court or anyone else.

I think that has to be made clear and it cannot be in contempt of the court because all of us reserve ourselves so that we do not make remarks which are contemptuous of the court. Certainly, I did not. I have read the extract, and nobody suggested that to me but I do not want anybody investigating me for what I said in this House. What I read awhile ago from the book called *Parliament* shows what was in order when the Member from East End raised the issue and tabled the document, he did show someone being out of order in questioning or making contemptuous remarks about Parliament and what Members say here. Therefore, Mr. Speaker, I think it was necessary that I should make those comments and I thank you for allowing me the opportunity to do so.

Mr. Speaker, going back more specifically to the Budget, I think that we have reached a point in time that all of the prior years have caught up with us. I do not wish to attempt to be critical of the last Executive, the prior governments or whatever. It has come along like a stream or like a river until the point it has reached now and there has to be corrective measures.

One of the things that the members of the private sector asked us when we met was whether the 2003 Budget would also contain revenue measures. The answer to that is no, because just as we have run out of anymore ability to tax the items which have always been taxed (the consumer items, customs and so on), certainly the enhancement measure now proposed in this Budget takes the private sector and the financial sector up to a level for 2003. I think it would be somewhat insane to believe that one would go to tax that again. However, it is an adjustment which for as far as is possible has brought the levels and the items all to this point. Therefore, after this, I think we have to find the means to perhaps create efficiencies, to privatise certain operations but we have to find other ways and means forward other than taxation. Certainly, we have to stop borrowing!

Mr. Speaker, the Government as you know is in the process of continuing the question of being able to benefit from a bond issue. It is expected that once that can be completed, in effect we would be paying one bill. That should reduce the amount the Government is paying and therefore should also show a savings.

I would like at this time to turn to the subjects that have been assigned to me as Minister for Health Services, District Administration and Agriculture and comment on them. In so doing, I hope also to prove and show the fact that no one is trying to make up any stories about the need for enhancement to Government revenue because it is a real serious thing indeed.

Before I turn to that let me say for the benefit of all that I will be the last one in the Cayman Islands that ever says the media should be muzzled. I will be

the first to say that the media has a responsibility to publish the facts as they are without any perversion of the truth.

Mr. Speaker, I would like to comment first on Health Services and in so doing I wish to comment on the scope of the business of the Ministry as it relates to Health Services. That is, to realise the state of wellness among the citizens and residents of the Cayman Islands based on the World Health Organisational definition of health, which is not merely the absence of disease or infirmity but a state of complete physical, mental and social wellbeing.

It also must work to ensure that the population is able to gain access to affordable and appropriate medical treatment. Perhaps not all of us are familiar, and certainly I was not, with just what the Cayman Islands offers as health care facilities. But we are fortunate to have government health care facilities that are among the best in this region.

In the Cayman Islands 2000 Annual Report it said, and I quote, "**The Cayman Islands Hospital is a modern 139,066 square feet two-storey facility with a total of 124 beds.**" The hospital offers services through a critical care unit, a neonatal intensive care unit, a seven bed extended care unit, an ambulatory care unit and an observation room.

**"At least one doctor is available [on the hospital compound] around the clock. There are three operating theatres; a dialysis unit; physiotherapy, X-ray and laboratory facilities, a pharmacy; a morgue; and forensic and drug testing laboratory. Other facilities also include outpatient specialist clinics, administration offices a professional library and medical records section."**

There are Health Centres in East End, North Side, Bodden Town and West Bay and there are also clinics for dental and eye care. Faith Hospital has eighteen beds, and provides a high level of primary and secondary care to our Sister Islands Cayman Brac and Little Cayman. In addition, a 24-hour emergency service is provided. In Little Cayman we have expanded service there by increasing the visits by medical officers from Faith Hospital on the Brac to twice per week and stationing a registered Nurse there permanently.

For capital development in the 2002 Budget, it is projected for Health Services, development projects of \$3,624,575. A large proportion of this funding will go towards completing the new inpatient units, which will offer services for mental health, care of the elderly and hospice care on Grand Cayman. These are growing areas of need including one which was not that way before, that is of mental health and a lot of it stems from drug abuse in our society.

A master plan for the development of Faith Hospital on Cayman Brac is being prepared and presented to the public on the Brac. The expansion is planned over a five-year period in five phases and is expected to cost approximately \$5,000,200. A recent review of the plan indicates that the hospital emer-

gency room and clinic facilities are inadequate. Plans are being prepared to upgrade the facility with equipment in 2003.

A new location for the Health Centre on Little Cayman is at the design stage. It is proposed that the hurricane shelter which houses a school in one section will be fitted out to accommodate medical and dental services. This will allow for increased space to accommodate staff to improve health care services for the residents on the Island. This is also planned for 2003.

The 2002 projected recurrent expenditure to operate the Health Services, Mr. Speaker, is \$44,150,865. Over 60 percent of this amount covers personal emoluments. The total staff of the Cayman Islands Health Services, which includes public health, dental, ambulance service, and services in Cayman Brac and Little Cayman, stands at approximately 722 employees; 504 established posts, 218 group employees. There are a few officers employed on temporary relief contracts. Only 45 percent of these employees are Caymanians. There is an extremely heavy dependence on expatriate staff in the Health Services particularly in the technical auxiliary field.

Faced with the rising tide of expectations from the people and a reduction in financial and other resources, we are looking for solutions to reduce the high cost of providing health care in these Islands. Our decisions need to be focused on not only what is in the best interest of patient care but consideration must also be given to the cost of the service.

In light of the severe economic constraints faced by Government, I think we all need to recognise the importance of the need to change the perception of the role of health from one that is welfare and consumption-oriented, to one that can make an important contribution to the economy. Mr. Speaker, for too long we have developed a perception that health services delivered by the Government Health Services facilities are to be delivered free. It has spilled over into the health insurance sector and seems to be growing daily. What is certain is that we cannot continue to fund public health services entirely from general revenue. I can, Mr. Speaker, assure you that the Government of the United Democratic Party is working to ensure that a certain measure of health to all members of the community continues and to make provisions for those who cannot afford the cost of medical care.

Mr. Speaker, there is the perception that care received on Island is not as good or as sophisticated as care received overseas. It is a growing problem and we have found in many instances that we will find individuals who really have no means whatsoever of meeting any costs of health services demanding to be sent overseas and there are growing instances where they seem to have been sent.

The debt to the Health Services Department currently stands at approximately \$50 million and about 53 percent of this is related to the cost for overseas treatment. I can acknowledge that this debt has

accumulated over many years, nevertheless; it is money owed to Government. Steps are being taken to collect (albeit in small amounts) from individuals and it will have to reach a point where some of these funds will have to be collected via legal action.

There is also money which is going to have to be written off because it will be uncollectable. It is my intention as Minister responsible for this subject now to get as quickly as possible, a true analysis of this amount. Where it is considered that the money cannot be collected, I will be bringing to this honourable House a request to have it written off. It does not help anyone to keep it appearing in the accounts when we know full well that it is money that will never turn up again.

The Government has a contractual agreement with Baptist Health Systems of South Florida for tertiary care services, which is currently under review. We must find more effective ways to contain the spiralling costs of providing tertiary health care to those for whom Government is responsible for providing free medical care and at the same time to ensure that the quality of overseas care to our patients is not compromised.

The Ministry has obtained the services of William M. Mercer Incorporated to advise the Government on the setting up of self-funded health scheme. This consultancy firm will also be advising the Government on the terms of an extension to the present agreement with Baptist Health Systems of South Florida which expires in March of next year. This extension is an interim measure to enable us to put in place a system where the Government will have a greater choice of hospitals overseas. Mr. Speaker, to expand on that, I wish to inform the House that I have had the opportunity of meeting with persons associated with Mercer Incorporated and I have said to them that nothing is sacred in this regard.

They have been asked to examine thoroughly the agreement we have with Baptist Hospital. I have also told them that it would be the policy of this Government to be able to avail itself of the services of any top quality health facility in Florida and not necessarily be tied unbendingly to one.

It is my understanding, Mr. Speaker, that there are various hospitals that excel in certain areas of specialisation and we can as easily refer patients for specific treatment to these as referring it to one particular facility. I have asked the consultants to examine all options and give an analysis of each one with details as to how it could be achieved.

Mr. Speaker, regarding capital acquisition, it is projected to spend over \$1.4 million with a significant portion of this going towards purchasing a new hospital information system. My predecessor in the Ministry had set up a committee to examine this and it is simply staggering to know the amount of money that is being lost because the system is not functioning the way that it should be. It is presently ten years old and it no longer suits the need of the organisation. Busi-

ness has changed and we have to keep up with the times.

There is a need for data collection that can be used to manage the service and inform the decision-making process. The new system will allow for data on illnesses to be linked to data on the cost of providing the service. Other benefits include improved health care, increased revenue, reduced expenses and reduced patient waiting time. Mr. Speaker, as I said that has been an ongoing process that I have been able to encourage. There has been a marked improvement in the collections. There is a consultant in place who has been doing training and particularly at the point of registration where so much has been missed in the past. It has improved considerably and with the new system it is expected to provide a comprehensive electronic system within the Health Services. That will link the Eye Clinic and Dental Clinic and all the various sections and departments of the Health Services.

Mr. Speaker, the amount collected this year is significantly higher than in previous years. It is expected that approximately \$8.9 million will be collected by year-end. Progress has been made in strengthening the procedures and systems needed to enhance the Health Services revenue position. In addition, on 4 December, the Executive Council approved the Report and Recommendations of the Health Insurance and Health Fees Advisory Committee regarding health services fees and collection. This is the recommendation of the committee (which I referred to earlier as having been set up by the previous Minister).

An implementation committee chaired by Ms. Andrea Bryan, Permanent Secretary, will ensure the recommendations are carried out within the required time frame. In 2002 an anticipated increase of \$9,485,000 is expected due to the new improved system. The Ministry proposes to increase health fees and charges for service at Government health care facilities as provided for by the Health Services Fee Law 1999. The increase will be in two phases: effective 1 January 2002 and 1 April 2002. In the first phase there will be an overall increase of 30 percent of the present fees and charges and the introduction of fees and charges for services being provided free of charge because they are not currently listed in the schedule to the Law. In the second phase it is intended that the new fees will approximate the cost of providing these services.

Mr. Speaker, as hard as it is to believe, there have been dozens of services delivered by the Health Services department which could not be charged simply because they did not appear in the schedule attached to the Health Services Fees Regulations. I have found through this report which has recently been completed that 85 percent of the health service delivered by the George Town Health Services Department are being given free. So the fees have to be increased and they have increased to the level that

they are at least meeting the cost. In fact, to do otherwise, is against the Finance and Audit Law.

The Government is not supposed to give services which are less than the cost. A Bill has been circulated regarding these fees, Mr. Speaker, and they [have been] figured and factored into the 2002 Budget. The fees have not been increased since 1993 which is about eight years, during which time the cost of providing health services has risen dramatically and it is being heavily impacted by costs of goods and services obtained overseas.

It is my understanding that the Members would wish to break at this time, if it pleases you, Mr. Speaker. It is fine with me.

**The Speaker:** We will suspend proceedings now for the lunch break and will resume at 2.30.

#### PROCEEDINGS SUSPENDED AT 1.04 PM

#### PROCEEDINGS RESUMED AT 2.47 PM

**The Speaker:** Please be seated.

The Honourable Minister for Health continuing.

**Hon. Gilbert A. McLean:** Thank you, Mr. Speaker.

When we took the luncheon break, I was speaking on the Health Services fees. An increase is required which is expected will provide a meaningful part of the revenue coming into Government in the year 2002. The rising cost of providing health services without rising fees has resulted in a growing revenue short fall. Some examples of this are: in 2000 only five out of 34 sections of the Health Services department generated enough revenue to cover their expenses. In 2000, potential revenue of only \$20 million was generated while expenses were \$39 million. In 2000 an overall increase in revenue of 85 percent was needed to match the expenses of that year which I mentioned earlier that in truth, put another way, meant that 85 percent of services generated or delivered are unpaid.

Mr. Speaker, I think the House should also know because that it is a matter that has to be dealt with. Right now the number of persons covered by Government Health Services who receive free medical is approximately 11,000 people. These include civil servants and their dependants, veterans, seamen and indigents.

An exact breakdown of this is not available at this time although it has been an ongoing effort to get this information. All the Members of this House, including you, in the Select Committee on health insurance, were of the opinion that it would be well for Government to have a data bank. That would provide information to the Social Services, Health Services and to Education, on people who could not meet the costs in these three areas, including Education where requests often come including waiving school fees and book fees.

To date, this information is still not available in totality. However, since I have been in the Ministry there has been an effort to get some information via the Pensions Office and out of Social Services and of course, what the Hospital itself can do. It is most important to have a data bank so that the Health Services can at least reach towards its maximum potential; by being able to clearly separate the persons who can pay and who should pay versus those for whom Government must pay. In 1995 during a strategic planning exercise a national health plan was developed which established a policy direction for the Health Services Department. A review of the National Health Plan is scheduled for January 2002.

The Health Services Department is well aware that we have reached the stage where there is a greater need to continue to provide quality care in an environment where funding is limited. My predecessor is in office again as a result of the support and encouragement of all members. During times dealing with the health insurance they started the process of drafting certain legislation to establish a health services authority. This, I intend to follow up most vigorously. The Health Services Department cannot continue any longer as a department of Government where it is slowed down by the normal bureaucratic process, where management has to wait for the laborious process and they need to respond quickly with staff and otherwise.

Certainly, when it comes to the collection of fees and charging for fees, it cannot continue in the present vain it is going. It requires a system which can be realised through a health authority to really make the situation work. The department right now is undergoing significant changes and the major thrust is to assimilate the new staff into a team of excellence where the motto is 'Caring people, Quality Service'. The Ministry has released to the Health Services department the clinical services and reconfiguration of clinical services reports and a strategic financial plan for the Health Services Department.

Commissioned by the Ministry from District Audit in the United Kingdom: The report from District Audit identified a number of management issues that need to be addressed if the achievement of the financial plan is to be realised. The National Health Plan calls for collaboration between Government and the private sector. I have already made an effort since becoming Minister of Health Services, to meet with health care professionals in both the public and private sector. I have also sought input on the draft Health Practitioners Bill. This Bill has been looked at by the Legal Department and it has taken into account various representations that have been made by health practitioners and allied workers in the health services field. I hope to have this ready to bring forward to his House in the first Meeting of next year.

Where representations have not been included in the Bill, there are good reasons for not doing so. The Bill provides for the establishment of a health

practice board and councils for doctors, dentists, nurses and midwives, pharmacists and professions allied with medicine. This will represent a comprehensive piece of legislation. It will also, as best I understand it, bring us forward into more modern and realistic legislation for health services. The Ministry's key objectives for 2002 are to:

- i. Secure the enactment of legislation to provide for fee increases for medical services as well as to oversee the strengthening of revenue collection systems in the Health Services department.

- ii. To monitor the implementation of the master health facilities plan for the Islands, and

- iii. To bring to the Legislative Assembly the following legislation: revised regulations to accompany the health services fees, a revised Mental Health Law, a revised Health Practitioners Law, a revised Pharmacy Law and accompanying Regulations and the Health Services Authority Law.

Mr. Speaker, the matter of health insurance must be dealt with and must be dealt with speedily. It cannot continue to function as it has been doing. We cannot continue to force the people of the Cayman Islands via the law to pay for health insurance coverage and when they faithfully pay, then go to seek health coverage; medical professionals are unwilling in some instances to accept it. They are expecting these persons to pay them while they the insured must go and collect from the insurance. It was never intended that way and it has to change.

I would also at this time offer a friendly bit of advice to the health insurance companies: I do not expect the fact that there is an increase of fees at the hospital (which is very little more than was there before) to be a reason to try to raise the costs of premiums to a level which makes it even harder for persons to pay. I would suggest they think of all the years that they have been paying far below what would normally have been required of them.

In any event, this is something which must be addressed speedily and I have indicated to the Government that as a means of assisting the Ministry we will be looking to hire an actuary or a firm which offers actuarial services, to really tell us what is the present status in terms of costs in the Cayman Islands; what is being earned or lost by insurance companies and what would be fair costing overall in the field of health insurance.

District Administration has been assigned to me and I welcome the opportunity once again to be associated with the Islands of Cayman Brac and Little Cayman in this regard. I thank His Excellency the Governor for so deciding. It has always been a place near and dear to me and where I have had the privilege before of serving for two terms as a representative of those two Islands. I also wish to thank the Chief Secretary who has seen to the administration of the Islands until the change was made. I intend to visit the Islands officially sometime in the first of the New Year and look forward to meeting with staff and discussing



with them their various priorities, problems and aims for the New Year.

Government continues, and certainly the United Democratic Party, to give its full support to Cayman Brac and Little Cayman and to continue working with its two representatives in achieving what is best for the community.

Agriculture is also a subject for which I hold responsibility. The scope of business for the ministry as it relates to the department is to develop sustainable agricultural production; in order to promote measures of self sufficiency and food security compatible with economic reality for the Cayman Islands; to preserve and protect the state of health and well-being of plants and animals and so indirectly, to promote the wellness of residents through dynamic planned development.

The Farmers Market reorganisation is progressing slowly. The Agricultural Development Committee is conducting a review of the Farmers Market. A new co-operative framework has been proposed and has joint venture ownership. The management and board have indicated that the following two items are necessary before the restructuring can take place:

1. The Government loan guarantee that was approved in Executive Council on the 12 June 2001 and for subsequent ratification by Finance Committee. The Budget and management unit has confirmed for several months now that the item is included on the Finance Committee Agenda.
2. The request for a formal lease arrangement for the Farmers Market site from the Civil Aviation Authority. This application has been slated to go before the Civil Aviation Authority board for a decision for several months.

A new drafted Aqua-culture Development Policy document is almost complete and ready for submission to the Ministry. A recently revised proposal from the Harbour Branch, Oceanographic Institute in regards to aqua-culture is also pending. Mr. Speaker, I had occasion about a week or two ago to attend a meeting of the executive of the Agricultural Society. I saw a report which was done from a visit to Florida, by the previous Minister, which related to aqua-culture development. I must say I was immensely impressed with what can be done in the growing of conch, shrimp, fish and of various sea foods. In my opinion, it obviously is an area that we could move to develop and I will certainly be following through on this in every way that I can and encourage the department to move forward in this regard.

Furtherland Farms submitted a proposal several months ago with regards to a banana ripening venture they plan to initiate. They are seeking Government's support for a change in duty on imported ripe bananas, but indicated that they plan to move ahead with the project regardless of whether Government changes the tariff or not. Input was sought from the Department of Agriculture, however, no decisions had yet been taken at the Ministry level in this regard.

Proposed capital works include an abattoir, a dog pound and pesticide facility to be built at the Lower Valley compound. These projects are in various stages of design and development.

A draft pesticide regulatory framework has progressed and should be ready for Government's consideration in the near future. May I say, the matter of regulating the use of pesticides is something quite critical and will also be something which I will follow up with in the months ahead. There has been progress made in this direction and I shall endeavour to have such legislation done and brought to this Honourable House as soon as possible.

The key objective is to continue to strengthen measures to ensure the protection of plant, animal and human resources in the Cayman Islands via the provision of a draft Pesticides Control Law with regulations and the completion of a revised plant law for submission to Executive Council. Also to pursue the development and design plans for the construction of an abattoir in Grand Cayman and the physical facilities for the Department of Agriculture station in Spot Bay in Cayman Brac.

a) From the perspective of Civil Aviation Authority as we know it is a statutory authority incorporated under the Civil Aviation Authority Law 1987. The current statutory instrument is the Civil Aviation Authority of the Cayman Islands Law 1997. It is comprised of a chairman, deputy chairman, and seven other members, three of whom shall be public officers. The Government appoints members for three years or at the Governor's pleasure. The functions of the Authority are carried out through the director of Civil Aviation. It is a unique organisation, in that; its functions include responsibility for four distinct disciplines. These being:

1. The regulatory authority responsible for the safety oversight of airport and flight operations;
2. The provision of air traffic control and air navigational services;
3. The responsibility of an airport authority for two international airports; and
4. The provision of meteorological services equivalent to a national weather service.

The regulatory functions of the Authority are in accordance with the Air Navigation Overseas Territory Order 2001. The powers therein, being delegated to the Governor by the Secretary of State of the United Kingdom, who has designated the said powers to the Director of Civil Aviation.

The Authority employs 115 persons between Grand Cayman and Cayman Brac operations. Staff members are primarily Civil Servants seconded to the air Authority with the exception being group employees and two contract employees. Staff are governed under the provisions of the Cayman Islands Public Service General Orders. The Authority's original 2001 Budget reflected \$15.3 million in revenues and \$13.5 million in expenditures, including \$2.8 million in capital

expenditures. However, following the events of 11 September 2001, the Budget was revised to reflect a reduction of \$1 million in revenues and expenditure, respectively. Although not originally budgeted for, \$250,000 contribution was paid to Government in June 2001 and an additional \$500,000 will be paid to central Government in December of this year.

The main sources of revenue of the Authority are travel and security tax, aircraft landing and parking fees and commercial rental and services. Of the revenues recorded for aircraft operation, Cayman Airways is the largest single customer. Personnel cost is the largest single recurrent expenditure.

Mr. Speaker, the Authority faces certain challenges which includes, one, the compliance with International Civil Aviation Authority requirements. Negotiations are currently ongoing with the United Kingdom to determine an appropriate means of compliance for regulatory oversight of airport and aircraft operations by the United Kingdom Overseas Territories. International Civil Aviation Organisation (ICAO) highlighted these issues following an audit of the United Kingdom and its territories by that organisation by July 2000. It is anticipated that full compliance with ICAO standards and recommended practices will require regulatory changes by Overseas Territories. In light of this, the United Kingdom Commission of Overseas Territories Institutional Development Studies (OTIDS) to be carried out by W.S. Atkins, an independent United Kingdom consulting firm.

The objectives of this study are to recommend to Her Majesty's Government the most appropriate system to ensure that the United Kingdom's International obligation for the United Kingdom's territory under the Chicago Convention can be met and maintained on a continuing basis. The study commenced in June 2001 and phase 1 was completed in September 2001. The phase 1 report included recommendations that called for the regulatory functions of aviation in the Overseas Territories to be transferred to an Overseas Territory Director of Civil Aviation (OTDCA) based in London. The OTDCA would have an organisational structure consisting of a deputy OTDCA located in the Caribbean region and supported by 'experts' in various aviation disciplines. The proposed organisation is estimated to function at a cost of £2.72 million which the Overseas Territories would be expected to fund.

A meeting was held in the British Virgin Islands from 12 to 16 November 2001 attended by the United Kingdom Government officials, Governors' representatives and DCAs of Overseas Territories to discuss the report. All of the Overseas Territories rejected the recommendation of phase 1 report outright and an alternative proposal that had been collectively agreed upon was presented by the Overseas Territories. The meeting ended with the United Kingdom officials agreeing to reconsider the matter and respond to the Overseas Territories by 30 November 2001. To

date, no further correspondence has been received from the United Kingdom on the matter.

Mr. Speaker, this is a major condition which is outstanding and one which would seem to detract or take from the various territories, certain authority and management which had been developed over the years and it has not met with favourable consideration. Of course, this is something which is ongoing and the outcome is yet to be determined.

The Civil Aviation Authority came into being when the Law was enacted in 1987 and revised in 1997. It is recognised that it needs to be amended, particularly with respect to the management of the finances of the Authority. An amendment will be required in any even event to accommodate the proposed separation of the regulatory functions of the Authority from the service provision of airport operations in keeping with the requirements of the International Civil Aviation Authority.

Since 1992 responsibility for Cayman Airways' debt to the Authority has been assumed by Government and written off against the Authority's debt to Government for property vested in the Authority 1987. The last such transaction settled their debt in November 1999 in the sum of \$5.4 million. As of November of this year, the current debt stands at \$3.5 million.

Island Air also owes the Civil Aviation Authority. This matter has been ongoing for many years and reflects payment owed for landing and parking fees for the scheduled flight operations since 1993. Current debt stands at \$916,386 as of the 30 November 2001. A writ has been served against Island Air for payment of outstanding fees. However, the Legal Department has not pursued a date as they are awaiting information regarding negotiations between another branch of Government and Island Air on the matter.

Among the major problems with the Airport is that of airport liability insurance, war and terrorism cover, and since the attack on the 11 September the costs have skyrocketed. Underwriters decided that they would not give the previous coverage, and as it was no longer available, various governments intervened to provide emergency coverage for their respective airlines and airports to avert the total collapse of their aviation industries. Insurance underwriters responded shortly thereafter to the outcry from the industry and agreed to provide cover to airlines only, limited to US\$50 million.

Last, but not least, I wish to comment on the fact that for the first time Radio Cayman has been assigned to an elected representative, in this case, to me. This has also been one of the areas that has drawn the usual criticism highlighted by various media. I know the Second Elected Member from George Town has indeed expressed his fear of politicisation of the Radio Cayman. He should have no fear of that because Radio Cayman is something which it is fair to say, has grown up with us. It is an entity for which I have the highest regard and respect. For almost a decade I have been saying it deserves to be an au-

thority where it can go out into the big wide, wonderful world and compete. That is my view on this.

I know reference was made and that was given as an example of something that could be privatised. I tried to apply a very simple bit of logic to it. We hear the constant call to privatise entities now run by Government. It is a fundamental fact that the private sector will not take on anything that does not or cannot make a profit for them. Now, if Radio Cayman is seen to be something that can make a profit for the private sector, my position is that we should give it a chance to make a profit for itself. So anyone that might be expecting me to recommend that Radio Cayman should be sold off to the private sector is expecting something that will not happen. If that happens it will be done by some else besides me.

Indeed, Radio Cayman has become very much an entity that the majority of residents look to as a source of news and information and what is happening in the community. In recent times a forum to allow them to express their own views on whatever is going on or should be going on. We know the very popular call in show that everybody likes to listen to, many people call in and so on.

Mr. Speaker, while I have not had the opportunity to look into all of the information related to the station's operation as I would like to do and intend to do, it is my understanding that over the past four years or so, the station has shown a consistent improvement in its earnings relative to its cost of operation. This is pleasing to know, particularly when one considers the considerable amount of air-time that the station utilises for public service purposes such as broadcast of the proceedings of the Legislative Assembly.

Mr. Speaker, it will have been noted by all, that we seem to be going through a period where there is a definite proliferation of broadcasting stations. The Government, and, indeed, the Ministry, sees this as healthy and beneficial to the community. It affords those essential lubricants of a free and healthy society—choice and competition. There is no intention on my part to seek to restrict the private sector in this regard because of the existence of Radio Cayman or to protect that existence.

What I will say is that while the Ministry welcomes the competition and the choice that these new stations bring to the market place, I will strive to ensure and encourage that common regulatory and social obligations are imposed on all entities. For example, the local entertainers are naturally keen to see their products afforded a reasonable amount of exposure and if the development of such skills is to be encouraged then the idea must have an ear. However, the responsibility to afford local entertainers reasonable air time must not be borne by Radio Cayman alone simply because it is Government owned. All similar entities must take their fair share of this responsibility.

Mr. Speaker, again let me make it clear that what may justifiably be seen as a laissez-faire disposition towards expansion of the broadcasting sector should not be interpreted by anyone to mean that the Ministry for which I hold responsibility is simply setting the stage to dispose of Radio Cayman. While I realise that in many jurisdictions Governments would seek to turn such assets into cash, it would simply not do to sell Radio Cayman to some wealthy individual or individuals who might be able to offer what is considered a reasonable price for it.

Radio Cayman serves this country in various ways, including the broadcast of this Legislative Assembly and various public announcements. It is the means by which Government can guarantee dissemination of information to the public in times of disaster such as hurricanes and otherwise. These things are not done by private radio stations and if they were there would be charges which are now included and absorbed within what the radio is doing now.

Let me hasten to add that what I have just said does not mean that we are irrevocably committed to maintaining the status quo as far as ownership and corporate status of Radio Cayman, where it indeed is shown to either be causing serious drain on the Budget or there are other ways of dealing with it. That is via an authority or through public corporation, at which shares could be sold to the public with Government retaining the majority of shares and still be in a position to guarantee that the public and the country have a means of receiving information through radio broadcast.

The Minister for Education has given an undertaking that he is putting on the agenda of schools, citizens' education. It can certainly offer such information to the wider public and indeed, we need a lot of that. That way people might understand about seating in the Legislative Assembly and that the people in this House have the right to criticise whatever they want without going to court for it or being arrested by the police, and all of those things. It is the perfect medium for doing that.

Mr. Speaker, I believe that we have reached a great distance in developing the local radio station, Radio Cayman. It deserves to be given a chance just as I have heard it said on the floor of this House all year about giving the Government a chance, we should then be in a position to give the radio station a chance. I do not say that Government should not dispose of some of its assets. I think it is necessary. But haste in this one could prove waste for us in the long run.

I have come to the end of my contribution to the debate. I must say that I stand supportive of the Budget, which has been brought to this Honourable House. There was no alternative that the Government saw except to borrow more money or to increase revenue and the latter was taken into account. It was seen as best to attempt to gain revenue from the financial services sector which was done. It is an ongo-

ing effort in Government right now to reduce its cost in various areas.

I do not think that much more could be done at this time. Bearing in mind that we could reduce the numbers in the service to the point that we seriously affect efficiencies and I do not think anyone wants to do that. I find myself responsible for Health Services which is the single largest item requiring Government finances and up until now, it has some of the smallest amounts that go to the revenue. Steps are being taken to improve this and I shall continue to do all that I can in this direction, including bringing about some changes in the health insurance in this country.

I am very happy to be a part of a Government—the United Democratic Party Government—which has courageously brought to the forefront the serious financial standing of the country and has taken steps to correct this without bringing further revenue measures on the poorest among us. I recommend the Budget for 2002 to this Honourable House.

Thank you.

**The Speaker:** Thank you, Honourable Minister.

Does any other Member wish to speak?

The Third Elected Member for the district of West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Mr. Speaker.

Without tedious repetition I would like to make a short contribution to the 2002 Budget.

First of all, I would like to say that the United Democratic Party Government has embarked on a tripartite approach to Government which to the national development it involves active participation from the public, private and social sectors. This approach will promote sustainable development, greater inclusion and balance and development and business opportunities for local residents. The minimal borrowing strategy has been achieved by ensuring that the total recurrent statutory and capital acquisitions expenditure is lower than the operating revenue and the existing fund balances. I am proud to have been a part of the team producing this Budget.

This Budget is the first truly balanced Budget presented to this honourable House in many years; where Government did not have to borrow to pay recurrent expenditure and only very little borrowing for capital expenditure. This balance was achieved with an absolute minimum of tax to the little man on the street. This is quite an accomplishment, considering the very limited time the United Democratic Party had to produce such a Budget. It seems like the general public is led to believe that the United Democratic Party Government is trying to raise the entire \$55 million needed to balance the budget from the private sector. However, when the revenues realised from time-share, which is one million dollars, the gasoline and diesel duty, which will be used for Roads Funds \$1.3 million; local vessel licenses of \$500,000, stamp

duty \$244,000, court fees \$51,275, garbage fees \$3,778,140, parking fees \$1 million, health services \$9,485,534. The true amount that we need to raise from the private sector; is approximately \$37.5 million.

So, it should be understood that the United Democratic Party is not trying to raise the entire \$55 million from the private sector. We are only trying to balance the Budget, to keep the country going without getting any deeper in debt. We had looked at many alternatives but this seems to be the only reasonable way to go about it. Just a correction: it is not the private sector; it is the financial industry we are trying to raise these funds from. This Island has been borrowing for the last few administrations to pay recurrent expenditure and to do all the funding for the capital expenditure.

I would just like to say that in recent meetings with the Council of Associations and the Chamber of Commerce they have recognised that it is absolutely essential for Government to raise these funds in order to continue to operate. These organisations have expressed the concerns about Government's recurrent expenditure and this Government has given the private sector the undertaking to continue to reduce recurrent expenditure wherever possible. This year alone the United Democratic Party Government has cut recurrent expenditure by \$6.4 million. That is a very significant start in reducing recurrent expenditure and in an attempt to show the willingness to work with the private sector; this Government has agreed to let the additional fees be paid on a staggered basis. This should make the additional fees more manageable.

This Government intends to continue to monitor and manage the fiscal affairs of this country in a responsible and accountable manner and ensure the country is getting value for money spent. Without repeating what all the other honourable Members have already said I would like to say that I support this Budget and in closing I wish for all honourable Members of this House and joyous, safe, blessed and happy Christmas and healthy, safe and prosperous New Year.

I thank you.

**The Speaker:** Thank you. Does any other Member wish to speak?

*[Inaudible comments]*

**The Speaker:** Does any other Member wish to speak?

The Honourable Minister of Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Thank you,

Mr. Speaker. It is really a pleasure to see you in the Chair as the Deputy Speaker and to see that you fit in so well in what I would term a very seamless transition, as if you had been doing this for several

years. I imagine you must have been practising at home, but congratulations, you are doing a fine job.

I would also want to take this opportunity to congratulate Madam Speaker on the excellent job that she has done since ascending to the Chair of Speaker. I am very pleased to have been involved in the selection of both the Speaker and Deputy Speaker. I think again the United Democratic Party has made a very wise selection.

I am proud to be a founding member of the United Democratic Party. I see through the United Democratic Party a much better and more efficient use of time in this honourable House than we have experienced in recent years. Hopefully, the party system will become fully established in this honourable House. If the marl road rumour is correct, I understand that two other parties are already in the making.

The efficient use of the time of this House can be equated to financial benefits. Too much time is wasted in tedious and useless repetition. I believe that the United Democratic Party will also seek to reduce the time allowed for speaking from four hours to a shorter period. What a Member cannot say in a few hours perhaps does not need to be said. The efficiency that can be caused through a proper party system is that when it is fully established the Government Bench would normally have the Chief Minister or Leader of Government Business, whatever we care to call him, speak on behalf of the Government except in areas that are specifically focused on individual ministries. The Leader of the Opposition would normally speak, thus cutting the time used in the House very significantly.

Before moving on, in view of the changes made recently, I would like to take this opportunity to thank the staff of my former ministry (with whom I worked approximately one year) for their unstinting support. However, I am comforted in the fact that they have obtained an excellent replacement in the person of the Honourable Gilbert McLean, who is now the Honourable Minister for Health, District Administration and Agriculture. The Honourable Minister for Health comes to the position with a vast amount of knowledge and experience. I also wish to thank the staff of my present Ministry, that is, the Ministry for Planning, Communications, Works and Information Technology, for the manner in which I was received and the show of professionalism by each one of them during what could be termed difficult times; especially after the changeover on 8 November.

In the process of my debate, my contribution to the Budget debate, I will attempt to show why the 2002 Budget is the best Budget that these Islands have seen in many years. I believe I can say that without any fear of contradiction, because thus far I have heard no Member debating this Budget come forward with any credible contradiction to that position. I am also honoured and pleased to have been asked by my colleagues of the United Democratic Party to assist with the preparation of the Budget and also to

continue to assist with the negotiations of the international initiatives, namely, the OECD, FATF, Financial Stability Forum, KPMG, IMF, Taxation and Savings, EU Code of Conduct, and so on.

In addition to my ministerial responsibility, it is quite a bit for me to have undertaken. However, I am happy for the confidence that my colleagues have reposed on me. I will try my best to not let them down. However, unlike a previous speaker in this House, this honour has been bestowed upon me by my colleagues. I am happy that I did not have to get up in this House and beat my chest and tell the world that I am one of the leading financial brains in this country, and that my eighteen years of experience is more than the sum total of the others.

That is the height of arrogance and the person saying that should be totally ashamed—especially in his short period in the House; in his very youthful position of less than a year—that he would not have more respect for people that he knows have been in the financial industry and in other areas of the development of Government for many years. Respect should be shown where it is warranted. It does not matter whether you like or hate somebody . . . and where I am concerned, it does not matter much to me that Members of the Opposition do not like me; that is their problem. I do not mind.

Mr. Speaker, it is my intention to deal with issues related to my Ministry, but before doing so I will be answering some of the statements made in particular by the First and Second Elected Members from George Town. I was surprised to hear the First Elected Member from George Town not explain the true position of the Government when he demitted office on 8 November. If Members of Executive Council can recall, before that day we were given the impression that the Budget was in fairly good position; some \$12 million out. I noticed in the papers that they have quoted correctly that it was a difference between the actual budgeted and the target position but when we were told that we got a totally different impression. The truth is that when the United Democratic Party took over the Budget it was short an amount over \$93 million. I will deal with that in a minute.

Mr. Speaker, the honourable First Elected Member from George Town and the honourable Second Elected Member from George Town, both criticised the Budget, but neither one of them came forward with any constructive suggestions as to how the Budget could have been improved. Further, I could not see the relevance of it but I noticed that the honourable First Elected Member from George Town was quick to tell the House that I suggested Mr. Naul Bodden's name when he was chosen to carry out the financial evaluation of Cayman Airways. I am not going to deny that—I have the greatest regard for Mr. Naul Bodden. I think he is a very smart man and I still think that way. But I cannot figure out the relevance at that point in time in saying it to the House. Politics! That is the name of the game. It is all politics.

I just want to take a moment to look at what he had to say about the borrowing of \$55 million. It is in the *Caymanian Compass* today, page 7, where he says "The fact remains that in 2001 there had been no other way than to deal the \$55 million in borrowing." I beg to differ. That might have been the way known to the Honourable Minister at the time but in the same way that we have found other ways to deal with the deficit we could have avoided using \$27 million. Although I was a part of that Government, I was not the leader. We could have avoided having to use \$27 million to pay for recurrent expenditure.

The difference then and now is that when we were preparing the 2002 Budget every Legislative Member of the United Democratic Party had a part in the preparation of the Budget. That Honourable Member has done a very good job, I have just taken over his Ministry and I must give him credit for some of the things he did. At least he did not get up in the House and profess to be all things to all men like his colleague has done.

It seems like the Second Elected Member from George Town knows everything about everything. However, I have always said that anyone more pathetic than an accountant trying to be a lawyer, has to be lawyer trying to be an accountant. I know my capabilities and I stick within them. I have never pretended to be what I am not and I do not need to stand here and thump my chest and tell the world of what I have done and who I am. I prefer when other people do that as has already been done in this House during the debate.

I trust that as was alluded to by the Honourable Minister for Health, the *Caymanian Compass* will give the same sort of latitude and space in their pages to reproduce what we have said as was given the First and Second Elected Members from George Town. Most people are shy to speak when it involves the news media for fear they will get no prominence in the news media. But, Mr. Speaker, I do not have to fear that because I get very little as it is. I cannot get much less.

The Second Elected Member from George Town referred to certain statements made by the Council of Associations on 16 May 2001. Of course, he placed emphasis on those sections which suites his attack on Government. He, however, failed to stress the warning given by the same body (the Council of Associations) regarding the policy of borrowing to finance recurrent expenditure. Which was done—I stress—for the first time in the history of these Islands in the year 2001. That was the last Budget that we did and the 2001 Budget was the first time that we used borrowings for recurrent expenditure.

Perhaps more stress should have been placed on the following paragraph that was written in that same report so eloquently quoted by the Second Elected Member from George Town, and it stated, **"To clear last year's deficit and to keep the civil**

**service functioning at 2000 level the new government had decided to borrow for their first time, \$26.2 million for the general revenue fund to pay off outstanding bills and commitment from 2000 at a time when the servicing of the national debt alone is nearing 10 percent of recurring revenue."**

Mr. Speaker, that was part of what that article said, but that was not mentioned—

#### POINT OF ORDER

**Mr. Alden M. McLaughlin, Jr.:** On a point of order, Mr. Speaker.

**The Speaker:** May I hear your point of order.

**Mr. Alden M. McLaughlin, Jr.:** I have listened very patiently, but the last remark by the Honourable Minister is misleading. I read that particular paragraph and both this honourable House and the *Hansard* of this honourable House will reflect that. I was careful to be fair and if you would check the *Hansard* you would find, Sir, that that statement is misleading and incorrect.

**The Speaker:** Honourable Minister, since I do not have the *Hansard* . . . unless the House would want me to suspend to get it . . .

**Hon. Linford A. Pierson:** I will deal with them, Mr. Speaker. That Honourable Member is not only arrogant, as I said, but he seems to be deaf. I said that he stressed the other areas—he did not stress this part! That is what I said. I did not say he did not read it. I wish to say he did not stress this issue and if he mistook me for saying that he did not read it, then he has my apologies. But I wish to say that he did not stress it, that was the point I was making, and I apologise to the honourable Member if he said he read it and I said he did not!

**The Speaker:** Carry on.

**Hon. Linford A. Pierson:** Mr. Speaker, he avoided stressing the point but he made a big deal about issues that suited him. He said that he has listened patiently. He has more to listen to, and if he is not happy with that he can leave the House. However, I sat down and listened to all the arrogance he had to say.

You have to grow up!

Going into my sixteen years in this House, the beginning of my fourth term, at least, I have never heard a more pompous and negative debate than I heard from the Second Elected Member from George Town! That is my opinion. If he is as influential as he claims to be, and as he thinks he is, does he not realise if he is that influential (has more experience than all of us over here) that such negative and damaging remarks or rhetoric could do irreparable damage to these Islands? What does he hope to get out of all of

this? In view of his self-professed influence in the financial industry, I can only say that such inflammatory rhetoric can only serve to damage our financial industry. At least he will still pass the time of day with some of us over here, he will still say hello unlike some of his other colleagues.

*[Inaudible comment]*

**Hon. Linford A. Pierson:** Mr. Speaker, I have nothing personal against him, he has to realise that when he gets up and shoots his rhetoric it will get a reply. We have capable people over here to do it; we are not intimidated by anybody on the Backbench or on the Opposition.

I just want now to comment on a letter I received from the Caymanian staff of Hunter & Hunter and HuntLaw Corporate Services Limited, which I found rather strange. It seems somewhat strange that Hunter & Hunter and HuntLaw Corporate Services Limited would at this late stage, 13 December, not have previously made a policy decision on bonuses and salary increases. Anybody that has been in business knows that something is wrong with that.

This policy is usually put in your budget—you make provision for it in your budget. How then could they say they are told that they are not going to be paid their bonuses and salary increases because of the revenue enhancement measures of Government? Perhaps this is something that Mr. Boulton, who seems to represent them, should explain to the public. He seems to have all the answers as to what Government should and should not do. The first time I saw him was when he came out criticising the Government.

I personally do not believe that the 2002 Budget had anything to do with that decision. It would be interesting to find out whether or not the partners have made similar adjustments to their share of the profits at the end of the year. Mr. Speaker, another area that I found most interesting was the comments made by the honourable Second Elected Member from George Town on the tax information exchange agreement. I am not going to go along with this because I do not want him to think I am taking a piece out of him or anything—it is just that I am replying to some of the things he said.

I know that there have been adverse comments made about the signing of the OECD agreement even the FATF and of the tax exchange agreement, but I know that that honourable Member knows quite a bit about these initiatives. I know that and I know that he knows that the OECD agreement was the foundation; the catalyst for the Cayman Islands being removed from the FATF blacklist. If that advanced commitment had not been made with OECD the Cayman Islands would have had a much more difficult time getting off the FATF black list.

If we had been listed by the OECD on a black list we would probably still be on the FATF black list.

Unlike some of the public statements made no one individual in Government at that point in time had any major influence on the Cayman Islands getting off the FATF blacklist. The foundation was laid when the Cayman Islands was placed as an advance commitment jurisdiction by OECD.

Without going into the details of the tax information exchange agreement, I would just say that the tax information exchange agreement was precisely inline with the commitment made under the OECD agreement, nothing more, and nothing less. The most important part of it is that it is done on a request basis and not on an automatic and spontaneous basis. Such an arrangement would destroy these Islands but what we have entered into has been what we have been practising under the Mutual Legal Assistant Treaty since it came into effect in 1990. Although the Law came into effect into the Cayman Islands in 1986, the United States Senate did not pass it until 1990. I believe (as I am sure so do many other people in the Cayman Islands) that this tax information agreement was necessary, it was timely and good for these Islands. I certainly would prefer to take the part and side of the Bankers Association and then some other 'nay sayers'.

Mr. Speaker, I have just been reminded by one of my good colleagues that the tax information exchange agreement is non-retrospective. It means that it comes into effect with regards to criminal tax evasion on 1 January 2004 and any matter transacted before that will not be taken into account against an investor in these Islands. So individuals have a lot of time and this is one of the things for which Mr. Robert Morgenthal, the District Attorney of New York, so heavily criticised Paul O'Neil, the United States Treasury Secretary. The civil and administrative taxes will also come into effect on 1 January 2006. So there is a lot of time, Mr. Speaker. And nothing was rushed. It was done in accordance with plans and with the commitment that was made to OECD in May 2000. You have heard a lot about the fees and how it is going to destroy the country; of course, this was said by some of the leading financial experts in the House.

However, what they fail to have mentioned is that the Government had in fact agreed with the representatives of the financial industry that those that needed the assistance; Treasury would consider an instalment payment from those individuals. So, when you hear that Government was inflexible and did not want to assist, nothing could be further from the truth. However, before moving into my debate for this afternoon, I want to ask the question and any speaker that comes after me I would like them to answer it in the editorial: What other areas could Government have received the money from to enhance revenue? The British Government through the Foreign Commonwealth Office made it quite clear that they did not want the country to incur any further public debt through borrowing or otherwise. We could not have even given the remotest consideration to a form of direct taxation

such as income tax because we know what that would have done to the country.

Now, Mr. Speaker, I want all of the financial gurus to tell me what other areas they would have sought for the revenue enhancement measures. We have talked to the Banking Association. They were very happy to boast of the \$800 billion on deposits in the country until we pinned them down and said to them give us a small transaction fee; give us 1/50 of 1 percent which would be \$200 out of every million dollars. They charge 1/8 of 1 percent which is \$1250, then we heard, well it is not quite \$800 billion, it is much smaller. The figure kept getting smaller and smaller until it got to the point where they thought that it would not be feasible to even consider that type of revenue.

The United Democratic Party looked at every possible scenario and every option that was available and the decision had to be made because as was quite rightly mentioned by previous speakers from this side; the Government has to continue to run. We provide essential services and I will show that it is not correct for the media or anyone else to suggest that the Government did not look into cutting expenditure. I will show where the expenditure was cut not only recurrent expenditure but capital acquisitions and also capital development expenditure – they were all cut!

The vision of the United Democratic Party was and is to bring a truly balanced Budget to this Honourable House and this has been achieved in a fiscally responsible manner. The Budget was carried out with a spirit of teamwork and unity focused on the vision of a balanced Budget.

Mr. Speaker, there has been tremendous synergy between the Government, the United Democratic Party and the civil service in achieving the balanced Budget. Respecting and recognising each person's contributions and perspectives has achieved a unity of purpose. Psalms 133 says, "Behold how good and how pleasant it is for brethren to dwell together in unity." I can honestly say that it has been a good and pleasant budget-making experience.

I would like to personally thank all of those people that contributed. Honourable Members will recall that in September of this year this House passed unanimously the Public and Finance and Management Law. Although many provisions of this Law do not come into effect until 2005, the Government decided to operate the budget process in line with this Law particularly in the area of fiscal responsibility. Let me reiterate the three key strategies that this Budget was based on:

1) The balanced budget strategy reflects the financial principle set out in Section 14(3)(a) of the new Law. This principle, Mr. Speaker, requires a true balanced Budget where total operation revenue is more than operating expenses. This Budget, Mr. Speaker, has a proposed operating surplus of \$15.4 million.

2) The creating of reserves strategy reflects the financial principle set in Section 14(d) of the new Law.

The increase contribution to the general reserves fund of \$1.5 million is a step towards the creating the cash reserves required by the Law.

3) The minimal borrowing strategy reflects the financial principle set out in Section 14(3)(c) of the new Law. This principle requires that borrowings be kept within defined limits, that is, no more than 10 percent of recurrent revenue. The proposed new borrowings in 2002 of \$8 million will bring the debt service ratio in 2002 to 8.6 percent, which is well under the limit of 10 percent set in the new Law.

As a Government we will continue to operate in a fiscally prudent way to ensure that revenues are sufficient to cover expenditure and not attempt to borrow our way out of trouble. This means that wherever possible the fees and charges for Government services will cover the costs of producing them. Also, the Government is committed to improving the productivity of the civil service ensuring that services are delivered in an efficient and cost effective manner.

The view of the private sector and agencies that represent them is that if Government's recurrent expenditures were reduced there would be no need to propose the current level of revenue measures in the 2002 Budget. However, this is an over simplification of the task the Government is facing. The public including the private sector has come to expect a certain quality of life in these Islands, which necessitates a certain level of expenditures by the Government on essential services. Government has achieved substantial reductions in expenditures to date and have plans for the future in this area. Let me now turn to recurrent expenditure.

#### **Moment of Interruption—4.30**

**The Speaker:** Honourable Minister, we have now reached the hour of 4.30. Is there a motion to suspend Standing Order 10(2)? The Honourable Leader of Government Business had indicated prior to yesterday's adjournment that the House may possibly sit late on some evenings.

#### **SUSPENSION OF STANDNIG ORDER 10(2)**

**Hon. Linford A. Pierson:** Thank you, Mr. Speaker.

I beg to suspend the Standing Order 10 . . . Mr. Speaker, I think we need a quorum. I want to thank the honourable Member for bringing that to my attention.

I beg to suspend Standing Order 10(2) so that we may go on until 6.30.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow the House to continue its business until 6.30. All those in favour please say Aye. All those against, No.

**AYES.**



**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 10(2) SUSPENDED TO ALLOW THE HOUSE TO CONTINUE ITS BUSINESS UNTIL 6.30.**

**The Speaker:** Please continue Honourable Minister.

**Hon. Linford A. Pierson:** Mr. Speaker, as I was saying when we briefly had that little stop in the proceedings, I was about to turn my attention to the recurrent expenditure side of the Budget. Reduction and expenditure that is sustainable does not come about over night; it has to do and be carried out in a strategic and planned manner.

A lot of work has already been done to reduce the level of recurrent expenditure shown in the draft 2002 Budget. I would like to commend the permanent secretaries and heads of departments for their contribution in reducing expenditures in 2002. This will be an ongoing task. There are also plans in 2002 to keep a tighter control of expenditure. In the past it was the practice to ask controlling officers to submit their budgets within guidelines and then later in the budget making process to cut them in line with available resources.

For the first time, as part of the strategic policy phase of the Budget required under the new Law, financial limits or targets were given to controlling officers and this resulted in lower budget bids being submitted. This was very successful. For example, in the first draft of the 2001 Budget controlling officers requested \$324 million. This year, as a result of establishing limits, only \$273 million was submitted and we are still able to reduce that figure by a further \$3 million.

The same principle was also applied to capital acquisition and capital development expenditure, as alluded to earlier, and I would say with equal success. The first draft of the 2001 Budget \$82 million was submitted to capital expenditure this year using the targeting methodology the first draft came in at \$40 million and we were still able to reduce that figure by a further \$19 million.

The Honourable Financial Secretary has already provided detailed budget figures. However, I would like to highlight some significant figures. Overall recurrent expenditure in the 2002 Budget is 2.3 per cent less than that in the 2001 Budget, a reduction of \$6.5 million. This has resulted from increases in some areas in reduction in others. The single most important is a reduction in the 2002 personal emoluments as compared to that in the 2001 Budget by 4.4 per cent. This is made up of reductions in basic salary, temporary relief payments and reduction of contracted officer supplement. This reduction is the result of policies agreed by this Government. No funding of vacancies, no increments or merit increases, no cost of living adjustments, no creation of new posts, no filling of

vacant posts unless there is a revenue implication or off setting of expenditure.

So, when we get a letter from Hunter & Hunter and the HuntLaw Corporate Services saying that they are not looking forward to any more increments next year, or salary increases, you let them know that Government is leading by example—neither will the civil servants be receiving any! Although I believe that had those companies tried hard enough they would have found the funds to pay the Caymanian staff. Within this reduction we have still been able to absorb some additional costs which were unavoidable. These include \$900,000 to cover money laundering prosecutions, \$640,000 for the running of a secure juvenile facility, scholarships have been increased by \$600,000 and a grant of \$900,000 that has been included to set up the information communication technology authority. Overseas medical has been increased by \$2.4 million.

The Government will pursue other initiatives during 2002 to control expenditure and the three key initiatives are as follows:

1) The introduction of a manpower control procedure so that the filling of vacant posts is properly justified.

2) The implementation of the United Kingdom's Civil Service College review of the Caymanian Civil Service. This will involve among other things, the setting up of an internal efficiency unit. Also, in partnership with private sector efficiency scrutiny will be conducted on certain agencies of Government.

3) The implementation of a bond issue in the first quarter of 2002 will significantly reduce the cost of debt servicing.

I should say that already the Government has been looking at presentations from a number of individuals on the pros and cons of promoting a bond issue in the Cayman Islands, which will hopefully be able to structure or restructure our public debt position and also provide additional funding for some needed capital projects.

In summary on this, all expenditure—recurrent, statutory and capital acquisitions—is to be funded from recurrent revenue. I think that it is important to note that all expenditure, that is, recurrent, statutory and capital acquisitions, is to be funded from recurrent revenue. In addition, we have made a contribution to capital development expenditure from recurrent revenue. Let me speak briefly about revenue.

Mr. Speaker, the revenue policy was based around three strategies: 1) Introducing new revenue measures in the financial services and business sector. The international tax initiatives, the regulations by the Monetary Authority, the cost to the judiciary and the administration of creating the right environment to do business in these Islands have increased Government's costs tremendously. As an example, the cost to Government and the judiciary of a money laundering case can be in excess of \$2 million. 2) Improving the collection of existing revenue and pursuing bad

debts more vigorously. The initiative to use Caribbean Utilities Company as an agent to collect our garbage fee will greatly improve our collections. Even though I would be quick to say that the suggested procedures will have to be refined some. 3) Increasing Government fees and charges so that they reflect the costs of the service provided, for example, the Health Service fees. It is important to understand that most public services are provided at subsidised rates.

Mr. Speaker, let us now look at the revenue measures of approximately \$55 million and see how this relates and how it is comprised. The \$55 million arises because of two major factors: 1) the public, including the private sector, have come to expect a certain quality of life in these Islands which necessitates a certain level of expenditure by Government on essential services; and 2) the Government is committed to its obligations under the Public Management and Finance Law 2001 which requires the Government to act in a fiscally responsible manner. Therefore, it is not prepared to increase the debt burden to cover recurrent expenditures.

The capital development programme was set at \$16 million initially—this figure was doubled as you know. The advantages and disadvantages of using capital expenditure to stimulate the economy as opposed to not substantially increasing our loan debt were considered. However, the Government took the view that keeping our loan debt to a reasonable level was more important at this stage and I am happy that this was the position supported by all of our Legislative Members of the United Democratic Party. The reduction in the capital programme was achieved by starting certain projects later in the year 2002 and re-prioritising other projects to commence in 2003.

It is my intention to outline certain specific plans of my Ministry during 2002 as I have just dealt with the Budget generally. However, before doing so I wish to deal with a few issues raised by previous speakers in connection with the exact position just prior to the United Democratic Party taking over the reigns of Government. When we took over the Budget, the recurrent revenue of government showed a total of approximately \$280 million. We increased it by \$54.66 million to \$335.1 million. The total funds available including the Road Fund of \$337.1 million in the final draft done by the United Democratic Party as compared with \$281.64 million which was an increase of \$55.46 million. However, it is important to note that while increasing our recurrent revenue or our total funds available, we, in fact, decreased recurrent expenditure by \$3 million from \$272.86 million to \$269.85 million.

Similarly, statutory expenditure was decreased by \$920,000 due to some changes, in connection with pension benefits, et cetera. The total recurrent and statutory expenditure was decreased by \$3.93 million. So, in addition to increasing revenue we also reduced expenditure where possible, and I stress 'where possible' because it was not possible for us to

go and start cutting right and left without giving serious consideration to what was being cut and that we were not cutting essential services.

Instead of having a deficit of some \$44.6 million (which we found when we took over the Budget), the position that we have presented to the country is a Budget that has an operating surplus of \$15.23 million. We also reduced capital acquisition by \$3.71 million from \$8.74 million; reducing it to \$5.03 million. Capital development expenditure was reduced from \$31.41 million to \$16 million, a reduction of \$15.41 million. So, instead of the total capital expenditure being the \$40.15 million that was estimated, it was reduced by \$19.12 million to \$21.03 million. That is good budgeting Mr. Speaker.

In 2002 the deficit position that we found in the estimates was \$84.31 million, but we were able to reduce it to \$5.80 million. However, when the surplus (which was really not a surplus but a deficit) brought forward from 2001 was reflected in the figures, we found at \$14.3 million it was reduced to 8.05 million by a transfer from general reserves. Rather than having a total deficit position of \$98.61 million as was estimated when we took over the budget, it was reduced to \$13.85 million. When we applied the borrowings undrawn from the loans in 2001 of some \$4 million, our new borrowings of \$8 million and utilisation of the Road Funds and other funds, we were able to bring our position at the end of the year to \$920,000 in this surplus, rather than the \$91.84 million deficit that we found when we took over the Budget.

I repeat that the \$11 million or \$12 million as I mentioned was clarified in the papers as the difference between the targeted amount and the recurrent expenditure figure in the first draft. This Budget was carefully done, it was not rushed. And, Mr. Speaker, you had people involved in the process of the Budget that understood what it is to do a budget. When I was asked to assist with the Budget it was not because my colleagues liked the way I looked, it was because they knew that I am one of the few Members of this House that has sat on both sides of Executive Council. I have sat there as Acting Financial Secretary and as a Minister for the second time so I know how to do a budget and that is why I was asked to assist.

**The Speaker:** Honourable Minister, I just wondered depending on the wishes of the House whether we wanted to take a short afternoon break.

**Hon. Linford A. Pierson:** I would welcome that Mr. Speaker.

**The Speaker:** I will suspend proceedings for 15 minutes.

**PROCEEDINGS SUSPENDED AT 4.53 P.M.**

**PROCEEDINGS RESUMED AT 5.26 P.M.**

**Hon. Julianna O'Connor-Connolly, Speaker  
In the Chair**

**The Speaker:** Please be seated. Proceedings are resumed.

Before I call on the Honourable Minister, I should wish to express my appreciation to the Deputy Speaker for so ably conducting proceedings for today.

The Honourable Minister for Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, it is so nice to see you back and even though I have been accused of wearing out one Speaker and having to get another one. I am sure you know that is not true. Your Deputy did a very good job in your absence so it is good to have you back.

I had moved from general comments on the Budget to a comparative figure of the Budget at 8 November and at the final Budget figure and I was about to move to my Ministry and the departments under the Ministry.

I would first like to review the situation with regard to the petroleum terminals and the liquid petroleum gas plant known as the LPG Plants and our plans for the future. This review will be undertaken in light of the petroleum terminals and LPG Plant and in light of the proximity to the schools, residences and businesses. It will take the form of a quantitative risk assessment and the results of the analyses will provide critical information for decision-making and addressing the potential catastrophic situation at the bulk facilities. This information will include quantitatively the magnitude of potential incidence in terms of the numbers of persons that could be killed or injured in the current situation. The study will also quantitatively address the likelihood of each potential scenario or incident. This will provide key information to address the current national issue regarding the potential but truly catastrophic events and to address the issues relating to site surrounding these activities.

A chief petroleum inspector will be recruited to provide additional oversight of the bulk petroleum storage installations and his role will be primarily to ensure that sound industrial practices are adopted at the facilities and to ensure human safety and environmental management systems are effectively developed and implemented. The chief petroleum inspector will also play a key role in ensuring proper emergency planning and coordination. My Ministry is also responsible for aggregate importation and it is my intention that a level playing field be established and maintained in this highly competitive area. We will be working closely with and supporting the Ministry for Tourism, Environment, Development and Commerce, who has responsibility for ports, to review options with regards to an alternative off loading site. It is Govern-

ment's intention to eventually move the bulk cargo operations away from the George Town facility (as was mentioned in the House by the Honourable Minister for Tourism).

I also intend to review Caribbean Utilities Company Limited. My Ministry will be making arrangements for the carrying out of an in-depth audit of the Caribbean Utilities Company's licence including matters relating to their rate of return, capital and asset structure, as well as fuel factor calculations. Much of this work will be conducted by the audit office. However, it is expected that some technical expertise will be required from an outside jurisdiction.

Now, I turn to the 911 Emergency Communications, but first to the Land Information System (LIS) listing or mapping. This is an important aid to help operators pinpoint addresses for the purposes of directing emergency responders such as police and ambulance personnel. Access to this mapping system by 911 reduces response times to emergencies. The results for 2001 have showed a marked improvement in the 911 centres quality control and assurance. This improvement in quality control and assurance is a measurement of the timeliness of the operators' response to incoming calls, dispatch or emergency personnel to answer calls for assistance and the accuracy of instructions given to callers with an emergency.

The 911 data base contains all telephone number and street addresses—encouraging progress has been made during the year to liaise with Cable and Wireless to input their system data in the format required by 911. This would greatly increase the 911 Centre's ability to automatically receive this data from Cable and Wireless when a call comes into the system. It is expected that this project upgrade will come to fruition in 2002.

In the meantime, on a regular basis the 911 Centre receives an update of the existing Cable and Wireless database that this has been down loaded to each 911 operator's position. This means that in the event of an emergency, call comes in with no address, 911 may still look up the relevant information. As a result of public education programmes by 911, the number of non-emergency calls was reduced during the year. However, a further reduction in the number of such calls, as well as abandoned or hang-up calls and call backs to cellular numbers, is desirous during 2002.

Telecommunications operations on Cayman Brac were affected by two separate lightening strikes this year. As a result of one strike, the trunking system controller was completely destroyed. But it has been replaced with a new digital capable controller. The telecommunications office was able to make progress on the alarm messenger system at the hospital. Simply by using one number, the staff that is in a specific group are now contactable and can have the location of the person placing the call displayed on their pagers. Such a system eliminates the need for indi-

vidual pagers and reduces response time in a situation where very often every second counts. The system should be completely operational by the end of the 2001 calendar year, that is, this year.

The operational consoles at the 911 centre are also to be replaced by the end of this year. The goals for 2002—it is intended to complete the upgrading of the truncheon system in Grand Cayman to digital capable. This will require reprogramming all radios to operate on the new system, as well as establishing the digital channels for the emergency services. The digital channels will provide clearer, more secure communications, which is essential for the emergency services.

Madam Speaker, I wish to turn to Information Technology. You will recall the importance of information technology for the future social and economic development of these Islands was recognised in a National Strategic Plan—Vision 2008. I am pleased to report that substantial progress has been made in the implementation of these plans since November 2000. Even more will be achieved during 2002.

I assumed responsibility for a consolidated Ministry of information Technology in November last year. Drafting of the new Information and Communications Technology (ICT) Bill commenced in January this year. The resulting White Paper was laid on the Table of this honourable House in October last. Following the detail consideration of the input provided by stakeholders, I plan to bring the Bill for consideration by this honourable House during the next meeting in early 2002.

The new ICT Bill proposes the establishment of an independent authority and subject to the approval of this honourable House we plan for it to be operational by the middle of next year. Its role will be to regulate telecommunications, radio and broadcasting, together with certain aspects of E-business such as certification authorities, codes of conduct for E-business service providers and a voluntary data protection scheme established by their Electronic Transactions Law. Their brief will include the stimulation of competition within the sector and the handling of complaints. I am also confident that discussions leading to the transfer of responsibility for the 'ky' internet domain to Government will be successfully concluded within the next few weeks and this issue will be handled by the Authority on Government's behalf. The Authority will be funded from the license fee it charges but an initial set up loan will be required. Provision for this has been made in my Ministry's budget.

Madam Speaker, as you are aware, in October of this year I notified Cable and Wireless of Government's intention to liberalise the telecommunication sector in the Cayman Islands and of our wish to enter into negotiations to replace their existing exclusive license with a non-exclusive one. Cable and Wireless has honoured their public commitment to assist with the liberalisation process and negotiations have com-

menced; both parties have agreed that the August 2002 target date is achievable.

Improving the computer skills of the general population and increasing the availability of highly skilled information technology professionals are key components of our plans for next year. A sub-committee of the E-business advisory board has examined the human resources development issues and my Ministry has just received their report. Their recommendations are reviewed and where possible, will be implemented during 2002.

In addition, my colleague, the Honourable Minister of Education, has already made clear the importance he places on the integration of information technology into the school curriculum. I will continue to support his efforts to make this a reality. My Ministry will also work with the Immigration Board to address the various issues surrounding the use of expatriate labour in the Information Technology Industry.

I am sure honourable Members appreciate no matter how well we set up our stall as an off shore E-business centre, no will come unless we advertise our wares. We will shortly award a contract to a local marketing company to assist us with these efforts. The objectives are two-fold: Firstly, in conjunction with the private sector, we must help local businesses to appreciate the benefits and opportunities that information technology and E-business bring.

Secondly, we must attract new business to Cayman. We also are establishing a joint venture company in association with the Chamber of Commerce to manage and run a web site dedicated to the promotion of the Cayman Islands as an E-business centre. The legal documents are currently being drafted and local tenders for the development and hosting of the web site have been issued. The contracts will be awarded as soon as the joint venture has been formally established.

The public service should become a model user of information technology and E-business. Not only will this bring significant benefits to our citizens by increasing efficiency, improving customer service and encouraging transparency, but it also encourages local business to adopt similar technique and demonstrates to potential investors Government's commitment to E-business. You will recall that Government's new web site [www.gov.ky](http://www.gov.ky) was launched earlier this year. It is already making available vast amounts of Government information and this will continue to be enhanced during 2002 as funds and human resources permit. Our ultimate goal is to enable our customers to carry out all their transactions with Government online, if they so wish. I have established a committee of senior civil servants to spearhead this and other public sector information technology initiatives. I shall also be consulting with the private sector to ensure we deliver the services that our customers want.

Madam Speaker, Vision 2008 emphasised the vital importance of the development of information technology and E-business and provided an excellent

template for the achievement of that goal. We have already made excellent progress in implementing these plans. Given the continued support of this Honourable House there will be further significant developments during 2002; for example, the liberalisation of the ICT sector, the establishment of the ICT authority and the launching of our local and international marketing campaigns will potentially impact the lives of everyone in the Cayman Islands.

I also look forward to the continued support of the private sector. Government can help to establish a technology friendly environment but it is up to the private sector to bring in the business.

I now wish to turn my attention to MRCU (Mosquito Research and Control Unit). The Department's most important objective is to expand its laversiding capability using solid pellets applied by air. This is the most efficient method of control, but with the least impact on the natural environment and no known effects on public health. It enables preventative control rather than reactive.

The whole subject of mosquito transmitted disease is becoming increasingly important for MRCU and for the Cayman Islands. The recent occurrence of West Nile virus on Cayman Brac is certainly cause for concern as is the continued rise in dengue fever, malaria and malarial disease in our region. The Cayman Islands have mosquito vectors for each of these diseases. While there is no need for alarm or scare mongering neither is there room for complacency. Immediately following the positive identification of West Nile virus MRCU initiated a research project to study this disease and others.

During 2002, the department proposes to use the most advanced scientific methods available in this regard. We will conduct DNA analysis of mosquito populations to identify the presence of West Nile virus and monitor its occurrence. This methodology will be extended to include dengue virus and possibly others. MRCU will work closely with colleagues from the centres for disease control in the United States who intend to visit and assist with expertise and set up laboratory equipment. In addition, the Department proposes to study the bird population for presence of West-Nile virus. Scientists from the Smithsonian Institute in Washington DC have expressed a keen interest in this. They intend to visit in March 2002 and take blood samples from birds in the process passing on this technique to MRCU scientists. The blood samples will then be examined in the laboratory.

Next, on to the subject of public health matters. Following Private Members Motion 12/00 and general public disquiet about possible effects of mosquito spraying on public health and the environment; MRCU will address these concerns during 2002 and beyond. The Director and Deputy Director of MRCU are currently members of a committee chaired by the Chief Medical Officer investigating the separate issue of cancer in the Cayman Islands and environmental effects of pesticides. One study that MRCU has al-

ready embarked upon is the testing of rain water collected from roof tops for the presence of pesticides. In collaboration with a major supplier from the United States the Department has collected water samples from a number of locations which are to be tested by an independent laboratory overseas. This is in initial stages but is proposed to continue such monitoring during 2002 and beyond.

Development or plans for a new MRCU facility including offices, laboratories, aircraft hanger and operation section to be located on a single site is progressing very well. A project description document and site plan have been produced and details concerning laboratories, aircraft housing and pesticides mixed plant are being pinned down. The Public Works Department architect assigned to the project recently accompanied MRCU's deputy director on visit to several mosquito control operations in Florida. This proved extremely useful as there are a number of specialised features involved particularly with respect to pesticide storage, pesticide mixed plants and hanger construction. Plans for this proposed facility will be finalised and drawings completed during 2002.

In 2002 the Lands and Survey Department will continue to provide its variety of land related services to both public and private sector clients at the high standard for which the Department has become known. Much of this work is invisible to many but it is valuable work nonetheless. A good example is the beach monitoring survey of part of the West Bay peninsula which is a collaborative effort with the Department of Environment. The monitoring is accomplished by using the department's global positioning system (GPS) equipment, along with Department of Environment vessel, an echo sounder which records observations and depths using specialist hydro-graphic equipment and software imported temporarily from the United States for this very purpose.

The survey is undertaken at six monthly intervals and pre- and post-severe weather conditions whenever possible. The department has a well deserved reputation for technological innovation particularly in the areas of data capture management and presentation. In 2002 we will see the long awaited publication of the first street atlas of the Cayman Islands and I can say that that has already been produced and will be tabled in this honourable House at the next meeting. This fore caller reference source is clear evidence of the technological capabilities housed in the department and reflects fully the ongoing development of the Islands as a whole.

It has been the case in recent years the Postal Department expects to continue with its drive to upgrade district postal facilities. In North Side 96 additional post boxes were installed in that district's post office this year. Construction of the new purpose-design West End post office is scheduled for completion early in the second quarter of next year. In addition, more post boxes are to be installed at the Savannah and West Bay post offices.

To facilitate timelier pickup and delivery of express mail a computerised country mapping system was installed this year. A postal assessment advisory team has also been established to help the Department achieve greater standardisation of all postal services. Next year special attention is expected to be paid to enhancing services and meeting the needs of customers.

The postal department released a new five-year definitive stamp issue in September of this year. The issue was titled *Transportation to the Millennium* and depicted pioneers and stages of travel through past and present years. Next year the postal department will be pursuing the establishment of a philatelic web site to enhance that service to stamp collectors locally and world wide.

During 2001 the Computer Services Department truly lived up to its motto; *More than just IT, We care about your Business*. In addition to the delivery of traditional services and support, the Department rocketed the Government squarely into the electronic age. Staff in the department developed and launched the Government hosted Internet portal [www.gov.ky](http://www.gov.ky) in September in partnership with Government Information System (GIS) and other Government departments, ministries and agencies. The system now serves as an electronic news release media, an educational tool for research and information and as the most efficient website for those wanting to view Government web sites.

The site also provides electronically many Government forms and applications. The robust in-house Internet hosting infrastructure demonstrated that it could handle high volumes when it successfully delivered some 20,331 queries on Friday, 7 December, when the site provided the list of new Caymanians Status holders. An excellent working relationship with the Immigration Department resulted in advancement of the first on-line service for mainstream government.

Immigration Department work permits and trade and business license tracking system. This system helps to improve the responsiveness and raise the level of customer service the Immigration Department delivers to its patrons. This system has resulted in approximately sixty less inquiry calls each day to the Department. Computer Services continued to improve the E-government infrastructure adding network, resilience and Internet and web security.

Computer Services now offers cost-effective, safe and secure Internet access to customers under Government network. This helps to protect the integrity of information stored on Government computers while providing Internet access to make Government more efficient. Computer Services senior managers served in advisory capacities on several national E-business committees. They are a key part of the newly established Government Business and Technology Advisory Committee (BTAC). A committee of senior Government officials charged with the ad-

vancement and exploitation of internal information technology in Government. Computer Services staff answered and resolved more than 15,000 support telephone calls.

The department's expert staff also completed 5,452 high-level service requests, which resulted in some 8360 hours of work for customers. Yet there are those that say the Computer Department does not provide a useful service. Computer Services personnel provided technical expertise and a relocation and renovation of IT equipment in some 15 Government offices; many times involving after hours work to minimise the disruptions of departments and the public.

The application services staff was busy this year modifying systems as a result of changes in Laws and worked in partnership with departments to enhance many systems so as to improve productivity and efficiency. Enhancements to the Police Department's incident login system included a case file management system. Madam Speaker, this now allows the police to record, monitor and report cases more effectively when completed. The Customs support system was also upgraded and deployed using web technology that in the future will facilitate the move to electronic E-government.

In an effort to maximise productivity and to keep pace with changing trends a new passport issuing system was implemented in June. The Passport Office can now print and issue machine readable passports. The Immigration Department system was integrated with a new border control system in November. This means that passengers with machine readable passports can be processed more quickly and the information can be recorded more accurately.

In July, the Immigration Department system was enhanced to allow the recording of information on the business plans and future work permit requirements of organisations. Productivity aids, also included the implementation of a mail registry system for 17 departments in July. This system allows the logging of incoming and outgoing mail, email, faxes and a tracking of documents. The Government's financial and human resources system was also upgraded in July to provide additional functionality. Central services staff worked tirelessly during the year to provide high volume copying, printing and binding services for Government departments. The staff also utilised volume discounts to get the best possible prices on paper, envelopes, toner and other consumable supplies. These savings were then passed on to government departments, central services then copied more than 3.5 million pages of documents for internal agencies.

In the area of food hygiene and safety the Department of Environmental Health (DEH) will continue to provide weekly basic food hygiene and safety training courses for food handlers. It will continue to perform inspections of all food establishments applying its risks base criteria adopted last year for determin-



ing the frequency of inspections. In the first quarter of 2002 new food hygiene and safety regulations for the Cayman Islands will be presented to the Ministry.

The Department of Environmental Health also offers a programme which provides basic health and environmental sanitation, training for cosmetologists, including body-piercers, tattoo parlours, barbers and beauty saloon operators. In fiscal year 2002 the Department will continue to offer these training courses in addition to maintaining its regular surveillance of the industry.

Cemetery capacity has been reached in East End, and a private cemetery there has been closed. The Bodden Town cemetery is anticipated to reach capacity and close by the end of 2002. The Department of Environmental Health will therefore undertake the construction of two new replacement cemeteries in order to ensure the availability of public burial space in those districts.

In preparation for the day incapacity will be reached at the George Town landfill and in Cayman Brac, in the near future the Department of Environmental Health will prepare a closure plan for both. The plan will specify the method of closure and identify possible future lands uses for the two sites. I am pleased to say that I have been in discussion with various individuals with regards to a possible solution to the landfill problem in Grand Cayman and Cayman Brac.

In March 2001, a study was laid before the Legislative Assembly. A study was prepared by the Department of Environmental Health in consultation with DPS&J. They are a leading Florida based consultancy firm who carried out an environmental assessment for the Government in 1992 and has had an ongoing relationship and in-depth knowledge of Grand Cayman's waste disposal methods. The recent study and subsequent investigations indicated that the current George Town landfill will reach maximum capacity by the end of 2002. The study suggested four alternative solutions, each with an indication of cost as follows:

1. Another land-fill and the closing of the existing land-fill.
2. The windrow composting.
3. In-vessel composting and
4. Energy from waste system.

Important considerations for each of the systems not considered applicable to Grand Cayman are as follows:

Landfill—there are a few alternative landfill sites that would be acceptable and those which could provide capacity for the next 25 years or so, or worked out quarries which are situated directly over large fresh water lenses where the risk of leached contamination is unacceptable. The existing land fill will be capped off and would remain as it is. A properly constructed sanitary landfill would need to be lined and equipped with a leached management system and a

landfill gas collection system and the old landfill would have to be managed for another 50 years. Presupposing a suitable landfill site was found, the cost associated with its construction was estimated to be some \$18.1 million with no by-products for resale.

Windrow composting—this requires a large amount of land and would only be able to deal with food scraps, yard waste and other cellulose, which represents 22 percent of the waste generated. It does not offer a solution for ferrous and non-ferrous materials, plastics or glass. This system, Madam Speaker, would require a landfill to dispose of the non-compostable material, represents some 78 percent of the total waste. According to the report the estimate of the cost of such a facility is some \$18.5 million. Since this facility would require a landfill, then the true cost would have to include the \$18.1 million for a landfill aggregating to a total of \$36.6 million.

In-vessel composting—the next choice requires fossil fuels to be used to heat the vessel and compost and is produced in about one week. It can handle 27 percent of the waste being generated. The other 73 percent non-compostable waste will need to be landfilled. In the report the estimable capital cost is \$24.1 million and in addition this facility would require a landfill. The two costs would have to include \$18.1 million for a landfill aggregating to \$42.2 million.

Thermal energy from waste system—this will dispose of all garbage being generated. The cost for this system is \$24 million. The plant will operate in a building situated at the George Town landfill. The cost of the building is estimated at \$6.4 million. The over all total cost of the plant, operations building and the Department of Environmental Health (DEH) office space is estimated at \$30.4 million. The building will include up to 20,000 square feet of office space that can be shared with DEH. The plant will require 5,000 sq ft of office leaving 15,000 of square feet available for DEH and other Government offices.

I am pleased to say that this matter has been well advanced. Prior to my taking over the subject there has been much discussion by the former Minister responsible for this subject. The thermal energy from waste system will entail the introduction of a thermal energy from waste system to dispose of existing landfills and new waste being generated. On the 22 October this year, Madam Speaker, representatives of the Government inspected a working plant and associated engineering and manufacturing facilities in the United Kingdom.

The inspection team included the Honourable McKeever Bush, Minister for Tourism (at the time), the Honourable Edna Moyle (now MLA for North Side), Mr. Joel Walton, Deputy Financial Secretary, Mr. Robert McCollough, the Deputy Director of the Department of Environmental Health responsible for the existing landfill, and Mr. Robert C. Bodden, Chairman of the Fiscal Advisory group.

Following that visit the team presented a very favourable report. The plant visited was not only dis-

posing a municipal solid waste but was also a disposal facility, for the contraband, for the United Kingdom's Government, Her Majesty's Custom and Excise.

After the visit the Department of Environmental Health followed up with technical questions that led to subsequent meetings. All questions that were raised have been dealt with and the system was determined to be satisfactory for use here in the Cayman Islands. The expected life of the equipment is some 30 to 40 years. This means of disposing of wastes is now being looked into very thoroughly and various by-products are being examined such as the electricity by-product, water by-product, aluminium fill, et cetera. On the question of fill, it is believed that the existing land fill will be extracted, sterilised and made available for sale. It is estimated that around a hundred and fifty thousand tons will be processed annually at a sale price of some \$7 per cubic yard. This source of income is estimated at \$1 million per year, just from the garbage at the land fill.

There are Members here that have an interest in the electrical side and the water side, so just to give an indication of what the by-products would be on that . . . . Considering the existing municipal waste volume at 60,000 tons, the plants will conservatively produce 6 mW per hour during a 16-hour work-day. If the sale price is to say CUC was 7.50 cents per kW the income would be some \$7,200 per day or around \$2.6 million annually. If the plant could achieve a price, say from CUC of 12.50 cents the income could be up to \$3.4 million. However, these are various scenarios and options that we are examining. Nothing in this is final—these are just options at this point in time that we are examining.

Similarly, the plant must convert and purify water for the conversion to steam for the thermal process. Contaminated water cannot be used as this will degrade the steam boilers. The storage capacity of the plant is proposed at 10 million US gallons, which is 12,500 cubic metres with daily production of potable water at 3,000 cubic metres. This capacity is modular and can be adjusted. If part or all of this water was sold at say \$1 per cubic metre, the potential income stream would be some \$10,000 per day—over \$3.3 million annually.

Also, such a facility with regards to contaminated and burnt oil disposal; for example, CUC is currently paying to have the burnt oil from their engine shipped off the Island. The plant is able to use this and other contaminated oil as fuel. Talks with CUC will of course be held but already talks have commenced with CUC and I do not want to go into those details at this point in time. Similarly, sewage disposal, recycling and sorting of waste, the plant will be able to deal with all of these matters. If this process is seriously considered by Government it is planned that there would be a restructuring of the Department of Environmental Health.

It is interesting to note that under the present operations of the Department of Environmental Health the annual cost for operating a land fill or the DEH is some \$6.8 million. However, the associated income against the \$6.8 million costs is only \$3 million so the Department loses \$3.8 million every year. The cost of the land fill operation is estimated at \$1.2 million which is an addition to the \$3.8 million lost.

In addition to that, the cost of operating and maintaining the vehicles is estimated at approximately \$1.8 million. The fleet of 20 garbage collection trucks are ageing and most are due for replacement now. This expenditure is estimated at an average of \$165,000 per truck or \$3.3 million for the fleet. The replacement cost for the truck does not form part of the operating cost nor is any money budgeted to repay the cost of the initial purchase of the existing fleet. To avoid going into any further details on the discussion we are now having, suffice it to say we are seriously looking at this proposal and of course I will be advising the House as we progress.

The Planning Department expects to begin recruitment of a person who is capable of performing application reviews, planning, plumbing and building and building inspection, structural and plumbing in Cayman Brac and Little Cayman. It is anticipated that this person will be selected and trained by the end of the first quarter of next year. As a direct result of this recruitment, businesses and residents in Cayman Brac and Little Cayman can expect a significant reduction in the time taken to have applications approved and inspected.

The review of the Development Plan 1997 will be completed by November 2002. As a result of wide public participation the proposed amendments will reflect the wishes and aspirations of the populace and act as a companion document to government's growth management; smart growth, quality growth strategies.

I am now coming to the close of my contribution on the Budget. But, before taking my seat, I would like to once more thank the Budget team. The team was headed by the Honourable Financial Secretary, so thanks for all of the hard work that was done by the Budget Management Unit and the Budget team consisting of the Legislative Members of the United Democratic Party.

Much has already been said about the pay card system and the proposed parking system. I had some notes to say on that, but I believe that that has been pretty well clarified by previous speakers. However, I would just want to say that if any member of the public would require further information, my Ministry would be more than happy to provide such information as this information is available at the ministerial level.

Again, I want to thank Honourable Members for their attention. I would like to thank my colleagues for the assistance that we have all given each other in the preparation of what I would again term as the most productive. The most innovative and one of the



best Budgets that I have seen come to this House in many years.

Before taking my seat, may I take this opportunity to wish for you and your family a very peaceful and blessed Christmas. To all my colleagues in this Honourable House, I wish you and your family a very peaceful and happy Christmas.

Thank you, Madam Speaker

**The Speaker:** Thank you, Honourable Minister.

It is my understanding that no other Member wishes to speak. Does the Honourable Third Official Member wish to exercise your right of reply?

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

As I rise to give the closing remarks in the 2002 Budget debate, I wish to record my sincere appreciation to all honourable Members of this House for their respective contributions and support. In particular, I would like to mention the Honourable Minister for Planning, Communication, Works and Information Technology, who worked very closely with the Portfolio of Finance on the development of the Budget for 2002. I would also like to recognise the Second Elected Member for West Bay, the Third Elected Member for West Bay, the Second Elected Member for Cayman Brac and Little Cayman and other Members of the United Democratic Party who worked very closely on the formalisation and finalisation of the Budget.

This Budget sets out a number of significant measures that several speakers have commented on. To round off I would like to highlight a number of these measures.

The 2002 Budget strategies as outlined, address all of the key aspects of public finance, that is, expenditure, public debt, reserves and revenue. More specifically, the Government achieved the following key objectives: Firstly, a balanced budget; secondly, contributions totalling \$2.2 million to general reserves and to the Housing Student Loan and National Disaster Reserve Funds; and, thirdly, ensuring that all recurrent statutory and capital acquisitions expenditure were funded from recurrent revenue. That revenue also provided a contribution to capital development expenditure.

The result of this is that only \$8 million in new borrowings is necessary in the year 2002. It is also significant to note that this \$8 million will be used exclusively to finance capital development projects and not operational expenditures. The full effect of the \$55.5 million loan repayments will commence in 2002. Accordingly, the Government made a decision to minimise borrowings in 2002 to avoid breaching the 10 percent debt service ceiling established in the Public Management and Finance Law that was passed in September of 2001. The ratio therefore remains well below the ceiling at 8.6 percent in that year.

Furthermore, the Government intends to review its existing debt portfolio with a view to reduce its annual debt servicing cost through restructuring. In this regard, the Government has received presentations on how a bond issue would assist the restructuring initiative. This initiative is planned for completion during either the first or second quarter of 2002, but it is likely that it will be concluded in the first quarter.

In the case of recurrent expenditure the Government established expenditure limits prior to the commencement of the 2002 Budget process. This action in itself resulted in savings of 2.3 percent over the 2001 Budget. This is a particular significant achievement when one considers that the average annual growth in recurrent and statutory expenditure was 13.4 percent over the period 1996 through the year 2000. In order to achieve this reduction the following key measures have been implemented in the 2002 Budget which is currently before this honourable House.

- No funding of civil service vacancies was allowed except where the recruitment process was underway.
- No civil service cost of living adjustments were allowed.
- No civil service increments or merit increases were allowed.
- No creation of new civil service posts was allowed.
- No filling of civil service vacant post. In this regard a manpower control system will implemented to ensure compliance.
- A reduction of grants, waivers and reimbursements provided by Government to various not-for-profit associations.
- No new public services that require additional expenditure were allowed.

These key measures, taken in conjunction with the planned implementation of the civil service review commissioned by His Excellency the Governor, and the ongoing financial management initiative will go a long way towards addressing the divergence between what the country collects and what it spends. This negative trend has to be checked without any further delay, thus the main reason for the 2002 Budget approach.

I would like to move to the revenue side of the Budget to cover some of the more significant of the proposed revenue measures. In this respect, the Government wishes to emphasise that it considers the proposed revenue measures to be of a corrective one-off nature only. Increases at these levels are therefore not expected to occur in future years. The Government recognises that in a period of economic downturn that the preferred approach taken by most governments to ameliorate such declines is to implement expansionary fiscal measures. In the case of the Cayman Islands, however, our ability to follow this

approach is severely restricted due to our present revenue base and cash reserves. We are earnestly working to build up these reserves.

Notwithstanding these facts, in November 2001 the Government did introduce an economic stimulus package to help reverse the declines being experienced, particularly in the very important construction and real estate sectors. I am pleased to note that we have already begun to see gains in these two sectors which are as a direct result of this package. This positive trend is expected to continue. It is also important to note that the majority of public services in these Islands are already being provided at subsidised rates. Examples include health care, education and garbage collection. Accordingly, the Government considered and implemented several different strategies to improve its revenue position.

These include, firstly, improving the collection of existing revenue. For example the proposed new garbage fee collection method. I should mention that progress has been made in the discussions with Caribbean Utility Company Limited following the piece that appeared on the front page of the *Caymanian Compass*.

Secondly, increasing fees so that they are more in line with the cost of services provided. For example, the proposed increase in Health Service fees. This has been spoken to by the Honourable Minister for Health.

Thirdly, to ensure that all sectors contribute more effectively to the cost of providing much needed public services to facilitate their own development. For example, the cost relating to the overall development, administration, supervision and regulation of the financial and business services sector have been raised greatly in recent times due to the various initiatives and revenue had to be adjusted in order to reflect these enhanced costs. These costs cover areas such as legislative development, administration of justice and the supervision and regulation activities of the Monetary Authority and the Financial Reporting Unit. As a result of these main factors it was necessary to increase fees in this area.

The Fourth Elected Member from West Bay gave a breakdown of the fees that are applicable to the financial services industry. Where it was mentioned that of the \$54 million revenue package that is applicable to the financial industry, this is not the case. Without going into details as to what would comprise the other items because these were spoken to by the Fourth Elected Member for West Bay, the amount applicable to the financial services sector, that is the net amount of the incremental fees to the financial services industry, amounts to \$37.49 million. That means that fees totalling \$17.36 million are being raised in other areas.

The proposed increase in Health Service fees will be done in two phases effective 1 January 2002 and 1 April 2002. In the first phase there will be an overall increase of 30 percent of the present rates and

the introduction of new fees for services being provided free of charge because they are not currently listed in the schedule to the Law. In the second phase it is intended that the new fees to be introduced will approximate the cost of providing affected services. These fees have not been increased since 1993. Since then the cost of providing health services has risen dramatically, being heavily impacted by cost of goods and services obtained from overseas.

The rising cost of providing health services without raising fees has resulted in a growing revenue short fall. Some examples of these short falls are, firstly, in 2000 only five out of 34 sections of the Health Services Department generated enough revenue to cover their expenses. Secondly, in 2000 potential revenue of \$20 million was generated, although less than 50 percent of that sum was collected. Madam Speaker, I would like to point out that operating expenses for the year 2000 were in the region of \$39 million.

In the case of garbage fees, the cost of collecting and disposing of wastes exceeds the revenue generated by about 2:1. This is further exacerbated by poor payment compliance especially in the case of residential households. The goal of Government in this area is to ensure that this service breaks even. The proposed new method of calculating and collecting the fees is a step in this direction. In the case of gasoline and diesel import duty, it is important to note that this proposal does not affect the diesel used to generate electricity. The additional revenue generated will be put directly to the Roads Development Fund and be used exclusively for the provision and maintenance of roads on all three Islands.

The timeshare fee has been proposed in order to plug a loophole which currently allows visitors to stay in timeshare dwellings without paying any tourism accommodation tax. The proposed work permit fees are intended to, firstly, provide an incentive to promote Caymanians; secondly, to bring temporary work permit fees more in line with annual fees in each category; thirdly, introduce a charge for accompanying dependants, and, fourthly, update some fee categories that have not been increased for some time.

In closing, the achievement of fiscal stability is important to the overall development of all countries and in the case of these Islands, very important to our image as a stable and attractive place to conduct global business. In order to secure longer term social and economic stability the new development approach that was outlined in the Budget speech and adopted by this Government, seeks to achieve a more balanced and equitable approach. This is absolutely necessary, if we are to maintain harmony in our community.

The short-term challenges, such as those presented by the proposed revenue measures, will arise as the Government strives to achieve fiscal stability and to lay the groundwork for further development of

need adequate funding. These services include policing, fire protection, health, education, environmental health and the like.

A further complicating factor is that quite often the Cayman Islands is compared against other jurisdictions that have far more developed direct taxation regimes and is expected to provide services at the comparable level enjoyed in these jurisdictions from these Islands' very limited revenue bases. In addition to funding these services from its limited revenue base the question often arises as to the adequacy of cash reserves that also needs to be simultaneously built up. I therefore, encourage all honourable Members and, most importantly, the wider public, to consider the necessary measures outlined in the 2002 Budget Address within this broader context.

Finally, I would like to wish you and your family, Members of this honourable House and their families, the staff of the legislature, the civil service and the people of the Cayman Islands community God's richest blessings for the upcoming Christmas holidays and the best for the New Year and future years to come.

Thank you very much, Madam Speaker.

**The Speaker:** Thank you, Third Official Member.

The question is that The Appropriation (2002) Bill, 2001 be given a second reading. All those in favour please say Aye. Those against, No.

**AYES and one audible NO** (*Mr. Alden M. McLaughlin, Jr.*)

**The Speaker:** The Ayes have it.

**Hon W. McKeever Bush:** Can we have a division Madam Speaker?

**The Speaker:** Certainly.

Madam Clerk, please call a division.

**Deputy Clerk:**

**DIVISION NO. 21/01**

**Ayes: 10**

Hon. W. McKeever Bush  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Gilbert A. McLean  
Hon. Dr. Frank S. McField  
Hon. George A. McCarthy  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr.  
Mr. Lyndon L. Martin

**Noes: 2**

Mr. Alden M. McLaughlin, Jr.  
Mr. V. Arden McLean

**Absent: 5**

Hon. James M. Ryan  
Hon. David F. Ballantyne  
Mr. D. Kurt Tibbetts  
Mr. Anthony S. Eden  
Ms. Edna M. Moyle

**The Speaker:** The result of the division is: 10 Ayes, 2 Noes and 5 Absent. The Ayes have it.

**AGREED BY MAJORITY: THE APPROPRIATION (2002) BILL, 2001, GIVEN A SECOND READING.**

**The Speaker:** In accordance with the provisions of Standing Order 63(3) the Appropriation Bill now stands committed to Standing Finance Committee.

Does the Honourable Third Official Member wish to indicate the time for the said Finance Committee?

**Hon. George A. McCarthy:** Madam Speaker, 10 am tomorrow.

**The Speaker:** Thank you.

I also wish to extend to all honourable Members a very hearty and blessed Christmas and a prosperous New Year to you and your families. I wish to express my gratitude and thanks to all the staff of the Legislative Assembly who have so graciously accepted me and extended a very warm hand and have been quite open with the knowledge that they have acquired over the years. I also wish to extend a warm Christmas to my constituents, to the country on a whole, and wish that we would all have a very peaceful, tranquil and blessed holiday season.

May I have a motion for the adjournment Honourable Leader?

**ADJOURNMENT**

**Hon W. McKeever Bush:** Madam Speaker, we propose to adjourn the House to convene Finance Committee at 10 am tomorrow.

**The Speaker:** The question is that this honourable House now stands adjourned until the conclusion of the proceedings of Finance Committee. All those in favour please say Aye. All those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

The House is duly adjourned until the conclusion of the proceedings of Finance Committee.

**AT 6.52 PM THE HOUSE STOOD ADJOURNED UNTIL THE CONCLUSION OF PROCEEDINGS IN FINANCE COMMITTEE.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**31 DECEMBER 2001**  
**10.44 AM**  
*Tenth Sitting*

**The Speaker:** Good morning.

I will invite the Second Elected Member for Cayman Brac and Little Cayman to say prayers.

**PRAYERS**

**Mr. Lyndon L. Martin:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth II; the Queen Mother; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

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

**Proceedings resumed at 10.46 am**

**The Speaker:** Before we are seated, we have to affirm the Acting First Official Member.

At this time I would call him to the Clerk's desk.

**ADMINISTRATION OF  
OATHS AND AFFIRMATIONS**

OATH OF ALLEGIANCE  
*(Mr. Donovan W. F. Ebanks)*

**Hon. Donovan W. R. Ebanks:** I, Donovan Ebanks, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, II, her heirs and successors according to Law so help me God.

**The Speaker:** Honourable Acting First Official Member, I welcome you to this Sitting. Please take your seat.

Honourable Members please be seated. Proceedings are resumed.

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

**Obituaries:**

*Anton Bodden*

*Angelia Connolly*

*Evelyn Teresa Powery*

*Sister-in-law of the Member from North Side*

**The Speaker:** I have received no apologies, but at this time I wish to address the House.

On behalf of the Legislative Assembly and all honourable Members, I wish to extend our deepest sympathy to a past Member of Parliament, being the late Anton Bodden from Bodden Town.

I wish to do likewise for Ms. Angelia Connolly of Bodden Town who, I understand, was some 101 years of age and has passed the great aspired 100 years' mark.

Also, from the district of West Bay (this past Saturday) we had the passing of Evelyn Teresa Powery, a lady who was able to achieve 102 years of age (the aunt of the Leader of Government Business).

On behalf of honourable Members, I wish to express our sympathy and to all other persons who may have passed from us during the Christmas season including the sister-in-law of the Member from North Side.

While I am standing on my feet I should also wish to extend (as I am sure all Members would want me to) congratulations to the Second Elected Member from the district of Cayman Brac and Little Cayman and his family who saw the birth of their daughter yesterday.

## PRESENTATION OF PAPERS AND REPORTS

### THE INSURANCE (FURTHER VARIATION OF FEES) REGULATIONS, 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I beg to lay on the Table of this Honourable House the Insurance (Further Variation of Fees) Regulations, 2001.

**The Speaker:** So ordered.  
Does the Member wish to speak thereto?

**Hon. George A. McCarthy:** Madam Speaker, I will comment on the proposed changes in fees when dealing with Government Motion No. 15.

**The Speaker:** Thank you, Honourable Member.  
Under provisions of Standing Order 30 I have received no statements from any Honourable Members today. We will move on to the next item of Business.

## GOVERNMENT BUSINESS

### BILLS

#### REPORT ON BILL

##### THE APPROPRIATION (2002) BILL, 2001

**The Clerk:** Government Business Bills. Report on Bill. The Appropriation (2002) 2001, Bill.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, the Standing Finance Committee agrees that I do report the Appropriation (2002) Bill, 2001, to this honourable Legislative Assembly, and I beg to lay the report on the Table of this honourable House.

**The Speaker:** So ordered.  
The Bill has been duly reported and is set down for a third reading.

### THIRD READING

##### THE APPROPRIATION (2002) BILL, 2001

**The Clerk:** Third Reading: The Appropriation (2002) 2001, Bill.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled, The Appropriation (2002) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that the Appropriation 2002 Bill, 2001, be given a third reading and passed. All those in favour, please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**Hon. W. McKeeva Bush:** Can I have a Division please?

**The Speaker:** Madam Clerk, please call a Division.

**The Clerk:**

#### DIVISION NO. 22/01

##### Ayes: 12

Hon. W. McKeeva Bush  
Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Gilbert A. McLean  
Hon. Dr. Frank S. McField  
Hon. Donovan W. F. Ebanks  
Hon. Samuel Bulgin  
Hon. George A. McCarthy  
Mr. Rolston M. Anglin  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr.  
Mr. Lyndon L. Martin

##### Noes: 5

Mr. D. Kurt Tibbetts  
Mr. Alden. M. McLaughlin, Jr.  
Mr. Anthony S. Eden  
Mrs. Edna M. Moyle  
Mr. V. Arden McLean

**The Speaker:** The result of the Division is: 12 Ayes, 5 Noes. The Ayes have it. The Bill is accordingly passed.

**AGREED BY MAJORITY: THE APPROPRIATION (2002) BILL, 2001, GIVEN A THIRD READING AND PASSED.**

**The Speaker:** I call on the Leader of Government Business, or his Deputy, to move the suspension of the relevant Standing Orders.

#### SUSPENSION OF STANDING ORDERS 45, 46(1) AND (2)

**Hon. W. McKeeva Bush:** Madam Speaker, we move for the suspension of the Standing Orders 45, 46(1) and (2).

**The Speaker:** The question is that Standing Orders 45, 46(1) and (2) be duly suspended. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 45, 46(1) AND (2) SUSPENDED.**

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

*Obituary: Mr. Graham Ebanks*

**The Speaker:** If I may interject, when I was actually conveying my sympathies I forgot—and I wish to apologise—to also mention Mr. Graham Ebanks who was a vestryman from 1956-58 and I am sure all honourable Members would wish to convey our sympathies to the family of the late Graham Ebanks as well. Madam Clerk, please proceed.

**GOVERNMENT BUSINESS**

**BILLS**

**FIRST READINGS**

**THE CUSTOMS TARIFF (AMENDMENT) (FURTHER  
VARIATION OF DUTIES) BILL, 2001**

[**The Clerk:** The Customs Tariff (Amendment) (Further Variation Of Duties) Bill, 2001.]

**The Speaker:** The Bill has been read a first time and is set down for the Second Reading.

**THE STAMP DUTY (AMENDMENT)  
(NO. 3) BILL, 2001**

[**The Clerk:** The Stamp Duty (Amendment)(No.3) Bill, 2001.]

**The Speaker:** This Bill has also been read for the first time and is now set down for the Second Reading.

**THE NOTARIES PUBLIC (AMENDMENT)  
BILL, 2001**

[**The Clerk:** The Notaries Public (Amendment) Bill, 2001.]

**The Speaker:** The Notary Public (Amendment) Bill, 2001, has been set down the first time and is ready for the Second Reading.

**SUSPENSION OF STANDING ORDER 46(4)**

**The Speaker:** Honourable Leader of Government Business for the suspension of Standing Order 46(4).

**Hon. W. McKeeva Bush:** Madam Speaker, we move the suspension of Standing Order 46(4).

**The Speaker:** The question is that Standing Order 46(4) be duly suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 46(4) SUSPENDED.**

**SECOND READINGS**

**THE CUSTOMS TARIFF (AMENDMENT)  
(FURTHER VARIATION OF DUTIES) BILL, 2001**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Customs Tariff (Amendment) (Further Variation of Duties) Bill, 2001.

**The Speaker:** Do you wish to speak to the Bill Honourable Member?

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

The 2002 Budget Address contains details of various revenue measures that the Government intends to implement during the course of that year. One of the measures involves increasing the duty charged on each gallon of gasoline and diesel imported into the Cayman Islands. The purpose of this Bill is to give statutory effect to that intention. There are a number of important points that I should make in connection with this Bill.

Firstly, the existing duty rates of 40 cents on each gallon of gasoline and 50 cents on each gallon of diesel have remained unchanged since 1990.

Secondly, there will be no increase on duty in respective of duty used by CUC and Brac Power and Light to generate electricity. Thus, the price of electricity will not increase as a result of this measure.

Thirdly, the proposed 10 cents duty increase per gallon of gasoline and diesel excluding diesel used by CUC and Brac Power and Light will be placed in the Roads fund where it will be used exclusively to help maintain existing roads and assist in building new ones. The revenue will not be used to finance recurrent expenditure.

Fourthly, and lastly, it is expected that \$1.3 million will result from this measure in 2002.

The Memorandum and Objects of the Bill are consistent with the points I have just outlined and I commend this Bill to honourable Members.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak?

The Member for the district of East End.

**Mr. V. Arden McLean:** Madam Speaker, I shall not keep the House very long. There are a few points that I need to clear up at this time. When I spoke recently on the increase of duties on fuel, I went into some detail as to the effects that the increase on fuel would cause to the country. At that time I also spoke of CUC being exempt

Unfortunately, it appeared that I was misquoted by the Second Elected Member from Cayman Brac when he read an article from the papers (I think it was the *Caymanian Compass*) which I certainly was not responsible for writing. I think it may have been a typographical error on the part of the reporters. They said something to the effect that maybe I had not mentioned it. Well, Madam Speaker, I did.

I also spoke about whether we really want to help the poor man, as we all say we want to do, it would be beneficial to remove or part of the duty from CUC as opposed to an exemption of increase. Madam Speaker, the Second Elected Member from Cayman Brac and Little Cayman said that I must remember that I no longer work for CUC. The record will show that this is the third job in my life and the two previous jobs that I had I left on my own volition. I set the record when I work for someone, my employer to whom I have loyalties, and no one in CUC or otherwise will ever say that I was not loyal to whoever employed me when I worked for them. This country, who is my employer, will never say that either. I will always be loyal to my employer.

Madam Speaker, I just wanted that to be straight because the public may have got the wrong impression from what the Second Elected Member from Cayman Brac said. I stand by the loyalties I have shown to my employers and I will stand by the loyalties that I show to my country and to the people of my country. Just prior to leaving to campaign in the 2000 election I was responsible for ensuring that no politician works in CUC.

**The Speaker:** Honourable Member could you begin to move back towards the debate of the Bill before you?

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

Again the Third Official Member said that CUC was exempt and I think the whole country appreciates that, but when we talk about increasing gasoline taxes it also affects everybody. That too affects CUC. I do not know if the duties on gasoline were exempt for CUC because of the amount of vehicles they have. However, I know it has been said since the Budget Address, time and time again by the Third Official Member, by the public at large and by this honourable House (particularly the Members of this side) that it will affect our people.

We cannot expect that the bus owners who provide the little public transport that we have will take the monies out of their pockets. It will come from the people who use that means of transportation. So, when we talk about not taxing the little man, indirectly

it is taxation on the little man. I find it extremely difficult to support an increase in fuel which will, without a doubt, affect anyone that has to move in this country and that means everyone. It is also going to affect the cost of all materials because the cost of diesel is also going to be further taxed.

The majority of the vehicles that move this country commercially operate on diesel. We would be fool hearted to think that they are going to take that money out of their pockets. Cartage is going to increase, labour is going to increase; and the cost of building of roads for government will increase. The majority of government vehicles that construct our roads are diesel so when we try to say it is assisting the poor man we may have to look at that again, because it is not on CUC. There is always a trickle down effect. If someone wants a few loads of sand, stone or the like he will have to pay an additional cost. No one gets away from it but nevertheless, we sing that it is not taxing the little man.

Madam Speaker, I recognise that there is very little the Opposition can do at this stage because the numbers are on the other side. Therefore, I shall leave it up to the United Democratic Party (UDP). It is their Budget, it is their initiatives and in so doing they will have to be responsible.

Thank you.

**The Speaker:** Thank you honourable Member.

The Second Elected Member for the district of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

The Bill before the House is a proposal to amend The Customs Tariff Law to give effect to variations in duties in respect to motor gasoline and diesel oil imported for use by persons other than companies generating electricity and supplying it to the public for reward. This is one of a series of Bills and Regulations which are brought by the Government to give effect to the revenue raising measures proposed in the Budget Address and in the appended schedule. I have spoken at considerable length during my contribution to the debate on the Budget Address about the fundamental difficulties I have with the approach adopted by the UDP Government in producing this Budget.

Madam Speaker, I have indicated that the Budget and these revenue enhancement measures demonstrate all the signs of a hastily thrown together document, which has been produced by its architects without sufficient regard for the ramifications of the measures. I have lamented my concern, that this whole process and manner in which this exercise has been carried through is likely to have considerable adverse follow.

Therefore, because I have a fundamental disagreement with the rationale adopted in this exercise, I am unable in principle to vote in favour of the specific measures which will give effect to the proposals con-

tained the Budget document. The whole process since the inception of the new Government on 8 November has been characterised by the suspension of Standing Orders and by the truncation of debate. This exercise this morning is no different.

As we stand on the advent of a new year and look back at a year that has been on the political field, certainly one filled with acrimony and antipathies, I appeal again to all Members of this honourable House, particularly to those who—to paraphrase the language of the Honourable Minister of Community Development who holds the reigns of power—let us adopt civilised rules of engagement. I do expect to be regularly outvoted in this honourable House but I do not expect to have my right to debate a matter repeatedly and consistently impinged upon the majority.

So, as we come to the end of the period of good will and love, I ask all Members of this honourable House and in particular those who hold the reigns of power, to let us choose our fights where there is a question of principle. Where the matter is one of issue then by all means let us disagree and disagree as vigorously as we deem fit. However, let us seek to avoid unnecessary disagreements on matters of procedure and matters of due notice—reasonable notice being given to all Members of this honourable House in relation to important matters which the House has to deal. Let us avoid as far as possible the impingement upon each Member's right to debate freely the many important issues which come before this honourable House. Therefore, I do not intend to speak again in relation to any of the other matters on the Order Paper.

My disagreement is one of principle that goes to the core of the whole Budget exercise. I simply wish to close at this time by wishing all Members of this honourable House a blessed and peaceful New Year and I look forward, with hope to the promise of a new attitude and a new atmosphere in this honourable House as we begin 2002.

I thank you, Madam Speaker.

**The Speaker:** Thank you Honourable Member. Does any other Member wish to speak? Does any other Member wish to speak?

The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Madam Speaker, I would not rise other than to make comment on what was said by the last speaker. To briefly say that the Government has tried to be as fair as possible given the circumstances of timing in dealing with the Budget being late in November, getting into Christmas or getting very late with the Budget, taking due cognisance of the staff of the legislature and Members' business.

However, from Budget day I stood here and asked Members to arrange their affairs because at various times we would have to be working late ever since that day of giving notices on the adjournment

and to ask for cooperation to be able to get through the business. The records bear me out. It is not a matter of those who hold the power—this thing is from both sides and when it comes to acrimony and insults that are shouted, it is an insult as much as the one that is whispered.

I would ask the Member, who so timely addressed these matters, to bear that in mind in all he says whenever he rises to deal with any business in this House. Let it not be one of personal attacks on Members of Government because then that would only cause reciprocation. If you genuinely want to cooperate then let us be genuine. Let us not tempt others. This year . . . yes, was one of changes. And we had to do what we did as a Government to get through the business of this House.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Leader of Government Business. Does any other Member wish to speak?

The Second Elected Member for the district of West Bay.

**Mr. Rolston M. Anglin:** Madam Speaker, with regard to the matter before us which will give effect to some 10 cents increase per gallon on gasoline and diesel not used by energy providers, and the effect that it will have on the economy and on the little man in this country, I wish to remind us all and the listening public that although this is New Year's Eve, this is a House of politics. Therefore, all Members will seek to put their political view forward.

Sometimes political view is reality and sometimes it is not. The Elected Member from East End specifically said that if we on the Government side (the United Democratic Party Government) truly wanted to help the poor man then we would remove duty altogether from CUC. Madam Speaker, we have to recognise that in removing duties there is no guarantee that prices will be passed on. We also have to make up the revenue that will be lost. At the end of the day when we have to have things like housing for all persons in all districts (including the district of East End) for all the critical items that the Government has to provide to all Members and all citizens of this country (including the citizens of the district of East End), we have to recognise that there are monies needed to provide these services.

Madam Speaker, mention was made of the cost. I use approximately 30 gallons of gasoline to run my automobile per month. That means an increase of \$3 per month, which is \$36 yearly. Just to remind us all, and indeed to remind the listening public, the price of gasoline does change, it changes through market forces and through Government action and this year has seen significant changes in the prices of gasoline. Giving the impression to the listening public that it is the United Democratic Party's political statement, of not impacting the poor man but now this 10



cents is going to cause so much harm, is probably not the fairest or the most accurate assessment.

The prices of gasoline and diesel have risen in excess of three times already in the year 2001. Some of those increases were more than 10 cents per gallon. For example, the bus drivers in this country certainly did not increase their fares each time the price of gasoline went up. That is not the way in which the economy works; bus drivers do not go out and change their prices 'willy nilly', "*oh! the price at the pump went up 9 cents so let's increase our fares*". That is something that happens gradually over a period of time and so I ensured ... This point was raised before in the Budget Address and I made sure to go back to a number of bus drivers to get the fees they charge on their routes and none of them raised their fees when the price of gasoline went up this year.

There was also talk of a trickle down effect to the little poor man. Again, the prices of gasoline in this year have risen. In fact, the prices of gasoline over the last 18 months have risen significantly. Yes, all of these things are indeed tied into the price makeup of all goods and services. Goods and services must be delivered from the Port to the various businesses on the Island because we do import the great majority of our economic products. However, it is not fair to say that—looking at the last year—prices in the hardware stores or grocery stores are one for one increases, or greater than one for one increase of specific items simply because the prices of gasoline have increased over the last 18 months dramatically.

We have to ensure that in this business of engaging in debate that when we espouse a position that position it not going to be challenged but that we do portray the complete picture. That is what the Legislative Assembly is all about. I can honestly say that I do not agree with what the Member implied is going to happen to the little man. As I said [I am] an average driver or probably above average driver in terms of miles per month, it will cost me about \$3 per month.

Madam Speaker, there will also be the necessary ring-fencing of these funds to go into a roads fund. This is a critical matter in fiscal management that is, allowing all citizens including the little man to be able to see where their taxes are going. That is often very difficult. However, in this instance these monies are being ring-fenced into the Roads Fund. Let us also remember that good roads are critical to our economic survival and our continued economic prosperity. Indeed, Madam Speaker, you need good roads so the people's cars do not unnecessarily get damaged by potholes and the like.

Indeed you need good roads so that when tourists come to this country they do have an experience that is pleasant. The same little man is going to be driving on the roads built and serviced out of the monies that are going into this Roads Fund.

The implication that was given that this is going to dramatically impact on the little man and that yes, the United Democratic Party Government was

bringing it. So, a vote of 'No' meant that you were voting for the little man on this particular matter and that what was being proposed was going to cause this dramatic increase in the Consumer Price Index and the cost of living. I do not believe most persons who think this issue through thoroughly would not believe that to be the case.

Lastly, I would like to remind the listening public that there were similar measures that had impacts on the little man that came to this honourable House in March 2001 that put the duties back on various items. I am a man and I will stand here and say that I voted for that. However, to now have the Elected Member from East End get up and talk about the little man and talk about the 10 cents per gallon and paint a picture that this is going to cause such a dramatic increase in the cost of living is not fair. I also remind the honourable Member that he also voted for that revenue package.

Madam Speaker, I thank you, and I do commend this to all honourable Members.

**The Speaker:** Thank you honourable Member. Does any other Member wish to speak? If not I will call upon the Honourable Third Official Member to exercise his right of reply.

**Hon. George A. McCarthy:** Madam Speaker, I have noted the remarks that have been made by honourable Members. As I have pointed out, this money will not be placed into the General Revenue Fund but it will be ring fenced into Roads fund in order to alleviate the cost of providing funds necessary for road building. Madam Speaker, the alternative often times results in monies having to be borrowed. This results in cost with regards to interest having to be incurred. This money will definitely be useful, in that, it will be set aside for a specific purpose and it will be known for what purpose these funds will be used.

Thank you very much.

**The Speaker:** Thank you, Honourable Member.

I put the question that a Bill shortly entitled, The Customs Tariff (Amendment) (Further Variation of Duties) Bill, 2001, be given a second reading. All those in favour, please say Aye. All those against, No.

**AYES and one audible No.**

**The Speaker:** The Ayes have it.

**Hon. W. McKeeva Bush:** Madam Speaker, can I have a Division?

**The Speaker:** Certainly.

Madam Clerk, please call a Division.

**The Clerk:****DIVISION NO. 23/01****AYES: 12**

Hon. W. McKeever Bush  
 Hon. Linford A. Pierson  
 Hon. Roy Bodden  
 Hon. Gilbert A. McLean  
 Hon. Dr. Frank S. McField  
 Hon. Donovan W. F. Ebanks  
 Hon. Samuel Bulgin  
 Hon. George A. McCarthy  
 Mr. Rolston M. Anglin  
 Capt. A. Eugene Ebanks  
 Mr. Cline A. Glidden, Jr.  
 Mr. Lyndon L. Martin

**NOES: 5**

Mr. D. Kurt Tibbetts  
 Mr. A. M. McLaughlin, Jr.  
 Mr. Anthony S. Eden  
 Ms. Edna M. Moyle  
 Mr. V. Arden McLean

**The Speaker:** The result of the Division is 12 Ayes, 5 Noes. The Ayes have it. The Bill has been given a second reading.

**AGREED BY MAJORITY: THE CUSTOMS TARIFF (AMENDMENT) (FURTHER VARIATION OF DUTIES) BILL, 2001, GIVEN A SECOND READING.**

**The Speaker:** The Honourable Third Official Member.

**THE STAMP DUTY (AMENDMENT) (NO.3) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Stamp Duty (Amendment) (No. 3) Bill, 2001.

**The Speaker:** Do you wish to speak to it Honourable Member?

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

As noted with the first Bill, the 2002 Budget Address contains details of various revenue measures that the Government intends to implement during 2002. One of the measures again, involves increasing the stamp duty charge in respect of bills of lading and the introduction of stamp duty on airway bills including those sent by couriers. The purpose of this Bill is to give statutory effect to that intention. There are a number of important points that should be made in connection with this Bill.

Firstly, the existing stamp duty rate of 50 cents on each bill of lading has remained unchanged since 1973 and its collection has never been enforced. This Bill proposes that this be increased from 50 cents to \$2.

Secondly, Madam Speaker, bills of lading have traditionally been associated with ships. Now-a-days items can be sent from the Cayman Islands by air as well as by sea. The Bill now before this honourable House therefore, proposes that a similar \$2 be applicable to the items sent from the Islands that have an accompanying airway bill including those sent by

couriers. The proposed stamp duty levy of \$2 is applicable to items leaving the Islands as opposed to items entering the Islands. It is expected that approximately \$250,000 will result from this measure in 2002.

Madam Speaker, I commend this Bill to honourable Members.

**The Speaker:** Thank you, honourable Member.

Does any Member wish to speak? Does any Member wish to speak? If not I will call on the same Honourable Third Official Member to exercise his right of reply.

**Hon. George A. McCarthy:** Madam Speaker, just to say thanks to honourable Members for their tacit support.

**The Speaker:** Thank you, Honourable Member.

I shall put the question that a Bill entitled, The Stamp Duty (Amendment) (No. 3) Bill, 2001, be given a Second Reading. All those in favour please say Aye. Those against, No. The Ayes have it.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE STAMP DUTY (AMENDMENT) (NO. 3) BILL, 2001, GIVEN A SECOND READING.**

**The Speaker:** The Honourable Third Official Member.

**THE NOTARIES PUBLIC (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Notaries Public (Amendment) Bill, 2001.

**The Speaker:** The question is that The Notaries Public (Amendment) Bill, 2001 be given a Second Reading.

Does the Mover of the Bill, the Honourable Third Official Member, wish to speak thereto?

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

The purpose of this Bill is to introduce revised fees that are intended to bring revenue more in line with Government's administrative cost incurred in respect of Notary Public matters. The existing initial registration and annual fees were established in 1995 some six years ago. A better appreciation of the administrative cost that I just mentioned could be obtained by spelling out the steps that have to be followed in order to become a Notary Public. The steps that have to be taken in order to become a Notary Public are as follows:

1. The applicant completes a form and this is submitted to the Attorney General for his review and approval through Executive Council.

2. A letter is sent to the applicant and copied to the Courts advising as to whether the application has been successful.

3. If the application is approved by the Attorney General the applicant is given an appointment for the purpose of being sworn in as a Notary Public by the Courts.

4. The successful applicant's name is entered in a register maintained by the Courts.

5. The Notary's specimen signature is obtained and sent to the Chief Secretary.

6. A certificate is prepared by the Courts and issued to the Notary.

The above steps are obviously time-consuming and the fees charged should be sufficient to cover the cost incurred. This is the purpose of the Bill now before this honourable House. Clause 2 of the Bill provides for an increase in the initial registration fee payable by Notaries from its existing level of \$150 to \$500. Clause 3 of the Bill provides for an increase in the annual fee payable by Notaries from its existing level of \$75 to \$250.

Madam Speaker, I commend this Bill to honourable Members.

**The Speaker:** Thank you, Honourable Member.

Does any Member wish to speak? Does any Member wish to speak? If no Member wishes to speak I will call on the Honourable Third Official Member if he wishes to exercise his right of reply.

**Hon. George A. McCarthy:** Madam Speaker, once again to say thanks to honourable Members for their tacit support.

**The Speaker:** I shall put the question that a Bill shortly entitled, The Notaries Public (Amendment) Bill 2001, be given a Second Reading. All those in favour please say Aye. Those against, No

**AYES.**

**The Speaker:** The Ayes have it. The Bill has given a second reading.

Is it the wish of the House to go straight into Committee or do you wish to take ...

The House will now go into Committee.

**AGREED: THE NOTARIES PUBLIC (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**HOUSE IN COMMITTEE AT 11.41 AM**

## **COMMITTEE ON BILLS**

**The Chairman:** The House is now in Committee.

With the leave of the House may I assume that as usual we would authorise the Honourable Second Official Member to correct minor printer errors as such like in these Bills [*inaudible comment*] ...and read each Clause?

### **THE CUSTOMS TARIFF (AMENDMENT) (FURTHER VARIATION OF DUTIES) BILL, 2001**

**The Clerk:**

|          |                                                                                                 |
|----------|-------------------------------------------------------------------------------------------------|
| Clause 1 | Short Title.                                                                                    |
| Clause 2 | Amendment of section 2 of the Customs Tariff Law (2001 Revision) Definitions.                   |
| Clause 3 | Amendment of first schedule to the Customs Tariff (2001 Revision) Duties of Customs on Imports. |

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. Those in favour please Aye.

[*One audible Aye*]

**The Chairman:** I did not catch anyone's eye for debate. Are there objections?

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

**AYES.**

**The Chairman:** The Ayes have it. Clauses 1 through 3 do stand part of the Bill.

**CLAUSES 1 – 3 PASSED.**

**The Clerk:** A Bill for a Law to Further Vary Duties under The Customs Tariff Law (2001 Revision).

**The Chairman:** The question is that the Title does stand part of the Bill. All those in favour please say Aye. Those against, No

**AYES.**

**The Chairman.** The Ayes have it.

**TITLE PASSED.**

### **THE STAMP DUTY (AMENDMENT) (NO. 3) BILL, 2001**

**The Clerk:**

|          |                                                                                |
|----------|--------------------------------------------------------------------------------|
| Clause 1 | Short Title.                                                                   |
| Clause 2 | Amendment of the schedule to The Stamp Duty Law (2001 Revision) Rates of Duty. |

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. If there is no debate, I put the

question that Clauses 1 and 2 do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Clerk:** A Bill for a Law to amend The Stamp Duty Law (2001 Revision), to increase the Stamp duty on Bills of Lading and impose the stamp duty in relation to airway bills.

**The Chairman:** The question is that the Title does stand part of the Bill. All those in favour, please say Aye. Those against, No

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE NOTARIES PUBLIC  
(AMENDMENT) BILL, 2001**

**The Clerk:**

|          |                                                                                                     |
|----------|-----------------------------------------------------------------------------------------------------|
| Clause 1 | Short title.                                                                                        |
| Clause 2 | Amendment of section 4 of The Notaries Public Law (1995 Revision). Registration of Notaries Public. |
| Clause 3 | Amendment of section 7 of The Notaries Public law (1995 Revision). Payment of annual fees.          |

**The Chairman:** The question is that Clauses 1 through 3 do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 1 through 3 do stand part of the Bill.

**CLAUSES 1 THROUGH 3 PASSED.**

**The Clerk:** A Bill for a Law to amend The Notaries Public Law (1995 Revision) in order to increase fees charged under the Law and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The Title stands part of the Bill.

**TITLE PASSED.**

**The Chairman:** The question is that the Bills be reported to the House. All those in favour, please say Aye. All those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The House will resume.

**AGREED: THAT THE BILLS BE REPORTED TO THE HOUSE.**

**HOUSE RESUMED AT 11.47 AM**

**The Speaker:** Please be seated.

**REPORTS ON BILLS**

**THE CUSTOMS TARIFF (AMENDMENT)  
(FURTHER VARIATION OF DUTIES) BILL, 2001**

**The Speaker:** Reports on Bills. The Customs Tariff (Amendment) (Further Variation of Duties) Bill, 2001. The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled, The Customs Tariff (Amendment) (Further Variation of Duties) Bill, 2001, was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for Third Reading.

**THE STAMP DUTY  
(AMENDMENT) (NO. 3) BILL 2001**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled, The Stamp Duty (Amendment) (No.3) Bill, 2001, was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is now set down for Third Reading.

**THE NOTARIES PUBLIC  
(AMENDMENT) BILL, 2001**

**The Speaker:** The Honourable Third Official Member

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled, The Notaries Public (Amendment) Bill, 2001, was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill is accordingly set down for a third reading.

### THIRD READINGS

**The Speaker:** Third reading.

Suspension of Standing Order 47. The Honourable Deputy Leader.

#### SUSPENSION OF STANDING ORDER 47

**Mr. Linford A. Pierson:** Madam Speaker, I beg to move the suspension of Standing Order 47 so that the Third Reading can be taken at this time.

**The Speaker:** Thank you, Honourable Deputy Leader. The question is the suspension of Standing Order 47. All those in favour, please say Aye. All those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 47 SUSPENDED.**

#### THE CUSTOMS TARIFF (AMENDMENT) (FURTHER VARIATIONS OF DUTIES) BILL, 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled, The Customs Tariff (Amendment) (Further Variation of Duties) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that the Bill be given a third reading and be accordingly passed. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE CUSTOMS TARIFF (AMENDMENT) (FURTHER VARIATION OF DUTIES) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

#### THE STAMP DUTY (AMENDMENT) (NO. 3) BILL, 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled, The Stamp Duty (Amendment) (No.3) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that The Stamp Duty (Amendment) (No.3) Bill, 2001, be given a third read-

ing and accordingly passed. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE STAMP DUTY (AMENDMENT) (NO.3) BILL, 2001, GIVEN A THIRD READING AND PASSED.**

#### THE NOTARIES PUBLIC (AMENDMENT) BILL, 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled, The Notaries Public (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that The Notaries Public (Amendment) Bill, 2001, be given a third reading and duly passed. All those in favour, please say Aye. Those against, No

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE NOTARIES PUBLIC (AMENDMENT) BILL, 2001, GIVEN A THIRD READING AND PASSED.**

### GOVERNMENT BUSINESS

#### MOTIONS

##### GOVERNMENT MOTION NO.15/01

#### INSURANCE (FURTHER VARIATION OF FEES) REGULATIONS 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move Government Motion No.15/01 which reads as follows:

“WHEREAS section 15)(f) of the Insurance Law (2001 Revision) provides that the Governor in Council may make regulations amending the Schedule to the principal Law save that any amendment increasing the scale of fees prescribed in the Schedule shall require the confirmation of the Legislative Assembly;

“AND WHEREAS the Insurance (Further Variation of Fees) Regulations 2001 have been laid on the Table of this Honourable House;

**“BE IT THEREFORE RESOLVED THAT the Insurance (Further Variation of Fees) Regulations 2001 be hereby confirmed by the Legislative Assembly pursuant to the provisions of section 15(f) of the Insurance Law (2001 Revision).”**

Section 15(f) of the Insurance Law 2001 Revision states that (and as I read earlier in the Resolution), **“the Governor in Council may make regulations amending the Schedule to the principal Law [of fees] save that any amendment increasing the scale of fees prescribed in the Schedule shall require the confirmation of the Legislative Assembly.”** It is in accordance with this provision section 15(f), that this Motion is being brought to this honourable House.

This Motion proposes the following increases in the various categories of licenses as set out in item 10 of the Budget 2002 data of revenue measures earlier circulated to honourable Members during the Budget address and once more for ease of reference are as follows:

#### **Insurance Licenses**

|         |                                     |
|---------|-------------------------------------|
| Class A | From \$20,000 to \$30,000.          |
| Class B | Unrestricted from \$5,500 to \$7000 |
| Class B | Restricted from \$5,500 to \$7000   |

#### **Insurance Managers**

- Insurance Managers that have 1 to 10 clients from \$10,000 to \$15,000.
- Insurance Managers having 11 to 50 clients from \$12,000 to \$20,000.
- Insurance Managers that have 51 to 100 clients from \$16,000 to \$25,000 per annum.
- Insurance Managers that have 100 clients and more from \$20,000 to \$30,000 per annum.
- Insurance Brokers from \$2,400 per annum to \$4,500.
- Insurance Agents from \$250 per annum to \$400 per annum.

All other fees remain unchanged under this fee schedule. These fees are effective as at 1 January 2002. Madam Speaker, I commend this Motion to Honourable Members.

**The Speaker:** Does any Member wish to speak? If not would the Honourable Third Official Member wish to exercise his right of reply?

**Hon. George A. McCarthy:** Madam Speaker, just to say thanks to honourable Members for their tacit support.

**The Speaker:** The question is that the Insurance (Further Variation of Fees) Regulations 2001 be hereby confirmed by the Legislative Assembly pursuant to the provisions of section 15(f) of the Insurance Law (2001 Revision). All those in favour, please say Aye. Those against, No.

**AYES and one audible No**

**The Speaker:** The Ayes have it. Motion 15/01 has accordingly been passed.

**AGREED: GOVERNMENT MOTION 15/01 PASSED.**

**The Speaker:** There being no further business set down on the Order Paper, I call upon the Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Madam Speaker, before I move the adjournment I wish to extend our thanks on behalf of all Members and our gratitude to you as the new Speaker for having conducted the affairs of the Chair and the House in such an outstanding manner.

We also wish to extend our thanks to the Clerk and staff members for their cooperation in running the affairs of this honourable House and helping us to get through our business.

On behalf of all Members we wish to extend New Years greetings to all of us here and to all of our people. We pray fervently for better times for everyone in 2002. As one writer said, “There has never been an age that did not applaud the past and lament the present.”

We ask the blessing of Almighty God for good health, peaceful times and safety. As Charles Dickens wrote, “Let us reflect upon our present blessings, of which every man has many; not on your past misfortune of which all men have some.”

### **ADJOURNMENT**

**Hon. W. McKeever Bush:** Having said that, I move the adjournment of this honourable House until Monday, 7 January, as Members have requested. I would remind Members that there is still quite a bit of business to complete. I ask Members to also recognise that the Speech from the Throne is in early February.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Leader.  
The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you. Madam Speaker, just before you put the question: On behalf of the Backbench Opposition, certainly, I would just like to extend heartfelt thanks you to your good self as the new Speaker and the job that you have done thus far.

Also, to say a special thanks to the Clerk and the rest of her staff and also Ms. Anita who even in dreary times always fills the spot.

Madam Speaker, I think we also have to say thank you to the members of the media who sometimes at odd hours willingly stay on to be able to report the goings on of the House.

On behalf of the Backbench Opposition I would like to extend to all of our constituents through-

out the Cayman Islands a very happy New Year and peaceful and prosperous times for the future.

Thank you.

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

On behalf of the Speaker's Office and indeed the Legislative Assembly, I wish to accept those kind words and to convey them through Madam Clerk to the relevant staff. I also wish to take this opportunity to wish a very happy and blessed New Year to my constituents and to all honourable Members.

I trust that we will come back reinvigorated on Monday, 7 January, 2002, with a new commitment and a new fervency to do what is best for our country at all times, which I sincerely believe is the main motive of each honourable Member in the House. May God's richest blessings be upon each one.

At this time I will put the question that the honourable House be duly adjourned until 10 am Monday, 7 January 2002. All those in favour, please say Aye. All those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 12.02 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM MONDAY, 7 JANUARY 2002.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**7 JANUARY 2002**  
**10.32 AM**  
*Eleventh Sitting*

**The Speaker:** Good morning. We will have prayers by the Honourable Temporary Second Official Member.

**PRAYERS**

**Hon. Samuel Bulgin:** Let us pray:

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

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

Let us say the Lord's Prayer together:

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

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

**Proceedings resumed at 10.35 am**

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

**The Speaker:** Please be seated. Proceedings are resumed.

I have received no apologies for this Sitting of the House.

**QUESTIONS TO HONOURABLE  
MINISTERS AND OFFICIAL MEMBERS**

**The Speaker:** The Third Elected Member for the district of West Bay.

**QUESTION NO. 135**

**No.135: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for the Ministry of Community Services, Youth and Women's Affairs what are the criteria to become a prison officer.

**The Speaker:** The Honourable Minister responsible for Community Services, Youth and Women's Affairs.

**Dr. the Hon. Frank S. McField:** Madam Speaker, the answer is: Applicants must be at least 25 years of age, be Caymanian, a status holder or a legal resident; be able to pass the entrance test of basic Math, English and Communication skills, pass the medical examination; have a police record clear of criminal offences; pass a selection interview, successfully complete a nine-week training course, complete a year's probationary period.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to ask a question?

The Third Elected Member for West Bay.

**SUPPLEMENTARIES**

**Capt. A. Eugene Ebanks:** Thank you, Madam Speaker.

Could the Minister say who is responsible to follow up on a background check for the applicants?

**The Speaker:** Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, the background checks and the follow ups on these references are all made by the Director of Prison, through the Police Department and checking the persons who have given the references.

**The Speaker:** Are there any other supplementaries?  
The Third Elected Member for West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Madam Speaker. Would the Honourable Minister say if there are any character references required and how many?



**The Speaker:** Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, the normal procedure is not to rely on character references, but in the process of hiring a prospective prison officer, character references are taken.

**The Speaker:** Are there any other supplementaries?  
The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker. Would the Minister indicate if there is any programme in place to try to get more Caymanians in the prison service?

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, I would first of all like to answer that question by saying that there appears to be three main reasons why Caymanians do not join the prison service and those are: it is a job that lacks status; it is a job with unattractive working conditions; and the recruitment at 25 means that high quality candidates have already been employed since leaving school at 18 and are unlikely to change employment because of the first two factors.

However, Madam Speaker, the prison service has just started the recruitment procedures for an operational support assistant grade. The intention is to recruit some 19- to 20-year-olds who will move on to the prison officer's rank with additional training after two years in the job. This is one way that the Prison has proposed to try to increase the numbers of Caymanian officers, in view of the fact that the job seems to be very unattractive to Caymanians.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. In the answer, point 2 says that the applicant must be Caymanian, a status holder or legal resident. First, I wonder if the Minister can define "legal resident" and then would he tell us if all prison officers meet at least one of these criteria.

**The Speaker:** The Honourable Minister responsible for Community Affairs.

**Dr. the Hon. Frank S. McField:** Madam Speaker, I would suspect if I am allowed to do that in my answer, that "legal resident" is defined by the Immigration Law as someone who is legally allowed to be in the Cayman Islands. That, I understand, could be someone who is on work permit, but they are legally allowed to be in the Cayman Islands. This differs from what we would consider to be a permanent resident. A legal

resident is, therefore, someone who has legally taken up abode in the Cayman Islands; they have passed the immigration qualifications. Madam Speaker, I would therefore presume that all the staff at the Prison presently meet those requirements.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Could the Minister say how many prison officers are Caymanian and/or status holders, and how many are legal residents?

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, of the 121 discipline officers we have 37 or 30.6 percent that are Caymanians. That gives a slight increase from July 2000 when we had 28.6 percent that were Caymanians.

In addition, we have now embarked upon hiring the operational support assistant staff and of those we have: 6 Caymanian status holders; 6 married to Caymanians; and 2 Jamaicans who are currently agricultural assistants (one is a former employee of the Prison).

**The Speaker:** Are there any other supplementaries?  
The First Elected Member for the district of George Town.

**Mr. D. Kurt Tibbetts:** Thank you. Could the Minister state when prison officers are hired, what are the normal contractual arrangements and for what period of time?

**The Speaker:** The Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, when an officer is hired as a contracted officer the period of employment is for the period of the contract, which is 2 years. If the person is hired as a permanent pensionable employee then that person, of course, will be hired for the duration of that person's working period with the establishment.

**The Speaker:** Are there any further supplementaries?  
The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you. Just to follow up on a supplementary that was already asked and for purposes of clarity.

It says that applicants had to be either Caymanian, status holder, or legal resident. Could the Minister state if in the past no local person applied whenever vacancies were available, whether there had to be advertisement placed overseas and individuals hired from overseas? If that is the case, how

did they get through the hurdle of the individuals being legal residents of the country?

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, since the new director has been with us approximately 18 months, I believe, this procedure of hiring or advertising abroad has not been done. It appears that it was done previously, but I am not in a position at this point to say exactly how that was accomplished. I do not believe that the Director of Prison (who is supporting me with regard to these questions) is in a position to answer that question. Perhaps the Honourable First Official Member might lend his assistance at this stage.

**The Speaker:** Perhaps if the First Elected Member from George Town would be so mindful as to repeat it so that the First Official Member can respond if he wishes to exercise that discretion.

**Mr. D. Kurt Tibbetts:** Thank you. I was simply trying to determine if individuals had to be hired through advertising overseas. In the answer one of the criteria states the fact that the individual has to be a legal resident. I am wondering how this hurdle was overcome if officers were hired from abroad which would not have put them in the status of a legal resident of the Cayman Islands.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Earlier on, the Honourable Minister in giving a definition pointed out that a category of being a resident in Cayman was having a contract, and I think he has already therefore answered the question. Once a person from overseas is given a contract he is deemed legal in the Cayman Islands.

**The Speaker:** The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you. I understand exactly what the Honourable First Official Member has said. Perhaps it is just a technicality here, but if I understand it correctly what the Honourable First Official Member is saying, is that the person receives a contract before he becomes a legal resident. That has to be the case, but the criteria to become a prison officer is that he has to be a legal resident. So which comes first?

**The Speaker:** The Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, if the policy in the future is to recruit based upon the

criteria of a person having to have Caymanian status or being legally resident in the Cayman Islands, that is the criteria to be a prison officer and not to be *recruited* as one. Therefore, when the person is recruited, the person is in the process of becoming a prison officer. To actually be a prison officer, one must be a legal resident; in other words that process occurs simultaneously.

**The Speaker:** The Honourable First Official Member do you wish to augment that response?

**Hon. James M. Ryan:** Thank you, Madam Speaker. Just to supplement that. Most of the contracted officers are from the United Kingdom and the contracts are usually dealt with by the London office. So, once a person or officer arrives in the Cayman Islands with a contract in hand, I think they are deemed to be a legal resident of the Cayman Islands.

**The Speaker:** Are there any further supplementaries? If not we will move on to the next question. The Third Elected Member for the district of West Bay.

#### QUESTION NO. 136

**No. 136: Capt. A. Eugene Ebanks** asked the Honourable Minister responsible for Community Services, Youth and Women's Affairs, if there are set guidelines for disciplinary action when a prison guard is found with drugs in or out of Northward Prison.

**The Speaker:** Honourable Minister responsible for Community Services, Youth and Women's Affairs.

**Dr. the Hon. Frank s. McField:** The Prison Officers (Discipline) Regulations (1999 Revision) and the Public Service Commission Regulations 1985 sets out guidelines for disciplinary actions when a prison officer is found with drugs in or out of Northward Prison.

The Prison Officer (Disciplinary Regulations 2 (I) (ii) states that an officer to whom these regulations apply, commits an offence against discipline if he is guilty of: "**Trafficking, which is, if he knowingly and without proper authority—**

**“(ii) brings into or carries out of the prison or attempts to bring in or carry out, to or for any prisoner, any article whatsoever;”**

Paragraph 3(4) of these regulations permit the Director: to "**refer an alleged disciplinary offence to the police for their action if, in his opinion, it is sufficiently serious nature.**"

Invariably, however, a prison officer will be charged under the Drug Law and interdicted on half-day pay until the courts have pronounced a verdict. If the officer is found guilty, since the severity of the offence is such as to warrant dismissal, his pay is stopped immediately (Public Service Commission Regulations (PSC) 43) and dismissal proceedings are commenced under either PSC Regulation 30 if a Con-

tracted Officer or under 49 if he is a Pensionable officer.

**The Speaker:** Thank you, Honourable Minister. Are there any supplementaries?

The Third Elected Member for West Bay.

### SUPPLEMENTARIES

**Capt. A. Eugene Ebanks:** Thank you, Madam Speaker. Whenever a prison guard is convicted of trafficking or having drugs in or out of Northward Prison and he is dismissed from that position, is he able to take up another position with the government services?

**The Speaker:** The Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, I am not sure that comes under my portfolio. I can only say what would happen in the case when the prison officer has committed the offence within the prison services and then that person would obviously be removed from service in that department.

Whether or not that person can then turn around and have a job with another government department, I guess depends on what the Personnel Department's policy would be with regards to hiring. However, I am not aware that the Government has made it clear that they have been willing to hire persons with previous convictions.

Madam Speaker, I think that question might be best answered by the Honourable First Official Member.

**The Speaker:** On reflection, Elected Member for West Bay, I think you are soliciting an opinion and at this time I would ask if you would move on to another supplementary if you did in fact have one.

**Capt. A. Eugene Ebanks:** Thank you, Madam Speaker.

Could the Minister say in the case of an accused non-Caymanian who has been convicted and served time, if he is then deported?

**The Speaker:** Again, honourable Member, that is a question that perhaps should have been directed to the Second Official Member. If you wish, you may ask him on a private arrangement or you may submit it according to Standing Orders at a later meeting.

Are there any further supplementaries?

The Elected Member for East End.

**Mr. V. Arden McLean:** I wonder if the Minister could tell us if there is a drug testing policy for prison officers.

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, while General Order 18.113 appears to give authority for this advice from the Solicitor General, in that this is superseded by the Drugs Law which requires reasonable grounds to take a urine sample from staff, the drug dogs will provide those grounds.

**The Speaker:** I will allow one more supplementary then we move on to the next question.

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

In his reply, he said the drug dogs would provide the reasonable grounds to do a drug test on a prison officer. I wonder if the Minister can explain to this honourable House how the dogs are going to provide those grounds?

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. S. Frank McField:** Madam Speaker, if the honourable Member for East End is familiar with what happens at airports, for instance, when the dogs go around and sniff, they give you an indication that there are reasonable grounds to believe that that officer has drugs or has been using drugs because of the odour.

**The Speaker:** Honourable Member for East End I did say that that would be the last supplementary. So, we will move on to the next question.

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

**The Clerk:** The Motion to suspend Standing Order 23(7) and (8).

**Hon. Linford A. Pierson:** Madam Speaker, I rise to move the suspension of Standing Order 23(7) and (8) so that question time can continue.

**The Speaker:** The question is that Standing Order 23(7) and (8) be duly suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED IN ORDER TO ALLOW QUESTION TIME TO CONTINUE.**

**QUESTION NO. 137**

**The Speaker:** The Third Elected Member for West Bay.

**No. 137: Capt. A. Eugene Ebanks** asked the Minister responsible for the Ministry of Community Services, Youth and Women's Affairs, when will the sniffer dogs be phased in to the security system at Northward Prison.

**The Speaker:** The Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, I am happy to answer by saying that the sniffer dogs will be phased into the security system at Northward Prison in April 2002. The two drug detection dogs (Labrador, Spaniel type) will be attached to the prison service. A Cayman Islands Canine unit, staffed by members of the RCIP, HM Customs and HM Prison Service is to be set up by a scheme financed by the UK Foreign Office Good Governance Fund at a cost of CI\$225,000.

The Unit will consist of 12 dogs, 8 of these will be trained to detect heroin, cocaine and marijuana. They will be of the Labrador, Spaniel type and able to operate in either passive or proactive mode. Or, they will be German Shepherd patrol dogs with the added capacity to detect drugs, firearms and ammunition in the proactive mode.

The dogs will be trained in the UK and then flown out to Cayman where a team of 3 experienced dog handlers will train the local handlers on a 12-week course which is scheduled for completion by 31 March 2002.

To reduce the cost to the Cayman Islands Government, the residential training centre recently opened at Northward will be used. The conversion of the redundant farm building behind the prison will provide kennelling facilities.

Madam Speaker, I am also pleased to say that the first set of dogs will arrive this Friday.

**The Speaker:** Thank you. Are there any supplementaries?

The Elected Member for East End.

**SUPPLEMENTARIES**

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I wonder if the Minister can tell us if these dogs will be capable of determining when one has consumed drugs.

**The Speaker:** The Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, they will be able to tell whether someone has been in contact with drugs.

**The Speaker:** Are there any further supplementaries? If not we will move on to the next question.

**QUESTION NO. 138**

**The Speaker:** The Elected Member for East End.

**No. 138: Mr. V. Arden McLean** asked the First Official Member if all repairs have been effected to the *Cayman Protector* and is it now in service.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, the answer is No. There has been a considerable amount of work to be completed on the hull of the *Cayman Protector*. There was corrosion and pitting to areas of the hull. Extensive welding of the hull has been carried out, however, some of the welding joints were unsatisfactory and the contractor is arranging for a specialist welding company to send a representative to inspect and re-weld joints where necessary. Once the hull repair is complete, the engines will be installed. It is not possible at this time to give a firm date for the vessel's return to service.

**The Speaker:** Are there any supplementaries?  
The Elected Member for East End.

**SUPPLEMENTARIES**

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the First Official Member could tell us who will pay for the cost to re-weld the joints?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. The cost will be borne by the contractors.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the First Official Member could tell us the total cost thus far, or what will be the costs of repairs of the *Protector*, when completed.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I do not have the exact figure of the repairs because the information that I have includes the purchase, transportation and the handling of the engines, et cetera. However, I would be prepared to provide this information to the Member. I could provide this in writing if he so wishes.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I would appreciate if the Honourable First Official Member could provide that information. My question is, How long has the *Protector* been out of service?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. It has been out of service now for 19 months and it has been on dry dock for 15 months.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I recall in December 2000 the Finance Committee of this honourable House voted monies for these engines. Then in a question later on which I asked, we were supposed to have the *Protector* back in service by the end of October of 2001. That is over one year as far as I can calculate. I wonder if the First Official Member could tell us when it is expected that the *Protector* will really be back.

**The Speaker:** The Honourable First Official Member

**Hon. James M. Ryan:** Madam Speaker, the last paragraph of my answer indicated that it is not possible to say at this time when the *Protector* will be back in service. Suffice it to say that every effort is being made to have the welding problems corrected. Someone is due in Cayman later this month and as soon as the welding problems are sorted out the engines will be fitted and put back in service.

There were a number of problems with getting the *Protector* back in service on time. While I am not going to lay the blame on this particular problem, the contractors were being paid as work was being done and there was a hold up for some months while bills to Government were not paid and the contractors stopped work until they received their money. This was sometime ago so that contributed among other things with the delay in getting the work done.

**The Speaker:** The Second Elected Member for the district of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. There is provision in the 2002 Budget for one police boat at the cost of \$110,000. I wonder if the First Official Member could say whether or not it is intended to replace the *Cayman Protector*.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. No, the provision made in the 2002 estimates is to replace one of the smaller vessels used by the Drug Task Force.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

I wonder if the First Official Member could then say how many vessels the police have access to for the purposes of drug interdiction?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

There are currently three small vessels being used by the Drugs Task Force. Neither of these vessels has sleeping accommodation so they are really only for fairly short distances. One of these vessels is very old and is going to be taken out of service and will be replaced with the one to be purchased with the provision in this year's estimates.

**The Speaker:** The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you.

Going back to the substantive answer where the Honourable First Official Member stated that there was corrosion and pitting to areas of the hull of the *Protector*. Is there a definitive reason which can be explained as to what caused this? Is this something that is natural or was there lack of maintenance? Exactly what may have caused this?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I am not an expert in the field but I can give you the layman's definition of it. When aluminium is used and there is another type of metal that is in contact with it, there is a reaction set up referred to as 'electrolysis'. What happens is that the harder metal eats up (if I may use that term) the aluminium. There were areas in the hull where other metals were touching the aluminium and this caused an electrolysis action which caused pitting and other damage to it.

**The Speaker:** The Honourable First Official Member.

**Mr. D. Kurt Tibbetts:** Thank you.

That being the case and having recognised it, could the Honourable First Official Member state whether or not this is now taken into consideration with the repairs to ensure that there is not a repeat of the same situation?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Absolutely, yes. Having said that, fitting engines into an aluminium hull will not be easy but every

effort will be made to avoid other metals coming in direct contact with the aluminium hull.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the First Official Member could tell us if there are any thoughts on possibly replacing the *Protector* in the near future. It appears as though we are throwing good money at a bad boat.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I think I will try to answer the question this way. For the benefit of the listening public and perhaps for newer Members in the Legislative Assembly, the Cayman *Protector* was purchased with funds from the United Kingdom at a cost of some \$500,000 several years ago. That is a sizeable amount of money, and I dare say we will have to look somewhere in the foreseeable future to replacing it but it is quite costly to replace a vessel that has the same capability as the *Cayman Protector*.

**The Speaker:** Are there any further supplementaries? If not, we will move on to the next question.

#### QUESTION NO. 139

**The Speaker:** The Elected Member for East End.

**No. 139: Mr. V. Arden McLean** asked the Honourable First Official Member, if drugs that have been confiscated or recovered, stored in any area other than the exhibit room at the Central Police Station.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, the answer is yes, but for security reasons details cannot be given publicly. If the Member has concerns, the Commissioner of Police is willing to discuss the matter confidentially with him, or, indeed, with any Member.

**The Speaker:** The Elected Member for East End.

#### SUPPLEMENTARY

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I will welcome that. My question was only to find out whether or not the other areas are as secure as the exhibit room.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. Yes, the other areas are similarly secure alarm areas. The Member for East End can contact the Commissioner, he will be very happy to give him details.

**The Speaker:** If there are no further supplementaries, we will move on to next question.

#### QUESTION NO. 140

**The Speaker:** The Elected Member for the District of East End.

**No. 140: Mr. V. Arden McLean** asked the Honourable First Official Member what is the status of the internal audit of the Drugs Task Force that was announced in the media during the early part of October 2001.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, the Deputy Commissioner of Police has submitted to the Commissioner of Police an interim report in keeping with the initial terms of reference he was given. However, the Commissioner of Police has found it necessary to expand those terms of reference to the Deputy Commissioner of Police who is presently conducting further inquiries into the matter. It is anticipated that a full report of the Deputy's findings will be forwarded to the Commissioner by 11 January 2002.

**The Speaker:** Are there any Supplementaries? The Elected Member for East End.

#### SUPPLEMENTARIES

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the First Official Member could tell us if this was a financial audit?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. No, the internal audit of the Drugs Task Force was not a financial audit. It is a review of the policies and procedures of the Drugs Task Force.

**The Speaker:** Are there any further Supplementaries? The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you. Notwithstanding the fact that it is not a financial audit, could the Honourable First Official Member state whether the audit would entail any situations which have financial ramifications?

**The Speaker:** Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. Yes, while the Deputy Commissioner is not an accountant, there will be a finance portion or a finance section to the report.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

The House may recall that what evoked this audit was a series of parliamentary questions and supplementaries relating to the proceeds of the sale of confiscated items, therefore, the ultimate use of proceeds of those confiscated items. The concern of this Honourable House at that time was about how these monies were being dealt with. Against that background, I wonder if the Honourable First Official Member could say who has been assigned to conduct this aspect of the audit, and if he could give us some indication of the qualifications to carry out what is in fact a financial audit.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

The audit referred to in my answer was in fact ordered by the Commissioner of Police and was not the result of a Parliamentary question or supplementary question to the House. I believe that question was directed to the Honourable Third Official Member and I am not able to comment on that.

**The Speaker:** Are there any further Supplementaries?  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

If I may, with your permission read from the unedited—

**The Speaker:** Will you then formulate it into a question? Please proceed.

**Mr. V. Arden McLean:** Yes, I will.

Madam Speaker, on 7 September 2001, quoting from the unedited *Hansard* of this Honourable House, the Second Elected Member from Cayman Brac (Mr. Lyndon L. Martin) asked the Honourable George McCarthy the question, “[**Would**] **the Honourable Member be willing to solicit a report by the Auditor General on this account for the past six years and provide this House showing the receipts and expenditures on any transfers to Treasury?**”

The Honourable George McCarthy replied by saying, “**The extent of the commitment I can give is that I can check with the Auditor General and see what verification procedures have been carried out on this account. To the extent that he has records of the accounts and movements of funds into and out of the account, to ask for a copy of that to be provided. That will then be provided to Members of the Legislative Assembly.**”

Madam Speaker, to that extent I then ask the First Official Member: Are we speaking about two

separate investigations or audits into the Drugs Task Force?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

We are obviously talking about two separate reports here. The answer that I gave is that an audit that the Commissioner of Police requested to be carried out on the Drugs Task Force. I understand from the Honourable Third Official Member that he will be answering the parliamentary question later on in this meeting, which will make reference or will deal with certain aspects of the financial audit.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

In a prior supplementary the First Official Member replied that the audit or investigation that is being carried out on the Drugs Task Force was not prompted by any parliamentary question. I wonder if the First Official Member could tell us what prompted an investigation into the Drugs Task Force, and is it a criminal investigation?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

The audit that I had spoken to a bit earlier was the result of an anonymous letter that was in circulation last year regarding the sale of boats et cetera and the Commissioner ordered an investigation into the procedures surrounding confiscated assets.

**The Speaker:** Are there any further supplementaries? I will allow two more.

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

The First Official Member just spoke to the letter that was circulated in this whole country of which I have a copy myself. If such is the case—because there were some serious accusations made in this, could the First Official Member then say if this is a criminal investigation?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

The investigation is one that is pure and simple. The outcome of the investigation will determine whether it is criminal or not, but at this stage there is nothing to suggest that criminal activity is involved.

**The Speaker:** The Elected Member from East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I wonder if the First Official Member could tell us when accusations such as these are made,

anonymously or otherwise, against a high-ranking officer in the Police Force and an investigation is being carried out, what are the procedures with regards to the individual and his job? Are they suspended during the investigation in order that evidence may not be tampered with intentionally or unintentionally?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

In the case of gazetted officers, that is, Chief Inspectors and above, the decision to suspend an officer lies with His Excellency the Governor. In this case His Excellency did not take action to suspend.

**The Speaker:** That concludes Question Time. We shall suspend for fifteen minutes.

**HOUSE SUSPENDED AT 11.35 AM**

**HOUSE RESUMED AT 12.07 PM**

**The Speaker:** Please be seated. Proceedings are resumed.

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

#### APOLOGIES

**The Speaker:** There has been an apology received for late attendance by the Leader of Government Business, who I understand will be attending Parliament later during this sitting.

**OBITUARY:** *George E. T. Brancker, LLB, CBE*

**The Speaker:** It is also with much sadness that we have heard of the passing of the late Mr. E. T. Brancker, LL.B, CBE, former Clerk of the Parliament of Barbados. Mr. Brancker, as all Honourable Members would recall, was renown, not only in the region but throughout the Commonwealth Parliaments of the world. He was indeed an invaluable source of parliamentary practice and procedure. Not only will his expertise be of great loss to Parliamentarians in the region, but to all who knew him and called him for his advice and especially for his eloquent wit. Just his mere demeanour and the wealth of knowledge that he displayed for the time that he was here at the very recent regional CPA, this Parliament, I am sure, will be eternally grateful for the sharing of his knowledge.

I am sure that all Honourable Members would wish for me to ask the Clerk to convey our sincere deepest condolences to his family from the Cayman Islands Parliament.

**The Speaker:** I have received no statements, so we shall move on to the next item of business.

### SUSPENSION OF STANDING ORDER 45, 46(1) AND (2)

**The Speaker:** Suspension of Standing Order 45, 46(1) and (2). I ask for the Deputy Leader of Government Business to move the relevant motion.

**Hon. Linford A. Pierson:** Madam Speaker, I move the suspension of Standing Orders 45, 46(1) and (2) so that The Loan (No.2) Bill 2001 can have its first reading.

**The Speaker:** Thank you, Honourable Deputy Leader. The question is that Standing Orders 45, 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 45, 46(1) AND (2) SUSPENDED.**

### GOVERNMENT BUSINESS

#### BILLS

#### FIRST READING

#### THE LOAN (NO. 2) BILL, 2001

[**The Clerk:** The Loan (No. 2) Bill, 2001.]

**The Speaker:** The Bill is deemed to have been the first time and is now set down for the Second Reading.

The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Loan (No.2) Bill, 2001.

**The Speaker:** Honourable Third Official Member perhaps if we could have a moment.  
Madam Clerk.

**The Clerk:** Suspension of Standing Order 46(4).

**The Speaker:** The Honourable Deputy Leader.

### SUSPENSION OF STANDING ORDER 46(4)

**Hon. Linford A. Pierson:** Madam Speaker, I move the suspension of Standing Order 46(4) so that the



Second Reading of The Loan (No.2), Bill 2001 can continue.

**The Speaker:** The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 46(4) SUSPENDED.**

## SECOND READING

### THE LOAN (NO. 2) BILL, 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, in moving the Second Reading of The Loan (No.2) Bill, 2001, honourable Members will recall that on 31 December, the Legislative Assembly passed The Appropriation (2002) Law, 2001. The last item within that Law related to approximately \$16 million of capital development expenditure that is planned for this year. Madam Speaker, a recap of the breakdown of this the capital expenditure programme might be useful to honourable Members. Under the capital expenditure programme this is a summary by heads:

|                                        |             |
|----------------------------------------|-------------|
| Public buildings                       | \$5,120,020 |
| Roads                                  | \$4,380,000 |
| Recreational and cultural facilities   | \$1,522,150 |
| Cemeteries                             | \$75,000    |
| Harbours and docks                     | \$95,000    |
| Purchase of lands                      | \$760,000   |
| Land fill development                  | \$262,000   |
| Health care facilities                 | \$3,257,125 |
| Agricultural and development           | \$179,250   |
| Project development design and costing | \$347,000   |

Bringing the total capital programme to a value of \$15,997,545.

Table 2(a) in the Budget estimates outline how this plan capital expenditure would be financed during the course of 2002. Table 2(a) shows that the financing provision for the capital expenditure programme can be broken down as follows:

|                                                                                       |               |
|---------------------------------------------------------------------------------------|---------------|
| Accumulated balance brought forward from the year 2001                                | \$740,000,    |
| Transfer from general revenue fund                                                    | \$100,000,    |
| Local loan receipts (this is the undrawn portion from the 2001 borrowings)            | \$4 million,  |
| Transfer from the infrastructure development fund                                     | \$2,330,000,  |
| Transfer from the roads development fund,                                             | \$1.7 million |
| Proposed new borrowings for which this Bill is presently before this honourable House | \$8 million   |

Madam Speaker, the purpose of this Bill now before this honourable House is to seek honourable Members' approval for the Government to borrow \$8 million during the year 2002 to finance in part, the capital development expenditure.

In summary, Madam Speaker, the Appropriation Law 2002 which contain the capital development expenditure of \$16 million and honourable Members are being asked as I said earlier to give approval to this Loan Bill.

During the Budget address, Madam Speaker, it was stated that the effect of the borrowing of \$8 million in 2002 result in the debt service ratio being 8.6 percent, that is, the interest and principal payments expected in 2002 will be 8.6 percent of recurrent revenue for this year. This is well under the limit of 10 percent stated in the new Public Management and Finance Law 2001. The public debt position as at 31 December 2001 is estimated a \$129,370,068. When the further draw-down of the \$4 million from the 2001 borrowings plus the \$8 million from this Loan Bill occur, less \$21,257,000 of principal repayments that will be taking place during the course of this year, the projected public debt position at the end of this year is expected to be \$120,113,068.

It was also mentioned during the Budget address that efforts are currently underway to refinance the existing public debt through a bond issue. Madam Speaker, representatives of the Government and Members of the Legislative Assembly have sat in on three presentations that have made so far. It is anticipated that the arrangement for the bond issue should be finalised by the end of March of this year. This, Madam Speaker, will have a favourable impact upon the debt service ratio and it was mentioned during the Budget address that savings realised from this refinancing package will be paid into the general reserves.

Madam Speaker, much debate or discussion has already taken place on the capital development programme for the year 2002. I have given what the impact will be in terms of the draw-down of the \$4 million remaining from the 2001 borrowings plus the \$8 million to be borrowed in 2002 with the net effect that the projected public debt position at the end of this year is expected to be \$120.1 million.

I commend this Bill to honourable Members.

**The Speaker:** Thank you, Honourable Third Official Member.

Does any Member wish to speak? Does any Honourable Member wish to speak? Does any honourable Member wish to speak? Last call, does any honourable Member wish to speak?

If not, does the Mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Madam Speaker, just to say thanks to honourable Members for their tacit support.

**The Speaker:** The question is that a Bill shortly entitled The Loan (No.2) Bill, 2001, be given a second reading. All those in favour, please say Aye. Those against, No.

**AYES and NOES.**

**The Speaker:** The Ayes have it.

**Dr. the Hon. Frank S. McField:** Madam Speaker, could we have a Division please?

**The Speaker:** Certainly.  
Madam Clerk, please call a Division.

**The Clerk:**

**DIVISION NO. 24/01**

**AYES: 9**

Hon. Linford A. Pierson  
Hon. Roy Bodden  
Hon. Gilbert A. McLean  
Dr. the Hon. Frank S. McField  
Hon. James M. Ryan  
Hon. George A. McCarthy  
Capt. A. Eugene Ebanks  
Mr. Cline A. Glidden, Jr.  
Mr. Lyndon L. Martin

**NOES: 5**

Mr. D. Kurt Tibbetts  
Mr. A. M. McLaughlin, Jr.  
Mr. Anthony S. Eden  
Ms. Edna M. Moyle  
Mr. V. Arden McLean

**ABSENT: 3**

Hon. W. McKeever Bush  
Hon. Samuel Bulgin  
Mr. Rolston M. Anglin

**The Speaker:** The results are 9 Ayes, 5 Noes, and 3 Absent.

**AGREED BY MAJORITY: THE LOAN (NO.2) BILL, 2001, GIVEN A SECOND READING.**

**The Speaker:** The House will now go into Committee to consider the Bill.

**HOUSE IN COMMITTEE AT 12.21 PM**

**COMMITTEE ON BILL**

**The Chairman:** Please be seated. The House is now in Committee. With the leave of the House may I assume that as usual we would authorise the Honourable Second Official Member to correct minor printing errors and such the like in this particular Bill?

Will the Clerk please state the Bill and read the relevant clauses?

**THE LOAN (NO. 2) BILL 2001**

**The Clerk:** The Loan (No. 2) Bill 2001

Clause 1 Short title  
Clause 2 Power to borrow  
Clause 3 Appropriation of loan to specified purposes  
Clause 4 Principal and interest of loan

**The Chairman:** The question is that Clauses 1 through 4 do stand part of the Bill. If there is no debate, I will now put the question that Clauses 1 through 4 do stand part of the Bill.

**Ms. Edna M. Moyle:** Madam Speaker, may I ask a question just for clarity?

**The Chairman:** Please proceed, Elected Member for North Side.

**Ms. Edna M. Moyle:** Short title, it says 'This law may be cited as The Loan (No. 2) Law 2001'. Does this remain or is it 2002 Law? Would it be the No.1 Loan of 2002?

**The Chairman:** The Honourable Third Official Member

**Hon. George A. McCarthy:** Madam Speaker, it could be referred to as the No.1 Loan of 2002 but at the time when the Bill was presented, it was presented during the course of the year 2001. This is the year in which it was circulated to honourable Members.

**Ms. Edna M. Moyle:** Madam Chairman, it also says at the back 'passed by the Legislative Assembly the \_\_\_ day of 2001'. So where are we going? It is just for clarity.

**The Chairman:** The 2001, in my opinion, would be considered a scrivener's error which could be amended by the Honourable Second Official Member in that I think we all would understand that we are now in 2002 and we have to reflect that date.

Honourable Members, as I was indicating off microphone, because there is not a new Parliament commencing yet, it would not in my opinion or ruling be No.1. We would ask the Honourable Second Official Member to take note of the keen eye of the Member for North Side and to amend that accordingly.

The question is therefore that Clauses 1 through 4 do stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES and one audible NO.**

**The Chairman:** The Ayes have it.  
Clauses 1 through 4 do stand part of the Bill.

**CLAUSES 1 THROUGH 4 PASSED.**

**THE SCHEDULE**

**The Chairman:** The question is that the Schedule do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. the Schedule does stand part of the Bill.

#### **SCHEDULE PASSED.**

**The Clerk:** A Bill for a Law to authorise the borrowing of up to \$8 million for the financing of specified capital projects.

**The Chairman:** The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The Title do stand part of the Bill.

#### **TITLE PASSED.**

**The Chairman:** The question is that the Bill be reported to the House. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. That concludes proceedings in Committee.

**AGREED: THAT THE BILL BE REPORTED TO THE HOUSE.**

#### **HOUSE RESUMED AT 12.23 PM**

**The Speaker:** Please be seated. Proceedings are resumed.

Bills, Reports.

#### **REPORT ON BILL**

##### **THE LOAN (NO.2) BILL, 2001.**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled The Loan (No.2) Bill, 2001 was considered by a Committee of the Whole House and passed without amendment.

**The Speaker:** The Bill has been duly reported to the Honourable House and is set down for Third Reading.

#### **SUSPENSION OF STANDING ORDER 47**

**The Speaker:** The Honourable Deputy Leader.

**Hon. Linford A. Pierson:** Madam Speaker, I move the suspension of Standing Order 47 so that the House may take the Third Reading of The Loan (No. 2) Bill, 2001.

**The Speaker:** The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Standing Order is duly suspended.

**AGREED: STANDING ORDER 47 SUSPENDED.**

### **THIRD READING**

#### **THE LOAN (NO. 2) BILL, 2001**

[**The Clerk:** The Loan (No.2) Bill, 2001.]

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled The Loan (No.2) Bill, 2001 be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Loan (No.2), Bill 2001, be given a third reading and passed. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Loan (No.2) Bill, 2001 has been duly read a third time and is passed.

**AGREED: THE LOAN (NO.2) BILL 2001 GIVEN A THIRD READING AND PASSED.**

### **GOVERNMENT BUSINESS**

#### **MOTIONS**

##### **GOVERNMENT MOTION NO. 14/01**

##### **HEALTH SERVICES (FEES AND CHARGES) REGULATION 2001**

**The Speaker:** The Honourable Minister responsible for Health Services, District Administration and Agriculture.

**Hon. Gilbert A. McLean:** Thank you, Madam Speaker.

I wish to move Government Motion No. 14/01 titled, Health Services Fees and Charges Regulation 2001 which reads:

**“BE IT RESOLVED that the attached Health Services (Fees and Charges) Regulation 2001 be affirmed by the Legislative Assembly pursuant to**

**the provisions of section 13(3) of the Health Services (Fees) Law (2001 Revision)."**

**The Speaker:** Do you wish to speak to the Motion Honourable Minister?

**Hon. Gilbert A. McLean:** Thank you, Madam Speaker.

The Ministry responsible proposes to increase health fees and charges for services at Government health care facilities as provided for under Section 13 of the Health Services (Fee) Law, which was passed by the Legislative Assembly on the 24 September 1999. At the time the fees from the Health Services Law 1993 were saved and remained in effect pending the making of regulations regarding fees under section 13 of the Law. Those fees, Madam Speaker, were based on a costing exercise done in 1991. In 2001, the Health Services (Fees) Law which was passed in 1999 was consolidated with the fees schedule to the 1991 Law to produce the Health Services (Fees) Law 2001 Revision which is the Law currently in effect and brings those fees into present context.

The proposed fee increase will be in two phases effective January 2002 and on 1 April 2002. In the first place, there will be an overall increase of 30 percent of the present fees and charges and the introduction of new fees and charges for services being provided, free of charge because they are not currently listed in the schedule to the Law. Having done a quick count of them, Madam Speaker, it seems like there are a hundred and forty four services which are offered by the Hospital for which there is no charge. In the second phase, it is intended that the new fees will approximate the cost of providing these services. The fees have not been increased since 1993, during which time the cost of providing health services has risen dramatically, which is also heavily impacted by cost of goods and services obtained overseas.

The rising cost of providing health services without raising fees has resulted in a growing revenue short fall. Some examples are as follows:-

- In 2000, only 5 out of 34 sections of the Health Services Department generated enough revenue to cover their expenses.
- In 2000 if we had collected all the revenue for services provided, the maximum would have been \$20 million while expenses for the same period was \$39 million.
- In 2000, an overall increase in revenue of 85 percent was needed to cover expenses in that year. Some examples of the losses are the medical ward at the Cayman Islands Hospital experienced a loss of 56 percent. The total cost of providing that service in the year 2000 was \$2,514,405 million while the revenue generated was \$1,598,919—a loss of \$902,486.
- North Side Heath Centre experienced a loss of 2,609 percent. Of the cost of \$174,804 for providing services \$6,454 was recovered.

- Dental services experienced a loss of 61 percent; and
- Faith Hospital a loss of 2,503 percent.

Madam Speaker, I wish to draw your attention, and that of honourable Members, to the fact that of a population of just over 40,000 in these Cayman Islands, approximately 11,000 lives are entitled to free medical care at Government's expense. All funded out of recurrent expenditure in the annual budget of the Health Services department. The breakdown of these 11,000 lives who receive free medical treatment locally and overseas is as follows:-

- civil servants and their dependants;
- public office pensioners and their spouses;
- prisoners
- indigents,
- persons infected with AIDS and HIV, tuberculosis and malaria.

Free medical treatment at Government health care facilities is provided for veterans and seamen. Admittedly, there are some restrictions placed on such benefits which are clearly spelled out in the Health Services (Fees) Law 2001 Revision. This is the Law to which the proposed Health Services (Fees) and Charges Regulation 2001 apply. The affirmative resolution of this House is required to bring these charges into effect.

Along with all those 11,000 persons, Madam Speaker, there is an additional group of Caymanian individuals not entitled to free medical care by this Government who find themselves unable to meet a portion of all of the cost of their medical bills locally and overseas. Having accumulated over many years, this figure is in excess of \$50 million and is due to be paid to the Government. As one would expect there will be among this group many who are unable to pay Government within their lifetime and in other cases, there are some bills that are simply not collectable and will have to be brought to Finance Committee with a recommendation to be written off. As I mentioned previously in this honourable House, this aspect is being diligently worked on.

This situation, Madam Speaker, is one that cannot be allowed to continue. The truth is the finances of the country cannot afford this to continue. It directly translates into further taxes on the residents of these Islands in order to sustain this level of expenditure on health services. These problems have many contributing factors such as individuals being unable to obtain health insurance coverage or having their claims denied for various reasons. In some instances, employers allow health insurance for their employees to lapse as soon as they obtain a work permit for the employee.

The Ministry of Health must therefore confront the issue of public debt due to medical expenses from a number of angles. Among these are revisions of benefits to those who receive free medical, revisions to the present Health Insurance Law 1997 and the regulations, increasing the health fees and charges to meet

the cost of providing the services, strengthening the billing and collection systems and process at the Health Services department in all locations in Grand Cayman, Cayman Brac and Little Cayman. All of these actions, Madam Speaker, are well underway.

To begin with, the Ministry and Health Services department with the approval of the Governor in Council are introducing significant changes in the collection process with immediate effect. Due to the review of the present accounts receivable system at the Health Services Department by a consultant has identified the patient registration process to be greatest weakness for collecting fees due. This system will be significantly revised as of January 2002. There is now a new registration process. The new registration process takes effect on the 14 January and the objectives of the process are to:

- Increase revenue collection
- Improve efficiency in patient registration
- Deliver quality customer service
- Change the expectation to pay

The changes to policies and procedures will be as follows:

- For paying patients, all services costing less than \$25 must be paid in cash at the point of registration.
- Self-paying patients must pay all charges for doctor's consultations upon registration.
- Patients who present for registration but who do not have an insurance card or some other form of payment will have their appointment rescheduled if it is not an emergency.
- A financial counsellor will be available for consultation on payment for services.
- Advice on payment plans and available indigent programmes.
- Cashiers will also be located at the Pharmacy and Eye Clinic at the Health Services complex in Grand Cayman which is commonly referred to as the George Town Hospital.

A public information campaign is being launched, Madam Speaker, to fully inform all users of the Government's Health Services of these changes. At that time more detailed information will be provided.

I do, however, wish to mention at this time some of the services which are not presently charged for but which will be charged for in the future. For example:-

- private room per day \$425 (this was previously limited to \$200 per day for all rooms, private or semi-private);
- Intensive neo-natal care per day \$1370;
- psychologist clinic \$35;
- admission of adult chemotherapy per hour \$25;
- single restoration of porcelain crowns with semi-precious metals \$450;

- removal of impacted tooth soft tissue \$200;
- mouth guards \$50;
- psychology administered test \$40;
- AV graft for dialysis \$650;
- laparoscopic tubal ligation \$1300.

Madam Speaker, while I am on the subject of fee increases, I must mention that the providers of health insurance in these Islands may see this as an ideal opportunity to jack up health insurance premiums. Being aware of the likelihood of this occurring the Ministry is obtaining the services of actuaries experienced in the field to advise on the likely impact of these fee increases on the health insurance industry and to determine precisely what present situation exists. I would wish to have the facts and simply not go on excuses when it comes to increases, if any, in health insurance premiums.

Madam Speaker, I invite all the honourable Members in this House to consider the matter before us and the Motion which has been moved. Members of this honourable House are invited to take particular note of the following points. Regulations 3(3) has the effect of increasing with a few exceptions the cost of fees for non-residents who normally have health insurance and are accustomed, in any case, to much higher fees. The visitor rate will be 70 percent more than the rate for residents.

Regulation 4 deals with the issue of waiver of fees. During the debate on the Health Services (Fees) Law 1999, concern was raised at the discretionary powers of the Director of Health Services to waive patients' fees. The Ministry was advised it should provide an appropriate mechanism in the regulations to ensure that fairness and consistency in the assessment process should prevail. Regulation 4 seeks to address this by:

1. Requiring the assessment to be carried out by a person competent to assess the financial standing of patients Regulation 4(1).
2. By defining what is to be assessed.
3. By describing the conditions to be met before the Director of Health Services may exercise his power of waiver under section 8 of the Law.
4. By ensuring that supporting documents produced by the patients are valid.
5. By providing for a charge to be made on real or personal property.
6. Defining disposable income.

Although the process would seem at first sight to be somewhat cumbersome, the Ministry and Health Services Department feels that it is necessary to have clear legislative support. Since the assessment process has to distinguish genuinely needy cases from those who simply do not wish to pay.

Regulation 5(1) tends to discourage people from failing to keep an appointment by providing that in such circumstances they must pay an administrative charge of \$35. Regulation 5(2) enables the Chief

Medical Officer to waive this charge if he satisfied that the patient was unable to give the period of notice specified in Section 5(1).

Madam Speaker, I recommend the proposed fee increases to Members of this honourable House and request that the Health Services (Fee) and Charges Regulation 2001 be affirmed by the Legislative Assembly, pursuant to the provisions of Section 13(3) of the Health Services Fees and Charges Law 1999.

I thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Minister. Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? Last call.

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Madam Speaker, I rise in my chair here today to lend my support to the Minister of Health, in this very much needed alignment of health service fees in the Cayman Islands. I thought it important just to rise to point out that with the increased fees, the expected revenue still only puts us to where we are just about to cover the personal emoluments of health services.

Madam Speaker, it is necessary for us in the Cayman Islands to take a careful look at health services and ways in which we can cut down on the cost of administering health services in the Cayman Islands. The expected total cost for health services for the year 2002 is an excess of \$43 million. We must examine item by item, line by line to find ways of reducing the cost of this very important service to this country. I would also make the suggestion to the Minister that once the fee alignment programme has been established, that it would be appropriate for this item to be pegged to inflation and indexed so that there is not a need five years down the line to make another alignment exercise.

The indexing of Government fees such as health services that are subject to competitive forces, as we do have a vibrant private sector provision of health services, is something that can ably be indexed to the Consumer Price Index. Madam Speaker, I also feel obligated to reiterate what the Minister pointed out in this Bill as one item of great concern and great loss being that of the hospital within our district (Faith Hospital) of some 2000 percent loss.

Madam Speaker, it is expected that there will be a loss in the attempt to provide total health services as needed in a small community. However, a 2000 percent loss seems way outside the realm of acceptability. I give my undertaking to the Minister, as I am sure that you will, to work with him in looking at health services in Cayman Brac. That is with the objective as always of improving the quality of health services, but simultaneously looking at making it in a manner that is acceptable from the degree of loss.

Two thousand percent was the loss figure mentioned by the Honourable Minister.

Madam Speaker, the design of the facility from which health services are offered plays an important role in the cost. I recently had a pleasant experience as I enjoyed the birth of my daughter at the Faith Hospital and observed how the facility there was designed so that from the nursing station, one nurse could observe all rooms. Madam Speaker, that is not the case at the George Town Hospital and I urge for future developments in health services that we carefully examine the recurrent costs that are associated with the design features.

During my two nights at the Faith Hospital (and I am sure the experience would have been the same at the George Town Hospital here), I can comment that we have quality practitioners within our health service industry. Our quest to provide total health service at such high quality must be met equally with the reality of paying for health services. We cannot assume in this country any longer that we can experience this level of service at \$25 consultation fee, at fees that cannot nearly cover the administrative cost of providing these services.

Madam Speaker, like all honourable Members who sit in this Chamber, it does not give me pleasure to bring about and to work with any fee that puts greater hardship on the populace. However, it should not be seen as putting greater hardship because the Budget is designed—and this country's finances are designed in a manner that differentiates between a fee and a coercive tax, a fee is simply to cover the cost of that particular service.

Health services fall under the fee category and it is prudent and necessary for all governments to take the necessary action to ensure that the fees are in line with the cost of the service. This, by no means, should be termed, in or outside of this Chamber, by those who would like to practise political rhetoric, such as taxation. It is an increase in a fee, not a tax.

It is cried for so often in this country, for Government to be run more like business and to exercise prudent financial management. This particular Bill simply tries to bring closer in line the cost of provision of service to the fee charged for that service.

Madam Speaker, with those words said, I give my support to this Bill.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If not I will call upon the Mover to exercise his right of reply if that is his desire.

**Hon. Gilbert A. McLean:** Thank you, Madam Speaker. I would just like to thank all honourable Members, the one who spoke and those who did not, for their tacit approval. I can assure all of my colleagues in this honourable Chamber that it is really not a pleasure bringing these increased fees forward.

However, I think we are all aware that it has come to the point where it is absolutely necessary to try to correct the situation and so the reason for the increased fees.

Also, just to say that for persons who go to the Hospital for health care, every effort will be made to handle the situation as best as possible and there will be somewhat different arrangements. There is one thing that we can immediately say that is better about it. There will be registration in various sections of the Hospital so that a person will not have to go to the Eye Clinic or the Dental Clinic and then have to go back to the main hospital to register. It will be done right there and with someone assigned to assist where there may be any difficulties.

I think the Member who spoke, is right indeed and I share that view and I think most honest persons would also share that view. Although there are difficulties at the Government Hospital, overall it delivers an outstanding quality service. The majority of persons who work there give outstanding health care service to patients. I have taken note of what the Second Elected Member from Cayman Brac has said about perhaps pegging the fees to the Consumer Price Index. I think there is much merit in that and certainly this is something which I will pass along to the finance people at the Hospital.

Whenever there is an opportunity, I will also raise with the architects the matter of design. Whereby having a particular design might actually be used to determine that there is a need for less staff to carry out a particular operation.

Madam Speaker, again I thank all Members for their support to this Motion and I thank you.

**The Speaker:** Thank you, Honourable Minister. The question is that the Health Services (Fees) and Charges Regulations 2001 be affirmed by the Legislative Assembly pursuant to the provisions of section 13(3) of the Health Services (Fees) Law, 2001 Revision. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Government Motion No.14/01 is accordingly passed.

**AGREED: GOVERNMENT MOTION NO.14/01 PASSED.**

**The Speaker:** I will now call on the Deputy Leader of Government Business to move for the adjournment, as there is no further business on today's Order Paper.

## ADJOURNMENT

**Hon. Linford A. Pierson:** Madam Speaker, before moving the adjournment I would like to ask Members

of the Business Committee if they would remain for a few minutes so that we can look at the business for Wednesday.

I move the adjournment of this Honourable House until 10 am, Wednesday, 9 January 2002.

**The Speaker:** The question is that the House do now adjourn until 10 am, Wednesday, 9 January 2002. All those in favour please say Aye; those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The House is accordingly adjourned until Wednesday at 10 am.

**AT 1.03 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM WEDNESDAY, 9 JANUARY 2002.**

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**9 JANUARY 2002**  
**10.39 AM**  
*Twelfth Sitting*

**The Speaker:** I call upon the First Official Member to say prayers.

**PRAYERS**

**Hon. James M. Ryan:** Let us pray:

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

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

Let us say the Lord's Prayer together:

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

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

**Proceedings resumed at 10.41 am**

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

**APOLOGIES**

**The Speaker:** Please be seated. I have received apologies for late attendance from the Honourable Minister for Planning, Communications, Works and Information Technology and also from the Third Elected Member from the district of West Bay.

**QUESTIONS TO HONOURABLE  
MINISTERS AND OFFICIAL MEMBERS**

**QUESTION NO. 141**

**The Speaker:** The Fourth Elected Member for West Bay.

**No. 141: Mr. Cline A. Glidden, Jr.:** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs, what is the succession plan for the positions in the Public Works Department and have all members of staff in that department been advised of, these plans and what is required of them to advance with the plan

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, the Succession Plan for the positions in the Public Works Department is that Caymanian staff are promoted to replace expatriate staff as soon as they have gained the requisite qualifications and experience.

Staff are aware of the professional or technical qualifications and experience required to advance within the department and are encouraged and assisted to attain the requisite levels for appointment. They are given experience in the areas where this is required.

**The Speaker:** Are there any supplementaries?

The Second Elected Member for Cayman Brac and Little Cayman.

**SUPPLEMENTARIES**

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker.

Could the First Official Member indicate if the department has liaised with the Education Council to ensure that the list of approved subjects for government sponsorship coincide with the needs of the Public Works Department to ensure that the Succession Plan can be effectively carried out.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I am not sure that the department has liaised with the Education Council to look at subjects where there are needs. However, what is done (and I think more appropriately) for Caymanians in the Public Works Department is that once they have gained some experience then they are sent off for training in



the area. I think this is much more important because individuals have an opportunity to determine a course of training in a chosen area in the Public Works Department and then they are assisted.

This is one department that does ensure that young Caymanians get the opportunity to go off for the necessary training. Of course, once trained they are promoted to the post.

**The Speaker:** The Second Elected Member from Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Madam Speaker, could the First Official Member provide the House with information on apprenticeship programmes that the department may have?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

It is my understanding that the department does not use an apprenticeship system which is really something a bit more designed for tradesmen as opposed to a professional training, but I think more importantly, what the department does is to assign Caymanians to firms where they can get the professional training. This is done by way of attachment and in this way Caymanians are able to get experience and have the necessary training to fill the professional slots in the department.

**The Speaker:** The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Madam Speaker, I think there is an architect at the Public Works Department of Cayman Brac. Could the First Official Member indicate if there is any Caymanian identified to understudy that individual or to take up appropriate studies that could possibly replace that foreign national one day in the near future?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

The particular post that the Member has asked about is in relation to another department. The Public Works Department, as you will know, is under District Administration and there was no request for information on that so I am not in a position to answer that.

**The Speaker:** The Elected Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Madam Speaker.

I wonder if the Honourable First Official Member could say if there are any Caymanian understudies at present for those key posts held by contracted officers in the Public Works Department.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

In the architecture section of Public Works there are three Caymanians at various stages in the process of understudying the non-Caymanians in that section. In Quantity Surveying there is one Caymanian who is an understudy. In Engineering there are also three understudies and I think further down the line there are others as well. So, there are quite a number of young Caymanians understudying expats in this department.

**The Speaker:** The Honourable Member from North Side.

**Ms. Edna M. Moyle:** Thank you, Madam Speaker.

I wonder if the First Official Member could say if there is a timeframe or time limit as to when these young Caymanians will replace these persons. Or, do they have to understudy for a certain amount of time and how close are they to replacing these contracted officers?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

In the substantive question I pointed out that once they receive the requisite qualifications and experience they then take over from the expat. It will depend on whether the young Caymanian has the professional qualification. In some instances they are attached but they are determining whether it is a field that they really want to pursue professionally before they go off for training.

However, as soon as the Caymanian is qualified and has gained some experience they then succeed to the post—I would imagine as soon as the next contract is up for the non-Caymanian.

**The Speaker:** The Honourable Member for North Side.

**Ms. Edna M. Moyle:** Thank you, Madam Speaker.

I wonder if the Honourable First Official Member could tell the House (I think he said there were three understudying in the architectural) what the qualifications are at present.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

One officer is due to complete post-graduate work experience and professional qualifications in architecture in February or March of this year. He will then be recommended to fill the post of Executive Architect which is being vacated by a foreigner.

One officer is a graduate in Architect and is pursuing an MSC in Architectural Studies concentrating on project management and environmental plan-

ning. The completion date for that individual is May 2002, and he will then pursue his career in project management. Another architect is developing skills in project management and has taken on the role of deputy project manager for Government's proposed office building.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker.

In successive answers, the Honourable First Official Member mentioned that there is a succession plan in place for the replacement of the expatriate workers by our Caymanians. My concern is whether or not both the employee and the employer know the details of that plan. If we want to motivate those young Caymanians to aspire to higher goals there should be some aim for a timeframe.

Regarding a previous question raised on the timeframe, it was stated that when they have gained the necessary training an assessment is done. What kind of measurement is used to determine whether or not they have reached that stage? How will the employees know what they are working towards and when they can expect that promotion? Could the Member state those goals and if they are available to them what kind of timeframe is being applied? That is, whether or not after two or three years of understudying you will be assessed on these criteria to see whether you are ready to advance.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

That is not an easy thing to do because getting qualifications is one thing but having the requisite experience to take over a section and sometimes be responsible for an area that is crucial to Government, is another issue. The head of the department has to ensure that the person is able to take over and run his section efficiently. No two individuals will mature or gain experience in the same way. One with six months experience may be a high flier and be able to simply take over whereas another individual with the same qualifications may need a year.

So, it is difficult but I think we have to rely particularly, on the head of department who is a professional and who will be able to, with assistance from other professionals, assess individuals and promote them into job positions. I think the important thing is that there is a plan in place and people are put into positions as soon as they are trained and ready.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker.

I do agree that it is important to have a Succession Plan in place. We say that people will advance and it is going to depend on the heads of department. However, we have all been spoken to quite a bit concerning the moving goal post that seems to happen in various professional fields and in Cayman on a whole, when it comes to the advancement of Caymanians. The frustration that a lot of those Caymanians go through where there are no defined criterion for them to know when they are moving, just when they feel that they have reached the stage, then where they can take over—

**The Speaker:** Honourable Member could you please move to put it into a question?

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker.

I wonder, since we do have a succession plan in place, whether there are established criteria as to when those individuals will actually advance to those positions. Or, does it strictly depend on the head of that department, who sometimes is the person that is being replaced?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I am informed that there are no qualified Caymanians in stagnated positions with the Public Works Department. There is one Caymanian who is acting as Executive Architect. As I mentioned in an earlier answer there is at least one other person off for training in this area.

I hear what the Member is asking in terms of trying to nail down a time. However, I think it is important (not only for the success of the department but also for the success of the individual) not to place them in charge of an area or put them into a job that they are unable to handle or for which they are inexperienced. If that happens we are likely to see the individual leave out of frustration.

So, it is important that we make sure that the person is not only trained but also has the requisite experience to take over and manage the area. I would say to the Member asking the question if he has a specific case he can either, if he wishes, talk with the head of department or I will be quite prepared to talk with him on it.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I heard the First Official Member explain to us about training and experience. I wonder if he could tell us if there is a defined job-training programme to go hand-in-hand with the succession planning over a period of time.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I do not know if I would use the term 'defined plan' but I believe I can say a tailored plan on the training and experience. Each case is looked at and efforts are made to tailor it to that post to which the individual would succeed. I think that the programme that Public Works has put in place for succession planning is very suited to that Department.

Succession planning will vary from department to department, but I think when we are dealing with a number of people that have to have a professional qualification (and there are one or two departments that fall into that category), it is important that the needs of the individual be looked at and the requisite training and experience be given. There may be two sections in Public Works that may not have identical arrangements in terms of the length of time for training, but it is tailored to the individual needs of that Department. I do not know if I have answered the question but I will stop at that.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

Maybe he did not understand totally what I meant or what I was trying to ask. In the instances where engineers come home with a first degree in engineering, is there a defined plan which says that to become the head engineer of a department you should have a masters degree or have spent one year in that position in training and experience in that particular area? The other year in that section is completed and then eventually it is six years. At some stage we know one or two people will try to achieve that position. They will not all get there but we can pick out one of those individuals who will eventually reach that position.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

The job description for each post sets out the qualifications and the experience. When a Caymanian shows an interest or a definite leaning to a particular area, assistance would be given and of course the officer will know the required qualifications and experience for the job.

As the questioner asked, the individual will aspire to the requisite qualification and then gain the experience, generally in a deputy position or even in some instances in an acting position. Until he or she gains the requisite experience he can then be promoted into the post. There are no additional qualifications in the department other than what the job description calls for.

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

**The Speaker:** We have reached the hour of 11 am. Is there a motion to suspend Standing Order 23(7) and (8)?

The Leader of Government Business.

**Hon. W. McKeeva Bush:** Thank you, Madam Speaker. I move to suspend Standing Order 23(7) and (8) in order to take questions after 11 o'clock.

**The Speaker:** The question is that Standing Order 23(7) and (8) be suspended to allow question time to continue beyond 11 am. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED IN ORDER FOR QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** Are there any further supplementaries with this question?

The Member for East End.

**Mr. V. Arden McLean:** Madam Speaker, I just have two further questions. One, could the First Official Member then confirm whether or not there is cross training within the department to acquire that prerequisite experience?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

There is some cross-training done in the department. For instance, an architect will be given the opportunity to do project management field work but there would not be cross-training in the sense that an architect would be given the opportunity to do engineering work. As the Member will appreciate, it is a different discipline altogether. So, there is limited cross-training where possible, in the department.

**The Speaker:** If there are no further supplementaries, we will move to the next question.

#### **QUESTION NO. 142**

**The Speaker:** The Elected Member from the district of East End.

**No. 142: Mr. V. Arden McLean** asked the Third Official Member responsible for the Portfolio of Finance and Economic Development, further to the commitment that the Honourable Third Official Member gave to the Legislative Assembly on 7 September 2001, would the Honourable Member verify if there has been any movement of funds into and out of the Police

Commissioner's account relating to monies collected by the Drugs Task Force over the past six years.

**The Speaker:** Honourable Third Official Member, I believe it is our intention to move a motion.

#### DEFERRAL OF QUESTION NO. 142

Standing Order 23(5)

**Hon. George A. McCarthy:** Madam Speaker, in accordance with Standing Order 23(5) I beg leave of this Honourable House to defer answering this question until tomorrow morning.

**The Speaker:** The question is that Standing Order 23(5) be duly suspended. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 142 DEFERRED UNTIL THURSDAY 10 JANUARY 2002.**

#### QUESTION NO. 143

**The Speaker:** The Elected Member from East End.

**No. 143: Mr. V. Arden McLean** asked the Honourable Minister responsible for the Ministry of Community Services, how many homes for persons in need have been built over the past nine years by the Social Services or the Public Works Department and in which districts were they built?

**The Speaker:** The Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, I seek the leave of this Honourable House under Standing Order 23(5) to have this question deferred to a later date.

**The Speaker:** The question is that Standing Order 23(5) be suspended so that question can be deferred until a later date. All those in favour, please say Aye.

**AYES.**

**The Speaker:** Those against, No—  
The Member for East End?

**Mr. V. Arden McLean:** Madam Speaker, if I could ask the Minister to inform us as to the date that he intends to defer it to.

**The Speaker:** Honourable Minister you may wish to do it. I would draw your attention that Standing Order 23(5) in fact says, "**A Member of Government may,**

**with the leave of the House, defer answering a question.**" So, it is entirely in your decision if you wish to so indicate.

**Dr. the Hon. Frank S. McField:** Madam Speaker, I would prefer if the question be deferred until a later date and we will then be able to say specifically when and how this question will be answered at that time.

#### DEFERRAL OF QUESTION 143

Standing Order 23(5)

**The Speaker:** If we would revert for the abundance of caution I should put the question. The question is that Standing Order 23(5) be duly suspended. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 23(5) IS DULY SUSPENDED AND QUESTION NO. 143 DEFERRED.**

#### QUESTION NO. 144

**The Speaker:** The Second Elected Member for the district of George Town.

**No. 144: Mr. Alden M. McLaughlin, Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs, since the announcement in the 2001 Budget in March of this year that all new services will be curtailed except for new staff at the Bodden Town, Savannah, George Town, John A. Cumber, Red Bay Primary and Light House schools, and staff for the Family Protection Unit and the Financial Reporting Unit, and a moratorium would be placed on recruitment for the remainder of 2001 except for absolutely essential services or where there are direct revenue or expenditure offsets;

- (a) how many new civil servants and group employees in total have been hired? and
- (b) of the total in (a) above, how many new civil servants and group employees have been hired to fill the position outlined above?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Four new civil servants have been hired since March 2001, excluding those who were hired to fill the positions outlined in part 1 of the question. Group employees are hired by heads of department as needs arise. They are not processed through the Public Service Commission and the Personnel Department. Therefore, it is not possible to say how many have been hired since the moratorium in March. The number of new civil servants hired to fill the positions outlined in part 1 of the question is 31.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

In his response the Honourable First Official Member indicated that it is not possible to say how many group employees have been hired since the moratorium in March. I believe that there must be some error in that response.

There must be some means by which the Cayman Islands Government can ascertain how many persons it has employed and how many have been hired over a course of a particular period. I wonder if the First Official Member could confirm that that aspect of his answer is in error.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

That aspect of my question is perfect and very accurate. I think the Member asking the question fails to realise that heads of departments can take on group employees; they can employ them for a day, up to a year, and at any given time there will be group employees coming and going. They are not handled through the Personnel Department or through the Public Service Commission.

There is no way of accurately knowing on any given day, how many group employees have been or are being hired, unless I set up a special section to call around every department on a daily basis to determine that. I certainly think that that would be a waste of public funds to do.

**The Speaker:** The Elected Member for the district of East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

In the substantive answer, the First Official Member said, 'The number of new civil servants hired to fill the position outlined...' in part (i) was 31 and then there were four others. I take that to mean 35, I believe in a recent parliamentary question asked (I believe it was in September) there was an answer given that the amount of COS renewals and newly hired was 48 and 40. I cannot recall exactly which was 48 and which was 40.

I wonder if the First Official Member could tell us under which amount they fell. Were they new services or were they all renewal of contract? There was one saying 48 and one saying 40. So, there seem to be a discrepancy in the numbers—35 here as opposed to the 40 that was an answer in September to a parliamentary question on COS.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I do not have the information on the number of contracted officers that were hired. That information perhaps could be made available but it was obviously given in September but I am not able to give the correlation between the number of contracted officers that were employed and the number of new posts as mentioned in this question.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

In his answer to my supplementary question, the Honourable First Official Member confirmed that the aspect of his question which I perceived was an error, was in fact correct and that it is not possible for him to determine the exact number of group employees that have been hired since March. However, I wonder if the First Official Member can give a general indication, whether the number has been significant or insignificant in the context of the overall compliment of the group employees.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

To try to answer that question, I would simply have to guess. I am not able to give any accurate answer so I would prefer not to try to make a guess on it.

**The Speaker:** The Second Elected Member for the district of West Bay.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker.

Could the Honourable First Official Member say how group employees are paid their wages? That is, are they paid directly by those heads of departments or through the central Treasury for the Cayman Islands Government?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Once a head of department employs a group employee the department will then post that on the system and they are paid through the Treasury Department.

**The Speaker:** The Second Elected Member for the district of West Bay.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker.

Could the Honourable First Official Member then say that through the Treasury's records we should be able to be provided not necessarily with the total number of newly hired, because as he indicated, people do come and go for other than long-term periods of time, but at least a net increase or decrease to the compliment of group employees?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I wish it were as simple as calling the Treasury and asking for the numbers. What happens is that department heads often employ individuals as group employees and a group employee may work for a day or week and then they leave. Payment is stopped but their names remain on the system, and, believe me, I have tried (and I do not want to seem difficult about this) . . . it is a matter of accuracy in the system. That is, short of contacting each department to get the information, there is no way of being able to give an accurate figure on group employees.

**The Speaker:** I will allow for one more supplementary. The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I take note that in the 2001 Budget each department head has a section called wages which is to pay group employees. I am just wondering if that is for the group employees that were currently employed and if that is so, who would have authorised the department heads to hire more group employees to change that Budget of 2001 or for any year.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Often a block figure is put into the estimates but it does not necessarily equate to a specific number of group employees but, that again (and I appreciate the helpfulness of the Member in bringing that forward), also does not accurately reflect the total number of group employees.

#### QUESTION NO. 145

**The Speaker:** The Second Elected Member for the district of George Town.

**No. 145: Mr. Alden M. McLaughlin, Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs, what is the total number of persons employed in the Cayman Islands Government, including civil servants and group employees.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** The total number of persons employed by Government including civil servants and group employees as of 28 December 2001 was 3,977. The figure is made up as follow:

|                 |       |
|-----------------|-------|
| Civil Servants  | 2,719 |
| Group Employees | 1,258 |
| Total           | 3,977 |

I must stress that this in an estimate.

**The Speaker:** Are there any supplementaries?

The Second Elected Member for the district of Cayman Brac and Little Cayman.

#### SUPPLEMENTARIES

**Mr. Lyndon L. Martin:** Would the First Official Member be able to provide the House with the breakdown of this total Civil Service figure of 3,977 as to Caymanian versus foreign nationals?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I can give the information on civil servants. Again, I am not able to help on the group employees but of the 2,719 persons in established posts as of 28 December 2001 are as follows:

|               |       |
|---------------|-------|
| Caymanian     | 1,564 |
| Non-Caymanian | 1,155 |

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I wonder if the Honourable First Official Member can clear up some confusion in my mind.

If on the 28 December 2001, a census was taken of the number of group employees based on pay checks issued by the Treasury Department, would it not be possible to ascertain with certainty the number of persons paid by the Cayman Islands Government who were not civil servants in the strict sense, that is, salary, therefore group employees?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

The figure that I gave regarding group employees was arrived at by the Personnel Department checking with each department in Government on the number of group employees paid. That seemed to be the most accurate way of doing it, albeit laborious. I have to say that the Personnel Department has been frustrated for some time with this problem, but it is one of the issues that the department is attempting to address this year, to try to be able to get a more accurate handle on group employees employed at any given time.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I can understand the frustration that Personnel and indeed the Honourable First Official Member, as Head of the Civil Service, must have with these

sorts of situations. However, I wonder if the Honourable First Official Member could say whether or not this inability in the current system—to ascertain precisely how many individuals and the identity of those individuals who are employed by the Cayman Islands Government—does not provide scope for abuse. Particularly, in relation to hiring or the potential for hiring people who are really not necessary.

Given the current budgetary constraints and the significant percentage of Government's revenue that goes to fund the wages and salaries of civil servants, I wonder whether or not this is a concern which he and Personnel have about the current system.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I think the comment by the Member is a very good observation. There is concern about the hiring of group employees but a circular did go out some time ago to heads of departments on this and it appears that they are being conscientious.

From what I have been able to gather, in instances where they have employed individuals as group employees, since the budgetary constraints have been put in place, heads of departments are being conscientious about it. Of course, where possible we are keeping an eye out for it and I can only appeal to all heads of departments to be very conscientious and not take on individuals who are not necessary and only hire individuals where it is absolutely necessary. However, I thank the Member for his observation.

**The Speaker:** I will allow for one more supplementary. The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

In light of that line of questioning and the responses provided if the Honourable First Official Member could say, if there are any plans to seek to address the situation so that Government is able to say with some degree of certainty, who and how many persons are receiving a pay check from the Cayman Islands Government?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

I believe I attempted to answer that in an earlier supplementary. That is one of the goals of Personnel this year, to try to determine as accurately as possible the number of group employees in the system.

#### QUESTION NO. 146

**The Speaker:** The Second Elected Member from George Town.

**No. 146: Mr. Alden M. McLaughlin, Jr.** asked the Acting Second Official Member responsible for the Portfolio of Legal Administration, when will a Bill be brought to the Legislative Assembly to amend the Judicature Law to make proper provisions for the compensation of the jurors in accordance with the undertaking given to the Legislative Assembly by the Honourable Second Official Member during the Second Meeting of the 2001 Session.

**The Speaker:** The Honourable Second Official Member.

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

The Answer: During the debate in a recent sitting of the Legislative Assembly on a Bill to amend the Judicature Law it was agreed on behalf of the Government that the present allowance of ten dollars (\$10.00) per day paid to Jurors would be looked at with a view to increasing same and making it more reasonable.

Any increase in the allowances paid to Jurors will of necessity translate into an increase of government expenditure the issue has to be discussed by Executive Council. It is therefore proposed that a paper will shortly be presented to Executive Council dealing with the matter and depending on the outcome of Executive Council's deliberation the appropriate action will be taken.

It is hoped that a decision will be made in time for the next Session of the Legislative Assembly.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for the district of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

The response indicates that it is hoped that a decision will be made in time for the next Session of the Legislative Assembly. I wonder if the Honourable Acting Second Official Member can confirm that in fact what he means is the next Meeting of the Legislative Assembly.

**The Speaker:** The Honourable Acting Second Official Member.

**Hon. Samuel Bulgin:** I can so confirm, Madam Speaker.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I am not sure whether the Honourable Acting Second Official Member was present when the debate to which he refers in his response took place and the context in

which that debate took place, so that he understands where my line of questioning is going.

The debate ensued as a result of proposed amendments to the Judicature Law to increase the array of jurors in relation to money laundering prosecutions. The reason given by the Honourable Second Official Member (who had carriage of the Bill) for the need to increase the array was because of the likely length of money laundering trials and the length the real possibility of attrition. I believe he indicated that trials could last three months or more and it was in that context which Members on this side of this Honourable House felt that given the extended periods which individuals would be kept away from their regular jobs and the ensuing hardship, as a result reasonable provision needed to be made to ensure that they received some reasonable income during this period.

I say all of that to ask this: Is the Honourable Acting Second Official Member able to say whether the decision regarding an increase in allowance to jurors will be taken in good time so that the matter is resolved before the start of the Euro-Bank Money Laundering trial, which I believe is slated for March or April?

**The Speaker:** The Honourable Temporary Second Official Member.

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

The Euro-Bank Money Laundering trial is scheduled to commence in May of this year and it is hoped that any proposed amendment to the Judicature Law would be in place to address the issue of allowances to jurors who will be serving in that matter. If I might just point out, as a matter of perspective, the allowance to jurors is exactly what it is—an allowance. It was not meant to be compensation for income that would be probably lost during the period of service as a juror. However, in recent times there has been an increase in the fines levied on jurors for non-attendance to \$500.

In addition, there is a recognition that with the inflation over the years the \$10 per day that is paid and the 20 cents per mile travelling allowance is really falling behind. So, there is a need to increase these allowances to make it commensurate with present day reality. Those are some of the decisions that will inform the magnitude of the increase of the allowance that is being contemplated. However, as I said before, clearly it has budgetary implications to Government so care has to be taken to ensure that it can be accommodated. However, it is hoped that it will be done in time to meet the commencement of the Euro-Bank trial in May of this year.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

I am grateful to the Acting Second Official Member for that response. I note that he made the point that what is being paid to jurors is an allowance and is not intended as compensation. However, I wonder if he would agree with me that the allowance of \$10 and the 20 cents per mile (which is currently paid) were arrived at in the context of a very different state of affairs in which jurors were called to sit on trials that lasted at the outset of a couple of weeks?

Clearly it was not intended to deal with situations where individuals will be required to sit for a quarter of a year. I wonder if he could confirm or agree that we are talking about two very different situations as what obtained 15 years ago and what obtains now, particularly in the context of the money laundering prosecutions.

**The Speaker:** The Honourable Temporary Second Official Member.

**Hon. Samuel Bulgin:** I do not think we are talking about two different situations. I think we both recognise the fact that over the passage of time there is a need to increase the allowance paid to jurors. I made the comment that it is not intended to be compensation for loss of income. One of the things that we are hoping to look at in this proposed amendment is to address the complaints from jurors about the problems of having their employers paying them. In some jurisdictions the legislation expressly provides that persons who serve as jurors shall be paid their normal wages by employers for the days that they are required to serve their civic duty as jurors.

We are hoping to address those concerns in the proposed amendment and—clearly that would exclude civil servants—hopefully that amendment would go a long way in addressing some of the hardships experienced by jurors when they are serving. If there is ever a time to do so it would be for the Euro-Bank Money Laundering trial, which is estimated to last between five to six months.

**The Speaker:** I will allow for one more supplementary.

The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I learned a long time ago that if one persists long enough, one gets the right answer. What I was seeking to do was to ensure that hardship was not suffered by the jurors. I do not mind where the compensation comes from.

Thank you, Madam Speaker.

**The Speaker:** We move on then to the next item of Business.

The Honourable Minister of Tourism, Environment, Development and Commerce.



**Hon. W. McKeeva Bush:** Madam Speaker, I do have a lengthy statement on the matter of tourism statistics and the history of it and I am wondering whether or not you would take the morning break. Or, if you want me to start I could do that but in order not to have a break in the statement, perhaps it is a good time to take the morning break.

**The Speaker:** Is it the wish of the House that we take a morning break? We shall suspend for 15 minutes.

#### PROCEEDINGS SUSPENDED AT 11.49 PM

#### PROCEEDINGS RESUMED AT 12.15 PM

**The Speaker:** Proceedings are resumed.

Statement by the Honourable Minister responsible for Tourism.

### STATEMENT BY MEMBER OF GOVERNMENT

#### TOURISM STATISTICS

**Hon. W. McKeeva Bush:** Madam Speaker, the matter of producing and releasing accurate tourism statistics have been a priority of mine since I took office just over a year ago. As Members of this House will recall I commissioned an investigation in the process. As I suspected it was revealed that there has been a history of unreported compromises being made to the statistics. I first reported these errors to the country in April 2001 and released revised 2000 air arrivals in a statement made in this House.

Subsequently, further errors were found in the data capture coding and counting process and so, in June 2001 a second set of revised statistics were presented to me by the Department of Tourism (DoT). There has been much confusion surrounding the Cayman Islands tourist arrival statistics. During the four-month period April to July 2001, there were several sets of conflicting air arrival reports released to the public. One set of which was released by the Department in April without my knowledge and a second set released in August without explanation of the revisions. This has seriously impacted the credibility and professionalism of the Government and more specifically the Cayman Islands Department of Tourism which has been responsible to release the statistics to the public.

Madam Speaker, there have been four separate sets of Cayman Islands air arrival figures generated for the year 2000. Three of these reports were released to the public and one was released only to Internal DoT management. After a lengthy investigation initiated in June, and carried out through the end of November 2001, I can confirm that the Ministry and Department now have full details on the exact nature of the series of problems and unresolved issues which led to the four sets of air arrival figures.

The complete report as submitted to the Ministry is available for members of the public who are interested in the actual statistical system and human errors involved in the first three incorrect and the final more accurate figures for 2001 and 2000. The actual number of air arrivals for 2000 was 354,089. Other totals reported for this period have ranged from a low of 306,133 to a high of 406,620. This 100,487 variance is equivalent to actual error factors in the data capture and coding process of 13.54 percent and 14.84 percent respectively.

I must stress, Madam Speaker, that the current situation is not based on a new problem. Its origin dates back to 1994 and has been internally recognised by the DoT as a problem since 1997 although nothing was done about it.

Since I took office the Department has made several attempts to correct the problem. Some of the more recent attempts have added to and compounded the situation because the people who were charged with resolving the issue lacked the experience, familiarity and technical proficiency to really understand the depth and complexity of the problem.

Although I wish there was someone I could hold fully accountable for this mess as I have been made to understand, it appears that there is no clear individual or department completely responsible for this current situation. A series of errors made over time by Departments of Computer Services, Immigration, Statistics and Tourism have each had a cumulative effect on the problem. This problem has been compounded by a lack of communication and cooperation between Government departments and by political issues, before I took office in November of 2000.

The DoT will publicly take the brunt of the responsibility for the errors, as it was the Department that was responsible for the release of the numbers to the general public. This situation should not be taken lightly. Many members of the private sector relied upon these statistics in order to make business and investment decisions over the past five to seven years. It would also be beneficial to calculate a complete set of true arrival numbers for the period of 1994 to 2001, so that the Government has solid knowledge of the scope of the error allowed to continue over the period of 1994 to 2000. However, it seems that this may not be possible because the Government itself did not keep original sets of each year's data and so as modifications were made to the Immigration's data, the data was saved over the previous data.

There is still a small margin of error in the tourism air arrival statistics currently being published but this is common in the reporting of large numbers. The good news is that for the first time, starting today with the release of these revised 2000 arrivals and the 2001 data, I have instructed the DoT to acknowledge and stipulate the error of margin estimates, the assumptions, or any other qualifiers to the arrival figures, so that persons interpreting the figures can have a better understanding of how they were arrived at;

more importantly that Government is being honest about the estimated margin of error.

In fact, it amazes me that the department (at the time of the former Minister) would release numbers and suggest that they were absolute numbers. The average person on the street knows that surveys or most types of data analysis is reported with an estimated margin of error but somehow the previous decision makers must have thought they were in a position to release those numbers as the absolute 100 percent accurate numbers. Well, we can all see now that was hardly the case.

Madam Speaker, a second bit of good news is that the Immigration Department, in consultation with various other Government departments, is in the process of developing a new embarkation and disembarkation form which will help with the capture and accuracy of tourist arrivals data. Actual hard copies of the arrival figures will be distributed to Members of the House and will be available for the media and public later today at the Department of Tourism.

Turning now to the air arrival numbers themselves as reported through 31 October 2001.

#### **The Year-to-Date Comparison Through 31 October 2001 Versus 2000**

It is no surprise that the 2001 air arrival figures through 31 October was somewhat below the air arrivals for the same period in 2000.

The United States' National Bureau of Economic Research, widely accepted as the abettor of US business cycles, confirmed in November that the US economy entered recession in March 2001.

The economist said that the US economy peaked in March after an expansion that lasted almost 10 years and the contraction that began in March was exacerbated by the economic impact of 11 September. This temporarily paralyzed consumer confidence and the resulting collapse in demand for travel related services, accompanied by tens of thousands of layoffs, left no room for doubt that this was indeed the first recession in a decade.

Through 31 October 2001, the Cayman Islands total international arrivals air and cruise from all tourism markets totaled 1,248,658 people, increasing 11.6 percent from the previous year. Air arrivals in 2001, through 31 October 2001, from tourism markets were 282,952 representing a decrease of 2.12 percent compared to the same period in 2000. Although a decrease, I find it remarkable that the figure was not worse when we consider that this marginal decrease is despite some significant negative factors such as:

1. The US economy began entering a recession in the spring of last year and worse.

2. It includes the days and six weeks immediately post 11 September, which were the most devastating in the recent history of travel and tourism.

Cruise arrivals total 965,706 through the 31 October 2001 increasing 16.34 percent over the same

period in 2000, for a net increase of 136,265 additional cruise visitors on ships calling into the Cayman Islands.

Aggressive Caribbean campaigns, particularly from the Bahamas, Jamaica, Puerto Rico, and the Dominican Republic have competed directly with Cayman's marketing efforts in our main US markets—the Northeast and upper Midwest corridors.

While we may not be offering the same market or gambling type of vacation experiences as some of these Islands, the fact that their budgets are four, five and, in some cases ten times that of the Cayman Islands, makes it more difficult to get our message of differentiation out to our target audience and keeps the cost of buying travel media very high indeed.

Madam Speaker, looking specifically at the US region, total air arrivals for the 10 months ending 31 October 2001 were 231,314 remaining relatively unchanged at a decrease of .07 percent or 159 fewer air arrivals compared to the same 10 months in 2000. Not great, but a fair showing of the spring and summer months in context. In November 2000 when I took office I found no summer programme in place. It was exactly at this time last year that I had to ask the Department of Tourism and the local industry to put together a summer programme to help promote the Islands and try to get some business here during the months with lesser demand than the winter months.

Public and private sector produced the *Get Re-energized* programme and although this was extremely late getting to the market, the fact is that through the increased advertising the fresh new images and the special incentives *Get Re-energized* at least helped to put the Cayman Islands name and images back in the competitive arena, thus helping to get US consumers thinking about the Cayman Islands again.

The fact that the year up to that point did not fare any worse than it did is a testament to the concerted work that was done by the Department of Tourism both in Grand Cayman and in the United States in the spring and summer of 2001. The Department of Tourism worked more closely with its wholesale and airline partners, re-directed some of the efforts of its US sales teams, employed more effective direct marketing, and initiated a web marketing programme with *Travelocity* which generated a lot of exposure for the Cayman Islands in our target markets.

The Department of Tourism even began a more concerted effort of selecting joint programmes for affinity marketing with partners such as Crab Tree and Evelyn in the United States and the United Kingdom and American Express in the United States. *Dive* and other joint publicly and privately partnered co-op print advertising projects continue to be successful and of extreme good value in the combined use of public and private sector funds.

Finally, to bring home the point, I would ask the community to not lose sight of the fact that the marginal overall decrease of approximately 2 percent

was despite a series of deep budget cuts—no television advertising in the first three-quarters of 2001 and the worse body blow to travel and tourism ever experienced in recent history.

Honourable Members the fact is, the Cayman Islands have equity. There is much for us to be hopeful and positive about. The Cayman Islands are still a preferred choice for the United States visitors but we must never take this for granted. Our mission must be to continuously work to develop a better product service, excellence and strategic marketing programmes that break through the clutter and reach our target markets in a way that effectively communicate why we are the ideal choice for our repeat guests and potential first time visitors. We still, if I should say so, have safety, security and serenity.

However, arrivals through 13 October 2001 from the New York area (representing 33.1 percent of total US air arrivals) increased by 8.47 percent over the same period in 2000, while arrivals from the Chicago area (representing 24.5 percent of total US arrivals) increased by a moderate 1.47 percent over the same period of the previous year. Together these two regions represented a net gain of 6,793 people over previous year.

Arrivals from the Miami region representing 19.04 percent of total US arrivals posted a decrease of 7.83 percent equivalent to 3,744 fewer people over 2000. The Houston and Los Angeles regions together representing 23.4 percent of total US arrivals or 15.2 percent and 8.2 percent respectively showed decreases of 5.97 percent and 4.86 percent respectively for the period through 31 October 2001 compared to the previous year. Combined, these regions had a net decrease of 3,207 people. Overall air arrivals from Canada decreased 7.02 percent to 10,590 compared to the same period in the previous year.

One of the reasons for this may have been the reduction of Canadian charter service by one particular company from twice weekly in January to mid April 2000 to a once a week charter for the same period in 2001. We expect to see a shift in this trend as the data starts to come in for November and December of 2001. In response to the added convenience on the scheduled non-stop service from Toronto operated by Air Canada which commenced on 28 October 2001.

Air arrivals from the UK and continental Europe declined by 1,271 visitors, a decrease of 7 percent (to 16,877 people) to the end of October 2001. Compared to the same period last year (2000) 83 percent or 1,021 of the total drop of 1,271 visitors came from the markets in continental Europe. Air service is a critical success factor for the UK and continental European markets. Unfortunately, we have found the situation continues to be less than what is needed to make a break through in those markets. British Airways Boeing Triple Seven service was discontinued in March 2000 resulting in a 30 percent reduction in seating capacity to the Cayman Islands.

Subsequently, the schedule was reduced to three times weekly, although British Airways has just announced it will add a weekly flight starting in April for a total of four weekly direct flights from the United Kingdom, London, Heathrow Airport.

### **The Future Outlook And Forecast**

Cayman Islands tourism in 2001 was undeniably impacted by the competitive strategies of competing destinations both in the region and in as far remote areas as the Indian Ocean or as nearby as the State of Florida. We were impacted by the slowing down of the US economy in the second and third quarters of 2001. Also, by changes of points of origin frequency and capacity of air services to our Islands. Ultimately, the devastation on the travel and tourism industry resulting from the terrorist attacks and the tragic loss of life on the 11 September became the body blow to global tourism and the Cayman Islands are suffering like the rest of the world although perhaps holding our own in the region. Things are not rosy!

The demand for travel has not yet returned to pre-September 11 levels and they are not likely to pick up before the second or third quarter of 2002. That is the global reality. The headline in last Friday's *Caymanian Compass*, 'Tourism In Decline, No Relief In Sight' (which really does not surprise me), is yet another example of sensationalist, negative journalism which ironically was a gross exaggeration if not almost contrary to the contents and comments in the article, if anyone read the article.

Our expectations are that we will see a weak winter season. The US economy has not yet rebounded. It was a dismal holiday season for the retail technology and services industries and the continued attempts at further terrorist attacks will prolong the fear of flying that has permeated the American society. Thus, the travel industry has also suffered. I believe the Cayman Islands will rebound in the summer of 2002. Since taking office in November 2000, I have dedicated the past 13 months to a continuous assessment of our local industry identifying and systematically addressing challenges and opportunities to advance our position in regional tourism.

I have set out to re-tool and rebuild the Department of Tourism and while this is an ongoing process, I am pleased to be able to report that the restructuring changes made to date have made the department, at least in some areas, leaner, more focused and more efficient. As we continue to bring aboard the necessary leadership and technical skills, the department will continuously improve its ability to lead and manage on behalf of my Ministry and the Government core components of the local tourism industry.

Madam Speaker, US economic history shows us recessions in that country normally last 12 months. Economists today believe the same is true for the cur-

rent recession that it will be typical of the last nine US recessions in duration. Analysts believe that the combination of monetary stimulus, tax cuts and other fiscal incentives will spur increased business and consumer demand by next spring, thus, kicking off a cycle of rising demand and production.

Feedback from some of the US carriers serving the Cayman Islands indicated that in terms of advance bookings, the Cayman routes are holding strong. While I am not at liberty to release the confidential and proprietary data of the airlines advance bookings, I can say that Continental indicated that advanced bookings for the winter period is up slightly over last year, as is to be expected with the withdrawal of Delta from the Northeast. US Air indicated its Charlotte route has strong advanced bookings for the winter and Philadelphia routes advanced bookings are reasonable. In fact, US Air commented that its two Cayman Islands routes, as measured by advanced bookings for the destination, is fairing better than some other routes to Caribbean destinations.

It was difficult to get an accurate indication from Cayman Airways advanced bookings because the schedule for this winter is significantly reduced from the schedule last winter. So, the reduced advanced bookings are not really comparing apples to apples. The Cayman Islands Tourism Association is forecasting a weak winter with advanced bookings below last year's levels. This is not surprising since we are looking at advanced bookings for two, three and four months out—and we are all aware of the strong trend for later or even last minute bookings or the making of travel plans within a much shorter time frame than used to be the case before the 11 September.

Additionally, US travel analysts forecast a pen-up demand for travel which is likely to be released in the second quarter of 2002. These factors should contribute to a slightly better first and second quarter than the fourth quarter of 2001. The Cayman Islands will be ready to receive international visitors particularly our US neighbours who suffered the most as a result of the senseless terrorist attacks. The Department of Tourism and the local private sector are finalising *H2go*. That is, the Cayman Islands summer programme to be announced at the Caribbean Hotel Association's market place meeting in Cancun for the US market in a few days time.

By March the full programme will be reaching consumers, travel trade and the media through an integrated marketing programme involving print and broadcast advertising, public relation, web marketing and sales promotions. The local community has my full commitment to keep them informed of the progress of the summer promotion and is customary on my watch, we will naturally do a full evaluation of the programme to assess its results.

Madam Speaker, I would like to issue a reminder and a suggestion to all of us in the Cayman Islands and especially those in the front line welcom-

ing our guests: We must make our visitors feel welcome when they reach our shores at the Airport. Immigration and Customs Officers I urge you to make it feel like a welcoming home for them, not like they are refugees begging hospitality. Apart from the economic importance of Tourism to the local economy it is part of our Caymanian heritage to be warm, friendly and welcoming.

Let us be true to ourselves. Repeat visitors are like extended family living abroad. Let us make them feel appreciated and let them know we are pleased that they choose to come back to the Cayman Islands. Service levels must improve and it can start with a genuine smile and open helpfulness. Do not be cold or 'stand-offish'. We are in the service business and people are paying for their vacation. They are entitled to good service just as we expect when we are spending our money.

To conclude, the approximate 2 percent decrease through the end of the 31 October 2001 compared to the same period in 2000 comes as no surprise to us in the Cayman Islands. We hope that with the concerted efforts of the restructured Department of Tourism and the expected turn-a-round in the United States economy predicted for the second and third quarter of 2002, the Cayman Islands can position itself to hold and grow its market share for the benefit of the local industry and people of the Cayman Islands. However, it requires hard work, the stock-taking of smart risks and the delivery of good value for the prices charged to our guests. It will take higher levels of service and it will require genuine co-operation and mutual respect between public and private sector but I am confident it can be done. I look forward to providing international visitors arrival up date again in the next few months.

Madam Speaker, at this time I beg to lay on the Table of this Honourable House the following documents:

- A copy of the report prepared by the Department of Tourism and the history of the tourism arrivals statistic system.
- Copies of the tourism arrival statistics for the period 1 January through the 31 October 2001, which is accompanied by the explanatory notes.
- The complete revised tourism arrival statistics for the year 2000 accompanied by the explanatory notes.

Copies of these same documents have been available for the press and general public to collect here at the Legislative Assembly.

Madam Speaker, I thank you, the Members for their indulgence, and the interim Director and the Permanent Secretary for assisting me in bringing this matter to the forefront and laying out the full facts for the public. We are not hiding any matter when it comes to public business.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Leader.

We will move on to complete the First Readings before suspending for the luncheon break.

Honourable Leader of Government Business could you move the suspension of Standing Order 45 and 56(1) and (2)?

**SUSPENSION OF STANDING ORDERS 45  
AND 46(1) AND (2)**

**Hon. W. McKeeva Bush:** Madam Speaker, I move the relevant Standing Orders in order for the Bills to be read.

**The Speaker:** The question is that Standing Orders 45 and 46(1) and (2) be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 45 AND 46(1) AND (2) SUSPENDED.**

**GOVERNMENT BUSINESS**

**BILLS**

**FIRST READING**

**THE MERCHANT SHIPPING (AMENDMENT) (SURVEYS AND CERTIFICATION AND MISCELLANEOUS PROVISIONS) BILL, 2001**

[**The Clerk:** The Merchant Shipping (Amendment) (Surveys And Certification And Miscellaneous Provisions) Bill, 2001.]

**The Speaker:** The Bill has been deemed to have been read the First Time and is now set down for the Second Reading.

**THE MERCHANT SHIPPING  
(MARINE POLLUTION) BILL, 2001**

[**The Clerk:** The Merchant Shipping (Marine Pollution) Bill, 2001.]

**The Speaker:** The Bill has been deemed to have been read the First Time and is set down for the Second Reading.

**THE INSURANCE (AMENDMENT) BILL, 2001**

[**The Clerk:** The Insurance (Amendment) Bill, 2001.]

**The Speaker:** The Bill has been deemed to be read a first time and is also been set down the Second Reading.

**THE SECURITIES INVESTMENT BUSINESS BILL,  
2001**

[**The Clerk:** The Securities Investment Business Bill, 2001.]

**The Speaker:** The Bill has been deemed to have been set down a first time and is set down for a second reading.

We will now suspend for the luncheon break. We are suspended until 2.15 pm.

**PROCEEDINGS SUSPENDED AT 12.50 PM**

**PROCEEDINGS RESUMED AT 2.30 PM**

**The Speaker:** Please be seated. Proceedings are resumed.

I call upon the Deputy Leader to move the suspension of Standing Order 46(4).

**STANDING ORDER 46(4)**

**Hon. Linford A. Pierson:** Madam Speaker, I beg to move the suspension of Standing Order 46(4)

**The Speaker:** The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 46(4) SUSPENDED.**

**SECOND READING**

**THE TRAFFIC (AMENDMENT) BILL, 2001**

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, I move the second reading of a Bill entitled, The Traffic (Amendment) Bill, 2001.

**The Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. James M. Ryan:** Thank you, Madam Speaker.

This short amending Bill seeks to amend The Traffic Law (2001 Revision) in order to provide the alcohol-in-breath measuring devices and radar speedometers used by the Police in the Islands for the purpose of the Traffic Law, should be approved by the Commissioner of Police and not prescribed by regula-

tions. This would assist the Police in obtaining and using the most up-to-date alcohol and breath measuring devices and radar speedometers without delay.

From time to time equipment used as measuring devices for alcohol and breath (commonly referred to as breathalyzers) and speed radars will get changed. There have been instances in the past when an updated model has been purchased and it requires regulation to change to the new piece of equipment. The amendment being proposed this afternoon will simply allow the Commissioner of Police to gazette the new piece of equipment and it will then be prescribed and will be useable under the Law. Accordingly, I am seeking the support of Honourable Members for this amendment to The Traffic Law (2001 Revision).

**The Speaker:** Thank you, Honourable Member.

Does any other Member wish to speak?

If not, does the Mover wish to exercise his right of reply?

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Only to thank Honourable Members for their tacit support and for so quickly allowing this to move through. It will certainly expedite the introduction of radar equipment as well as breathalyzer equipment. Thank you.

**The Speaker:** The question is that a Bill shortly entitled, The Traffic (Amendment) Bill 2001, be given a second reading. All those in favour please say Aye.

**AYES.**

**The Speaker:** Those against, No. The Ayes have it.

**AGREED: THE TRAFFIC (AMENDMENT) BILL, 2001, GIVEN A SECOND READING.**

**The Speaker:** The Honourable Third Official Member.

**THE MERCHANT SHIPPING (AMENDMENT)  
(SURVEYS AND CERTIFICATION AND MISCELLANEOUS PROVISIONS) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Merchant Shipping (Amendment) (Surveys and Certification and Miscellaneous Provisions) Bill, 2001.

**The Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

The current version of The Merchant Shipping Law, which consists of The Merchant Shipping Law of 1997 and the amendments of 1999, represents a comprehensive and modern shipping regime in the

Cayman Islands. Internationally Maritime Law is highly regulatory in scope and is largely based on conventions and related instruments. As shipping technology develops and the needs of commercial shipping increase the international convention law continues to undergo changes for the better.

It is then incumbent upon flag states, such as the Cayman Islands, to readily incorporate those changes to maintain a commercially viable and high quality fleet. To this end, further amendments to the Shipping Law have now become necessary primarily as a result of the entry into force of protocols to two major maritime conventions. In addition, some further adjustment is necessary to repeal the now redundant transitory provisions relating to the Civil Liability and Fund Conventions (CLC). The opportunity has also been taken to address other minor needs and a normal list discovered following a period of application of the Law. The various amendments are summarised as follows:

Clause 4 of the Bill: provisions have been added in sub-section 8(3) (a) to enable a mortgagee's interest to be de-registered where it is proven that the mortgagee was privy to the possibility of the ship being used for criminal purposes.

Clause 5 amends section 11 to create the defined term 'Pleasure Yacht' to accommodate the changing use of such craft from private use to commercial use and vice versa.

Clause 6 (amends section 12) has been expanded to clarify that this section refers to entries into the register in relation to the property in a ship and not for any other entries.

Clause 7 section 30 is amended in subsection 2 (1) to remove an anomalous cross-reference to section 54. This amendment will require vessels under the demise charter registration regime to carry third party insurance cover.

Clause 8 amends section 36 to tidy up certain terminology regarding particulars of a ship to be registered and erroneous cross-reference is also removed.

Clause 9 amends section 54 to remove redundant references to previously repealed schedules relating to the transitory provisions of the 1992 civil liability and fund conventions.

Clause 10 amends section 22 to recast subsection 7 in such a way as to delete the substance of paragraph (b).

Clauses 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 amend sections 171, 180 to 184, 186, 188 and 191.

The need for these detailed amendments arises from the entry into force of the protocol of 1998 of the Safety of Life at Sea Convention (SOLAS). This protocol introduces a harmonized system of surveys and certifications for merchant ships. The acronym for the harmonized system of surveys and certification (which I will be referring to subsequently) is referred to as HSSC. The Shipping Industry welcomes the introduction of the HSSC regime because the systems allow the times of surveys under the major conventions to

be synchronized thus, facilitating operational flexibility. The Cayman Islands must ensure that necessary provisions are in place in The Merchant Shipping Law to enable the protocol to be given effect.

Clause 21 amends section 202 to provide for revised qualifications for arbitrators in the event of a dispute regarding surveys of ships under the Law. It takes into account the situation in the Islands with respect to the Attorneys-at-Law.

Clause 22 amends section 204 to strengthen the existing provisions regarding port state control. The authorities of the next port-of-call are to be notified of the situation where a ship under detention has for any reason been allowed to proceed to the next port and where it has not been possible to notify the vessels flag state representative through the usual channel.

Clauses 23 to 30 amend sections 222, 224, 228, 234, 241, 242, 244 and 251. The amendments are also part of the HSSC except that these are reference to the application of the system to the Load Lying Convention of 1966. Appropriate terminology is introduced, defined where necessary and the relevant additional provisions are incorporated.

Clause 31 sub-section (1) of 269 has been reworded to make it clear that the Governor in Council may appoint the Director of Ports as the receiver of wreck. Subsection 2 has been amended to extend the provisions for the receiver of wreck to invoke his powers with respect to a vessel which poses a risk to the environment.

Clause 32 sub-section (1) of 287 has been similarly amended to include a vessel posing a risk to the environment in the cases where the Port Authority has the right of intervention with respect to sunken, stranded or abandoned vessels.

Clause 33 amends section 319 to correct erroneous cross-references in this section.

Clauses 34 and 35 amend section 355 (1) and (5) and 356 to delete redundant references to part 1 of Schedule 3 of the Law which were previously repealed.

Clause 36 amends section 414 to clarify the procedure for the appointment of the Director of Shipping and for inspectors and surveys. The amendment also corrects an erroneous cross-reference in the original Law.

Clause 31 amends section 422 to revise the qualifications for arbitrators but with respect to improvement and prohibition notices taking into account the situation in the Islands with respect to Attorneys-at-Law.

Clause 38 amends section 449 to clarify appointment procedures generally and ensure that it complies with the requirements of the Convention.

Clause 39 amends section 458 subsection (1)(a) to remove some ambiguity with respect to the payments of expenses to the Treasury. Shipping is somewhat unique in that the owner or operator of a ship to be surveyed, et cetera, will pay the travel ac-

commodation and related expenses of attending surveyor but this is not revenue.

Clause 40 amends section 459 to close a possible loophole. The Shipping Law needs to make specific reference to the imposition of fines in excess of the standard scale introduced in various regulations since omission to do could result in the level of fines being capped under the Interpretation Law. This is because section 27 of the Interpretation Law provides that unless otherwise provided in the principal Law, regulations made under a Law may make breach of the provisions a criminal offence subject only to a fine not exceeding \$1,000. It is in some cases necessary to impose a significantly higher penalty for the more serious offences than is allowed for under the standard scale.

Madam Speaker, I commend this Bill to honourable Members.

**The Speaker:** Does any other Member wish to speak?

If no other Member wishes to speak will the Mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Just to say thanks to honourable Members for their support.

**The Speaker:** The question is that a Bill shortly entitled, The Merchant Shipping (Amendment) (Surveys and Certification and Miscellaneous Provisions) Bill, 2001, be given a second reading. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MERCHANT SHIPPING (AMENDMENT) (SURVEYS AND CERTIFICATION AND MISCELLANEOUS PROVISIONS) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The Honourable Third Official Member.

**MERCHANT SHIPPING MARINE POLLUTION BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Merchant Shipping (Amendment) Surveys and Certification and Miscellaneous Provisions) Bill, 2001.

**The Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. George A. McCarthy:** Yes, Madam Speaker.

The legal regime of marine pollution is not only unessential but also an indispensable part of International Maritime Law. The importance of Marine Pollution is exemplified by the mission statement or

motto of the International Marine Organization: *Safer Ships and Cleaner Seas*. The Law of Marine Pollution is also germane to the progress and development of merchant shipping fleets.

An up-to-date regime is essential for attracting and retaining quality ships in the Cayman Islands Registry. Thus, the commercial success of our shipping registry is significantly dependent on a sound marine pollution regime. Furthermore, we as an Island state are one of the world's most important cruise shipping areas where garbage pollution is a major concern. The fragile marine ecology of the Islands is vulnerable to harmful effects of marine pollution.

Our current marine pollution legislation is grossly inadequate and outdated. In the Merchant Shipping Law of 1997 we brought our legislation in line with the latest international developments by incorporating the Civil Liability Convention and the Fund Convention of 1992. These Conventions address the private law aspects of liability and compensation for oil pollution damage. However, there are other aspects that are essentially the public law and regulatory elements relating to inter alia rights and responsibilities of the Cayman Islands vis-à-vis the international community regulation of ship generated operational pollution, deliberate dumping of waste of sea, preparedness and response in relation to accidental oil spills.

Madam Speaker, this Bill now presented to honourable Members is intended to fill the existing lacuna in the Law. The Bill gives effect to the following Convention as appropriate:

- The United Nations Convention of the Law of the Sea 1982 (UNCLOS),
- The International Convention relating to Intervention on the High Seas in cases of oil pollution, that is, the 1969 Intervention including the 1973 Protocol,
- The International Convention for the Prevention of Pollution from ships 1973 as amended including the Protocol of 1978, that is, the Marpol 73/78,
- The Convention and the Prevention of Marine Pollution by dumping of waste and other matters 1972 as amended previously known as The London Dumping Convention including the Protocol of 1996.

The international convention on liability and compensation for damage in connection with the carriage of hazardous and obnoxious substances by sea, that is, the 1996 and International Convention on Oil Pollution, Preparedness and Response 1990. All these Conventions have been extended to and are applicable to the Cayman Islands. The Memorandum of Objects and Reasons which proceeds the Bill sets out a clause by clause explanation.

Part 2 of the Bill deals with administrative matters such as the functions of the Member of Government, with responsibility for the merchant shipping and seamen. The ability for the Member of Government to delegate his or her powers. There is provision for power to make regulations. The Government and

public officers acting under the Law enjoy immunity from civil suits. Other housekeeping matters are addressed such as the retention of copies of conventions, as well as there are requirements regarding communication and consultation with interested parties in the implementation of this Law. Certain powers are provided to authorize officers to board ships and port facilities and to take testimonies of witnesses under oath.

Part 3 of the Bill deals with powers and jurisdiction under the UNCLOS relating to the protection and preservations of the marine environment. There are requirements for the Government and Director to take measures to control or reduce pollution. There are reporting requirements to the International Maritime organization and powers to detain vessels.

Part 4 addresses the issue of Intervention on the High Seas in the face of an imminent threat of pollution of the coastline of the Islands and its related interest, thus giving effects to the 1969 Intervention Convention. This is of vital importance to the Islands not only for the protection of the marine environment itself but also our tourism as well as the watersports and recreation industries are dependent on clean marine environment. These provisions enable the Cayman Islands as a coastal State to intervene even on high seas to prevent or mitigate pollution damage.

Part 5 incorporates the Marpol 73/78 Convention. This part is divided into six chapters: The first chapter deals with the general provisions of the Convention. It is significant that the wider Caribbean region has been declared a special area where no discharge of garbage is allowed. There are requirements for the reporting of incidences involving polluting substances and powers to detain ships in certain cases. The remaining five chapters give effect of the five annexes of Marpol. Each annex provides for the prevention of pollution by five different types of pollutant.

- Chapter 2 addresses oil,
- Chapter 3 addresses noxious liquid substance in bulk,
- Chapter 4 addresses harmful substances carried by sea in package form,
- Chapter 5 addresses sewage, and
- Chapter 6 regulates and discharge garbage.

Part 6 addresses the important use of Oil Pollution, Preparedness and Response (OPRC) and gives effect to the OPRC Convention 1990. Provisions are made for a national system for responding to oil pollution incidents affecting the Islands under the purview of the national coordinator. Provision is also made for cooperation with appropriate bodies in the Islands and overseas with respect to serious oil pollution incidents including bi-lateral or multi-lateral arrangements.

Part 7 deals with the control of the deliberate dumping of waste at sea and gives effect to the London Convention (LC) 1972 and its Protocol of 1996.



Part 8 addresses the regime of liability and compensation for pollution damage resulting from the carriage of hazardous, noxious substances and gives effect to the HNS 1996 Convention.

Part 9 deals with enforcement inquiries, legal proceedings and jurisdiction matters in relation to the implementation of the Bill. Such matters as the application of certain parts of The Merchant Shipping Law, the service of documents and taking of proceedings in other jurisdictions are addressed.

### SCHEDULES 1 THROUGH 21

Finally, there are 21 Schedules which supplement the provisions of the Bill.

Schedules 1 and 2 deal with matters pertaining to intervention on the high seas in relation to oil pollution incidents in accordance with the 1969 Intervention Convention and its Protocol of 1973.

Schedules 3 to 5 address various matters relating to Marine Pollution by oil which is subject to Annex 1 of Marpol 73/78.

Schedules 6 to 10 are concerned with Prevention of Pollution by noxious liquid substance, which is dealt with in Annex 2 of Marpol 73/78.

Schedule 11 contains guidelines for the identification of harmful substances in package form which is the sub-set matter of Annex 3 of Marpol 73/78.

Schedules 12 to 13 address supplementary matters regarding the prevention of pollution by sewage from ships in accordance with Annex 4 of Marpol 73/78.

Schedule 14 gives the form of garbage record books required under Annex 5 of Marpol 73/78.

Schedule 15 contains the Annex to the 1990 oil pollution preparedness.

Schedules 16 to 17 are concerned with the dumping of waste under the London Convention 1972 and its Protocol of 1996.

Schedules 18 to 20 contain additional material regarding the provision relating to the carriage of hazardous and noxious substances.

Schedule 21 contains the list of repeals to be effected consequent upon the Bill coming into force.

Madam Speaker, I commend this Bill to honourable Members.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak?

The Second Elected Member for the district of Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker. I would like to commence my short contribution to this Bill by first congratulating the Third Official Member and his staff, the legal experts and members of the staff of the Cayman Islands Shipping Registry, for bringing about this magnificent piece of legislation. I am aware of the extent of work that has gone into preparing this piece of legislation to ensure its compli-

ance with the numerous international conventions that have been ably outlined by the Third Official Member.

Madam Speaker, I recall even from my days in the Ministry, work commencing on this Bill and I am pleased that the Cayman Islands will have legislation that will govern ships under our flag as well as ships in our waters in regards to pollution, assuming safe passage of this Bill. The Cayman Islands development has always had a great reliance on the marine environment. This addition to the Merchant Shipping legislation is indeed welcomed.

The Bill For A Law To Prevent The Deliberate Negligent Or Accidental Release of Oil and Other Harmful Substances From Ships for the Protection and Preservation of the Marine Environment and the Conservation of the Natural Resources Therein and to that end To Regulate Maritime Activities and for Incidental and Connected Purposes is a Bill that I can certainly give my support and encourage all Members of this Honourable House to support. The United Democratic Party would like to thank all who have contributed to the preparation of this instrumental piece of legislation. The health and cleanliness of our marine environment and our coastal line is a matter that all responsible legislators should comfortably support.

On behalf of the United Democratic Party I would urge the general public to accept this Bill and play its role because the requirements of this Bill go beyond simply the administration of the Cayman Islands Shipping Registry. It affects not only garbage that comes from the ships but it affects how we as a country handle garbage, oil and waste.

The United Democratic Party welcomes the ability that is given by this Law for a Government to prevent, mitigate or eliminate danger to our marine environment and coastal line from maritime casualty, be it deliberate or accidental discharge of oil, garbage, noxious or harmful substances or waste. As a world class shipping registry, a category one British Red-Ensign shipping registry with Cayman Islands ships sailing the world's waterways, our responsibility to the protection of the marine environment is heightened. Three conventions that fall under the responsibility of the International Maritime Organization (IMO) referred in our Law as the organization, govern the global effort in this regard. This Bill seeks to implement the essence of the International Convention for the prevention of pollution from ships 1973 as modified by the Protocol of 1978 relating thereto as Marpol 73/78. It covers accidental and operational oil pollution as well as pollution by chemicals and goods in package form, sewage, garbage and air pollution.

The second convention is the International Convention on Oil Pollution Preparedness Response and Cooperation (OPRC), 1990 which provides a global framework for the international cooperation in combating major incidents or threats of marine pollution. A protocol to this convention (H&S protocol) covers pollution by hazardous and noxious substance.

Thirdly, is the convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matters, 1972. As noted by the Third Official Member, it is commonly referred to as the London Convention.

Madam Speaker, it is important to note that these international maritime conventions and all other conventions to which the UK is party are extended to the Cayman Islands. As the world moves to adopting these conventions to provide global standards to the legislation and uniformity in the enforcement of Marine matter, the Cayman Islands will benefit from not only mitigating these problems within the Cayman Islands and the Cayman Islands Shipping Registry but will also benefit from the reciprocity of these global efforts.

This Bill governs the ships that are under our flag, as well as ships that are in our Ports and offshore terminals, or those ships within nation waters. Globalisation has resulted in a resurgence of shipping as world trade barriers continue to fall. This compounded with an increase in cruise tourism with some 40 new ships coming on line shortly with the increase in maritime traffic and the increased consciousness of the importance and vulnerability of the marine environment, the provisions in this Bill can only be deemed as timely. The Bill also makes provisions to protect shipping industry. It protects unwarranted and unduly delays or detaining of a ship by the Director of the Cayman Islands Shipping Registry forcing the Government to compensate the ship for such delays. This instills efficiency and forces discipline within the Directors department for himself and his agents.

The Bill calls for the Director to inspect and report to the IMO any deficiency in regards to sewage, oil and garbage reception facilities in the Cayman Islands. This is an important area and one that I urge the Government to address because we do have certain inadequacies in the reception facilities at our Ports that will need to be brought up to scratch if this Law is to be properly enforced.

Madam Speaker, I am aware of one particular instance where cruise ship docks in Cayman requested and was granted approval to offload its garbage. It tendered its garbage to the Cayman Islands. But the reception facility at the Port was inadequate to accommodate. I commend the Port Authority and its staff in that particular instance in making extra provisions. However, this Bill calls for the Director to inspect and report to the IMO any deficiency and I urge the Government to take a serious look at ensuring that the reception facility for garbage is improved.

However, the Bill goes beyond garbage receptive facility to include oil and sewage. I have been informed that in instances where ships request the discharge of sewage in our port we accommodate them by bringing in trucks to haul the sewage away. In one particular instance that I observe, industrial services were used to pump away the sewage from the ships. We must look carefully to ensure that this complies with the requirement of the IMO.

We have no tank facility at our Ports to accommodate for oil or oil contaminated water. To emphasize this point I simply illustrate that an average cruise ship voyage generates 8 tons of garbage 1 million gallons of grey water which is defined as water from laundry from showers that is no longer in its pure form. Twenty five thousand gallons of oil contaminated water is generated, 200,000 gallons of sewage and lots of other hazardous waste.

Madam Speaker, recent coverage in the local media and statements in this honourable House, as detailed plans, not only for cruise ships docking facilities tendering facilities that have a long term goal of birthing facility and also the relocation of the cargo port. I urge the general public that as a member of the United Democratic Party, I will ensure that the decisions are made with the requirements of this piece of legislation in place for proper facilities to accommodate oil sewage or garbage that ships choose to dispose at our ports. We must remember that these conventions are international and as all ports bring up their facilities to the standards set in these international conventions, we will see a reduced likelihood of discharge of garbage, oil and sewage in open waters and when done, will have to be in accordance with the mechanism outlined in these conventions and detailed within this particular Bill.

Madam Speaker, I have stated how impressed I am with the piece of legislation, but I have also pointed out that there are a few deficiencies. One other area that I would encourage the Third Official Member to look at is in regard to air pollution. The Marpol Convention on air pollution from ships as adopted by IMO in 1997 in the form of a protocol containing a new annex number 6 of the Marpol Convention, outlined the emission caps to be established for air pollution which contributes to some one-third of the carbon released. The Environment Protection Agency (EPA) of the United States of America has declared its intention to introduce regulations applicable to the US and foreign flag ships in the absence of internationally applied requirements by mid-2002 in regards to the control of air pollution.

As recently outlined in this honourable Chamber by the Deputy Financial Secretary, the Cayman Islands Shipping Registry strives to be ahead of the regulatory requirements. We must seek to ratify the Marpol Convention on air pollution. It is not healthy to have a confusing array of different standards for different areas. I have spoken to the Third Official Member in private on this matter and he has assured me that this concern will be noted and contemplation will be given to how best accommodate my concern. The issue of pollution on our coastlines and in the marine environment is extremely important to the Cayman Islands as a tourism destination as outlined by the Third Official Member.

So much of the pollution that we have in our waters and our coastline is generated from land based activity. Once garbage becomes airborne—be it gar-

bage from our land fill, seepage from our land fill into our water, from illegal dumping—it has a tendency of finding its way to the coastline and the marine environment. We must address the issue of illegal dumping.

I took the opportunity this weekend to drive into Barkers beach area and I was amazed at how in this country illegal dumping continues so close to our shore line, so close to our marine environment. As a Government we must take strong action to prevent illegal dumping and we must consider carefully when relocating our land fill and look carefully at the process and procedure of handling our land fill debris generated by land based activity. Out of a matter of interest I will read what is internationally referred to as the 'dirty dozen' which are the twelve most found items on coastal lines. Representing 61.68 percent of all debris collected during garbage cleanups along coastal lines:

1. cigarette butts (this is the number one item that everyone forgets is truly garbage)
2. plastic pieces
3. foamed plastic pieces
4. glass pieces
5. plastic food bags and wraps
6. paper pieces
7. plastic caps
8. glass beverage bottles
9. plastic straws
10. metal beverage cans
11. metal bottle caps
12. plastic beverage bottles

Madam Speaker, I can only add to what I have said that I commend this piece of legislation to all honourable Members and I hope that all honourable Members will lend their support to this very timely piece of legislation. Thank you.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I take note that there is no quorum.

#### LACK OF QUORUM

**The Speaker:** Will the Serjeant ensure that we have a quorum of eight before we proceed?

*[pause]*

**The Speaker:** Member from East End, was that merely to bring that to my attention or is it your intention to debate?

**Mr. V. Arden McLean:** Yes, it is my intention to debate.

**The Speaker:** Please proceed.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I rise to make a short contribution to the Bill which is A Bill to Prevent the Deliberate Negligent or Accidental Release of Oil and Other Harmful Substances from Ship and for the Protection and Preservation of the Marine Environment and the Conservation of Natural Resources therein.

I too welcome this legislation and probably more than many in this honourable Chambers. I am pleased to see legislation coming into effect and I do not have problems supporting it either. As a former engineer, I have been the recipient of investigations, when on my watch discharges were accidentally made, or deliberate in some cases, when staff discharges sewage, oil waste and so on.

Madam Speaker, when I came to this honourable House one year ago, I spoke of the discharge from ships into the waters around the Cayman Islands. I then urged the Government for legislation to prevent it. Therefore, I have no alternative but to support this Bill. There are a few things, like the Second Elected Member for Cayman Brac pointed out that is lacking, as I see it in the legislation. Provisions are made for a number of things and in particular, I would like to touch onshore facilities for reception of waste from ships. I understand that the country needs shore facilities to receive such wastes and I trust that the Government will make those provisions.

However, when ships are built, provisions are made to accommodate waste in the form of what is called holding tanks and the purpose of those tanks is not to be used while the ship is underway. The purpose of those tanks is to be used while in port and I certainly will not bore the House with all the calculations that is required, but I will say that it is based on the occupants of the ship and a simple rule of thumb of how much wastes is expected to be generated by those individuals, that is, per body. Holding tanks are calculated on that basis. It is further calculated on the basis of how many days that ship is going to be in port.

Therefore, the only reason any ship coming into port would have to discharge to shore facilities, is if the ship is overly delayed. For instance, all the passenger liners that currently come into the port of George Town would have sufficient holding facility for a particular number of days, that is, for every passenger on that ship. There is certainly a need for the holding facilities on shore to process that waste but only in those instances where the ship is delayed.

What is extremely important in this country is that provisions are made to ensure that those holding facilities are engaged while in port. There is no guarantee that engineers on those ships are going to seal off the overboard discharge. Therein lays the crux of the matter. I would have to hear from the Government that as the pilot (which is customary in other ports all over the world) boards one of the passenger liners or the ships that come to this port that an inspector also boards one of those ships and ensures that the ship's

seal is on the overboard discharge and that the Cayman Islands seal is on the overboard discharge also.

I have heard the Second Elected Member from Cayman Brac say that there have been instances where ships discharge in our waters. Or, the ships have had to request a discharge to shore and trucks have had to take it away. If we get discharge into the waters surrounding the Cayman Islands from ships it is our fault. In saying so, I would encourage the Government to seriously look into ensuring that there is an inspector boarding these vessels as they arrive or shortly after anchorage (docking or whatever the case may be) to ensure that the discharge cocks on these vessels are secured. I lived that for 10 years as an engineer whenever a ship arrives in port (some countries it is whenever the pilot comes aboard, other countries it is when one pulls along side the dock) an inspector is sure to come to see if the overboard is closed and the discharge into the holding tanks are opened.

If we are serious about protecting the marine environment we have to ensure that that provision is in place. There is no maybe or perhaps. In the middle of the night ships going to countries that do not have such provisions will of course pump their bilge over the side. Neither the captain nor the chief engineer can make provisions for an oiler or a pump man on that ship. The only provision they can make is the country ensures that the overboard discharge is properly sealed. Then in the event—and I am speaking from experience—there is one drop of oil in that harbour every ship in the harbour is inspected and if one seal is broken that is where the oil came from and that ship is impounded. I have been the recipient of that. I certainly did not go to jail but the fines are applied without even going to court and not only directly me but also the ships that I have been on.

The other area that the Second Elected Member spoke on was emissions from boilers, engines, et cetera. While we enjoy a clean atmosphere it is fragile because of the increase in passenger liners, the increase in cargo ships and the increase in vehicles and the likes, we must also protect our environment.

While the Second Elected Member from Cayman Brac says that there are provisions made to implement new guidelines for emissions into the environment, there are many provisions that have been there forever. As part of becoming an engineer I had to attend a particular school for emissions into the atmosphere.

As the Second Elected Member from Cayman Brac said, there are certain guidelines in place whereby for instance, in a five minute period or in one hour you can only discharge a certain amount of emissions into the atmosphere. There is no provision in this country for that. We need those also.

For many years I have witnessed the discharge of emissions into the atmosphere of this country from passenger liners and also from cargo vessels. One only needs to travel along the water front and

particularly those ships that are steam; they run on steam which is made through evaporation system. When you are burning fuel to generate steam you are going to get emissions into the atmosphere and it is impossible to tell the ship that there will be no discharge. However, provisions must be made that we do not see a ship in harbour for 20 minutes bellowing black smoke. I have seen that.

I urge the Government to look at the possibility of us including provisions to prevent emissions from ships into the atmosphere. The ships have the opportunity to discharge a lot of their wastes prior to coming into the territorial waters of any country. Therefore, there is no reason why they should come into this port or any port with a full holding tank. Provisions are made in here to give them the right to discharge outside of the territorial limits (25 miles) such as oil from bilges, cleaning of tanks, scrubbing of tanks, demucking of tanks.

These are all provisions and guidelines that are all in place and when we talk about the amount of garbage that is washed up any shore, a lot of that comes as a result of many ships passing our country and discharging these kinds of materials. However, they have a right to do it and it depends on where the winds, tides and currents are, as to whether it will be disposed on our shores. We cannot expect to do more, except to pick it up but once they get into port there should be an inspection of these ships at all times.

Patrols should be the norm. Just a few days ago I saw four passenger liners in port. I cannot say that there was not a patrol around these ships but I certainly did not see one. There may have been one but there should always be a patrol boat between to check on the passenger liners as well as the cargo vessels. The cargo vessels are the deadliest of them all and they dock right long side our docks and some of those ships are much older and their holding capacity may not necessarily be up to scratch with modern requirements. As long as they come into this port, the Government in this country should maintain the provisions and the control to say that that ship cannot come into our port unless it has holding provisions. I have seen it.

However, beyond that point, I have seen the yachts come to this country and people live on them. I spoke about this in my Throne Speech and Budget Address 2001. This is another area that needs to be addressed and I respect the provisions here for yachts but we have to make provisions in this country. Yachts do not have holding facilities unless it is put in on a special order. These are not 'live aboard' vessels. They were not built for that, they were built for travelling pleasure. Therefore, it is expected that they would be on the high seas. However, many come to this country and purchase or rent a piece of property on a canal and stick their boats right on it and live aboard. Then they discharge everything right into our waters and then we see our kids fishing in the canals. While

we have to make provisions for The Merchant Shipping Marine Pollution, we also have to make the provisions for the pleasure craft pollution. Again I urge the Government to start thinking along the lines of making preventative provisions.

Notwithstanding the impression given by the Second Elected Member for Cayman Brac, who noted the drafting of the Bill had been in progress for some considerable time before the UDP assumed office, I think that it is quite interesting to note that the UDP has agreed and is admitting that it is not necessarily their Bill. Certainly, I trust that they do not then say that they did complete and bring it, but regardless of who brought it or when it started, I welcome it and I would like to congratulate the Third Official Member for piloting it. I think it was the civil service arm of Government that piloted this Bill thus far.

Therefore, I shall congratulate the civil service arm of Government. I certainly look forward to the Government making provisions for shore installations to pump these things out. In most countries the sewage is pumped into a barge and taken to the treatment plant and then garbage is processed in a similar fashion as done for the onshore processing where it is collected and taken to the garbage dumps.

So, I would like again to urge the Government to start making some provisions because I noted that recently we had a passenger liner overnight. I think that could have been some two days that there were pumping, I trust, into the holding tanks at Spotts. It was not being pumped overboard in the dark of night. Nevertheless, provisions have to be made for when ships have problems and they have to overnight. The ships cannot be expected to hold two or three days of waste but we do not want it pumped into our waters either. Yes, our marine life is an integral part of our tourism product and certainly I do not need anyone to encourage me to support such a Bill because I have 10 years experience as an engineer and I too would like to commend this Bill to all honourable Members.

Thank you, Madam Speaker.

**The Speaker:** Thank you, honourable Member. At this time we will suspend for 15 minutes for the afternoon break.

#### PROCEEDINGS SUSPENDED AT 3.48 PM

#### PROCEEDINGS RESUMED AT 4.18 PM

**The Speaker:** Please be seated. Proceedings are resumed. Does any other Member wish to speak?

The First Elected Member for the district of George Town.

**Mr. D. Kurt Tibbetts:** Thank you.

Madam Speaker, the Bill that is before us has been explained to some degree by the Honourable Third Official Member who has presented it and there have been some points raised by some other Mem-

bers who have made their contributions. I think the whole purpose of the Bill can be summarised by saying that the Bill basically puts into law the various components of the International Maritime Conventions to which the Cayman Islands find themselves party. That is basically extended through being an overseas territory of the United Kingdom. I think also as has been said before, certainly the intent of the Bill is welcome to all of us. I just thought that I should make a few comments when looking through the Bill and the various sections.

Before I go into the Bill itself, it is worthy to note that when we speak to any laws regarding marine and/or air pollution before this Bill, the only areas in our own domestic legislation that I could find, which refer to any such thing was, firstly, in our Marine Conservation Law, section 18. I will read three quotes that form the other legislation and in case there is any question of relevance they are simply going to be used to tie in with what is being proposed with this legislation.

Section 22 of the Marine Conservation Law speaks to the control of effluence and it reads: "**Any person who directly or indirectly causes or permits to flow or to be put into Cayman waters any harmful effluents or raw sewage, unless specifically permitted in that behalf under the Public Health Law 1981 or any other law, is guilty of an offence.**"

It is real curious to note that in the reference to raw sewage under this Law, I found out with a little bit of research that if sewage is put into a holding tank and not discharged directly into the water it is not raw sewage anymore. So, insofar as the Law itself exists under the Marine Conservation Law, once there is any elapsed period of time the sewage being in a holding tank, if it is then let loose from that holding tank you cannot be charged for off-loading raw sewage. So, there you go as to what obtains at present. If memory serves me right, for instance, Caribbean Utilities have a pipe leading into the North Sound and I think it has to do with their wastewater. I think it is cooling water for their turbines. I believe under the Water Authority Law there is a certain section that states they have to get a permit from the Water Authority to be able to off-load into the North Sound.

Also, under the Port Authority Law, section 26 speaks to the pollution of air and water. It says, "**Whoever deposits, places or discharges into territorial waters any ballast, tonnage, sewage, butcher's, offal, garbage, dead animals, gaseous liquid or solid matter, oil, gasoline, residuum of gas, calcium, carbide, trade waste, tar or refuse or any other matter which is capable or producing floated matter or scum on the surface of the water, sediment or obstruction on the ocean bed or odors or gases of putrefaction is guilty of an offence.**"

There may be some other areas where there are references but that is all that I could find. Of

course if I refer to a portion of the contribution given by the Elected Member from East End, he spoke to the pleasure boats and the sailing craft and the people buying a canal lot and they end up living aboard the yachts and the sewage gets dumped into the water at that point in time. This has always been questioned. It has been raised before in the Legislative Assembly and only to find out how the Law reads. So, at present we find that the situation that obtains it is unsatisfactory.

Now this Bill that is being presented speaks to a situation that if I may use the term is more 'international' and I just chose to cite the situations that obtain locally to really try to ensure that if we are going to be looking at it in any form or fashion we cannot leave that out. I think that was one of the points that the Elected Member from East End wanted to bring about.

Madam Speaker, if we go through the Memorandum of Objects and Reasons with the Bill, one of his cries was to ensure that these other areas that he mentioned (some of which I just mentioned) were looked at. I note under part 2, perhaps the biggest reason the Honourable Third [Official] Member did not really go through each clause because this one is much lengthier than the previous one. I understand why he would not do that and clause 6 enables the Governor to make regulations. It says, '**The Governor may make regulations generally for the administration of this Law and in particular for . . .**' and it has some eight subsections. In sub-section (b) it reads, '**The enforcement of any international convention or instrument relating to this Law or to which this Law relates.**' It also says in (e) '**To the prevention and control of ship generated air pollution.**' Although I am not marrying my contribution to the one given by the Elected Member from East End, I draw reference to that because in going through some areas of the Bill I will have to ask questions the point that he raised regarding air pollution. They will have to be explained because I do not know how of it is going relate to the entities to which we speak.

We speak to these international conventions and it might be to vessels or ships but when we speak to air pollution are we going to be dealing with a separate law for air pollution that may be created by other entities, namely industrial pollution? So, I do not think at present there is any legislation which specifically covers that but clause 6 of the Bill speaks to the Governor having the ability to make regulations regarding the prevention and control of ship generated air pollution. The way the Bill reads speaks to only ship generated air pollution and I raise the point of other types of air pollution also.

Madam Speaker, as we continue we see where clause 88 requires residues of certain substances to be discharged to special reception facilities. It also contains an interpretation subclause. Clause 95 requires the provision, in Cayman Islands ports, of reception facilities for noxious liquid substances. Clause 96 requires the persons in charge of

ports and terminals in the Islands to ensure compliance with all of the regulations.

As we look into the specifics of the Bill, again under part 2 which refers to administration, section (iii) refers to the 'Minister'. Perhaps it is the adoption of other legislation from overseas or perhaps that is something that is envisaged for the future, I do not know but I am making an assumption here that the 'Minister' that this refers to the present Honourable Third Official Member. Unless I am misinterpreting it. However, in speaking to that it reads the Minister—

**Mr. Lyndon L. Martin:** Point of elucidation.

#### POINT OF ELUCIDATION

**The Speaker:** Will the Member give way?

The Second Elected Member for Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Madam Speaker, just to clarify that under The Merchant Shipping Law the 'Minister' means 'the member of Executive Council for the time being responsible for merchant shipping and seamen'.

**The Speaker:** The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you, Madam Speaker. Just as I was saying—

#### MOMENT OF INTERRUPTION—4.30 PM

**The Speaker:** Before you proceed Honourable Member, we have the hour of 4.30. Is it your intention to conclude this afternoon?

**Mr. D. Kurt Tibbetts:** No, Madam Speaker, I will probably be awhile.

**The Speaker:** Can I call on either the Honourable Minister of Education or Community Affairs to move the Motion for the adjournment?

#### SUSPENSION OF STANDING ORDER 10(2)

**Dr. the Hon. Frank S. McField:** Madam Speaker, I beg to have Standing Order 10(2) suspended in order to continue the proceedings until this business is finished this evening.

**The Speaker:** I should wish to take a suspension for five minutes.

#### PROCEEDINGS SUSPENDED AT 4.35 PM

#### PROCEEDINGS RESUMED AT 4.41 PM

**The Speaker:** Proceedings are resumed.

The Honourable Minister for Community Affairs, I believe that at the adjournment you proceeded to make a motion to suspend the business. Perhaps you may wish to clarify that position.

**Dr. the Hon. Frank S. McField:** Madam Speaker, at the adjournment I moved that Standing Order 10(2) be suspended so that we might be able to conclude the debate on this Bill which is before the House or until 6.30, whichever is sooner.

**The Speaker:** The question is that Standing Order 10(2) be suspended in order to allow the House to continue the conclusion of the debate on the Bill, now before the House or until 6.30 pm, whichever is the sooner. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 10(2) SUSPENDED TO ALLOW DEBATE ON THE BILL TO BE CONCLUDED OR TO ALLOW THE HOUSE TO SIT UNTIL 6.30 PM WHICHEVER WAS SOONER.**

**The Speaker:** The First Elected Member for George Town, would you please continue your debate.

**Mr. D. Kurt Tibbetts:** Thank you, Madam Speaker. At the short suspension I was going into part 2 of the Bill and speaking to its administration. The situation about the Minister and understanding that for all purposes and intentions it would be the Honourable Third Official Member, has been cleared up, temporarily at least. Madam Speaker, with your permission I would just be making short quotes from the Bill itself.

**The Speaker:** Please proceed.

**Mr. D. Kurt Tibbetts:** Thank you.

It speaks to the Minister delegating any of his powers and duties under this Law to any person appointed or authorized to perform any functions under this Law. It also speaks in sub-section 4(2) and I quote, '**Any power or duty lawfully exercised or performed by the officer to whom it is delegated under this section, shall be deemed to have been exercised as fully and effectively as if has been exercised by the Minister.**' We go on to section 6 (which I have already mentioned before) where the Governor may make regulations generally for the administration for this Law and in particular for the various specified areas under that section. It also refers to the Director in the Bill who I assume is the Director of Shipping. That is the way that I read it.

As we move into it and look further on in Section 167(1) reads, '**The Minister shall establish a national system for responding promptly and effec-**

**tively to oil pollution incidents and the Governor acting in his discretion shall appoint a national coordinator to perform the functions allocated to him under this Law.**' It then goes on to speak to the national coordinator and the prerequisites. In sub-section (4) the national coordinator shall within his capabilities either individually or through bi-lateral or multi-lateral cooperation and as appropriate in cooperation with the oil and shipping industries, port authorities and other relevant entities established and it has (a) (b) (c) (d) regarding oil spills and being prepared for such catastrophes. As we go on into the Bill and look at Section 175 which is under part 7 (the dumping of waste at sea), Section 175 reads, '**The objects of this Part are to prevent, produce and where practicable eliminate pollution caused by dumping or incineration at sea of wastes.**'

Section 176 reads, '**In administering this part the Director of Environmental affairs ...**' — whom I shall safely assume we would refer to as the head of that department. It reads, '**The Director of Environmental Affairs shall apply a precautionary approach to environmental protection from dumping of wastes whereby appropriate preventative measures are taken when there is reason to believe that wastes introduced into the marine environment are likely to cause harm even where there is no conclusive evidence to prove a causal relation between inputs and their effects.**'

I make mention of those areas, Madam Speaker, and we can clearly see a path in this Bill where there are going to be certain agencies and certain individuals who will have specific outlined duties once this Bill sees safe passage. I believe that some of the duties that are referred to in the Bill—and I have only picked at random some of the areas—are duties that can be encompassed with existing personnel. However, I do believe that in order to be effective in monitoring and actually enforcing the law, there will be need for having a very close look as to what various agencies are going to inter-relate to the Law and under the Shipping Registry itself whether there has to be additional personnel to fulfill certain specific tasks.

So, the purpose of drawing to the attention of the Honourable Third Official Member the various points I have raised, is simply to try to extract what type of plan is afoot once the legislation is approved. I think it is important since it seems all of us accept the need to have the legislation in place because of the many concerns that have been raised, those which may not have been raised but are obvious and some which are not obvious. It seems to me, Madam Speaker, that if we accept the importance of the Bill becoming Law, I would not even say next step but I would say that certainly in conjunction with the passage of the Law, we should have our plan afoot as to how we are going to be able to deal with it.

The Member for East End raised a specific point which he was able to expand on because of his own personal experiences. I thought it was a relevant

point about them off-loading effluent and whether we have the ability to ensure if that is not done and being able to monitor it very carefully when vessels either come into the port at the actual facility or when they are anchored offshore. It will not matter whether it is the cruise lines or passenger vessels or cargo vessels. I am assuming that there are fines involved for non adherence to the Law once it becomes Law so we have to have bodies in place to ensure that we are able to produce evidence in order to be able to convict through the courts or whatever means necessary to enforce the Law.

I think, Madam Speaker, that it is incumbent on the Honourable Third Official Member to comment on it. Regarding the regulations, which I see as being vitally important, once the Law is passed it is obvious that the regulations which are referred to, I believe, in section 6 and the eight different areas that have to be addressed.

Madam Speaker, the point is simply that we can speak to the Bill and say all the nice things that we want to say and welcome its safe passage in the Legislative Assembly but it is not going to serve anywhere near the purpose that we would envisage, if it simply stays as it is. Too many times we have seen that the paperwork is all completed to a certain extent, then after that you ask about it a year later and nothing else has happened. I simply raise the point in the hope that this will not be the case with this Bill.

I do not know, Madam Speaker, whether or not we have to be looking from different angles to speak to the other areas that have been brought out which may not necessarily be able to be dealt with in this piece of legislation. The area of air pollution through other avenues except from ships will obviously have to be dealt with differently. However, I would wish to flag that up to say that it is time if we are going this far to meet these international conventions it is time for us to have a close look at our own domestic legislation in those areas to ensure that we are up to speed. If we want to say that we are doing what we should be doing to protect the environment then we should not be just talking about these things but we should be doing what is necessary.

Madam Speaker, I certainly will support the Bill and I think all of us will. However, I believe that it is incumbent for us to see clear indications that once the Bill becomes Law whatever is necessary to enforcement of and adherence to the law, done in a manner that is effective. Therefore, it will not just be one of these pieces of legislation that gets safe passage and is passed simply to appease those international conventions but nothing else is done about it. I think the international conventions in this instance are secondary, although they are probably the primary reason why the legislation is being brought and not for own wellbeing. I think the conventions should be treated as secondary rather than primary and we should take this opportunity to ensure that we can enforce it.

Thank you.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak? If not would the Mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Madam Speaker, I have made note of the comments that have been raised by the Second Elected Member from Cayman Brac and Little Cayman, the Elected Member from East End and the First Elected Member from George Town.

This particular piece of legislation that we are dealing with entitled, 'A Bill for a Law to Prevent the deliberate negligent or accidental release of oil and other harmful substances from ships for the protection and preservation of the marine environment and the conservation of the natural resources therein, and to that end to regulate maritime activities and for incidental and connected purposes' . . . there are two very important observations to be made.

Firstly, the Cayman Islands has in place a Shipping Registry and we see ourselves, rightly so, as a jurisdiction in which we are a significant player as far as the registry of ships is concerned. Secondly, we are a major tourism destination or cruise ship destination and we have a number of ships calling at our port at any given time. What is important is for ships that are flying Cayman flags to be required to observe the international conventions that are in place and this means that the Law will have to be specific and also the accompanying regulations in order to ensure that the appropriate international standards are observed.

Thirdly, as far as the provisions will apply to our domestic situation, we know that many times legislation is brought into force and provisions will be have to be made for the implementations in order to cater for those expectations envisioned under the legislation.

Madam Speaker, while we are concerned about the discharge of effluent, the dumping of waste of oil pollution, we are aware of the fact that we do not have fixed facilities in place at our port at this point in time. However, Madam Speaker, surely this is envisioned. We will have to look at this very carefully. As I mentioned earlier we are a major cruise ship destination and we have to cater to the services that are expected by the cruise lines. We also have to examine this very carefully because while we can deal with the needs arising within our port we have to make sure that we do not become a port of discharge for the accumulation of these wastes brought to the Cayman Islands from other destinations.

Therefore, Madam Speaker, what I am going to do—as one can appreciate this is a very technical piece of legislation—is to get the transcript of the comments that have been raised by these honourable Members. I will pass the transcripts to the Shipping Registry so that any observations that have been



made, that have not been contemplated as yet will be examined and looked into. However, surely it is envisioned that for us to observe the international conventions we must have in place the necessary facilities in order to do so. To this extent, the appropriate regulations as envisioned under the Law to set the specific standards or to provide details of the services to be provided will be introduced and brought into force at a time when the appropriate facilities are put in place; in order to meet the expectations of the legislation.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Member. The question is that a Bill shortly entitled The Merchant Shipping Marine Pollution Bill, 2001 be given a second reading. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Merchant Shipping Marine Pollution Bill, 2001 has been given a second reading.

**AGREED: MERCHANT SHIPPING (MARINE POLLUTION) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** I now call on the Leader of Government Business to move the adjournment.

## **ADJOURNMENT**

**Hon. W. McKeever Bush:** Madam Speaker, I beg to move the adjournment of this Honourable House until 10 o'clock tomorrow.

**The Speaker:** The question is that this House do stand adjourned until 10 am Thursday, 10 January 2002. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The honourable House now stands adjourned until 10 o'clock tomorrow morning.

**AT 5.30 PM THE HOUSE STOOD ADJOURNED UNTIL 10 AM THURSDAY, 10 JANUARY 2002.**

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**10 JANUARY 2002**  
**10.40 AM**  
*Thirteenth Sitting*

**The Speaker:** Good morning.

We will have prayers by the First Elected Member for George Town.

**PRAYERS**

**Mr. D. Kurt Tibbetts:** Let us pray:

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

*Bless our Sovereign Lady, Queen Elizabeth I; the Queen Mother; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.*

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

Let us say the Lord's Prayer together:

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

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

**Proceedings resumed at 10.42 am**

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

**The Speaker:** Please be seated. Proceedings are resumed.

I have received no apologies for this Sitting of the House.

**PRESENTATION OF  
PAPERS AND REPORTS**

**WORKING IN PARTNERSHIP:**

Report to the Government by Peter Syson  
(9 July 2001)

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Madam Speaker, I request your permission to lay upon the Table of this Honourable House, the Working in Partnership Report to the Government of the Cayman Islands, by the consultant Mr. Peter Syson.

**The Speaker:** So ordered.

Does the Honourable Minister wish to speak thereto?

**Hon. Roy Bodden:** Yes, Madam Speaker.

**The Speaker:** Please proceed.

**Hon. Roy Bodden:** The Employment Relations Report was commissioned by the Ministry of Education, Human Resources and Culture following a meeting with Mr. Peter Syson, whom we met on a visit to Jersey in the Channel Islands last year. At that time Mr. Syson was advising the states of Jersey on employment relations policies specifically the establishment of an independent advice and conciliation service. Given Government's intention to improve employment relations within the Cayman Islands, we requested Mr. Syson's assistance.

Mr. Peter Syson, formally of the strategy of the United Kingdom's Advisory Conciliation and Arbitration Service, visited the Cayman Islands in June of last year to consider ways in which advice, conciliation and arbitration functions might be part of the reforms being made within the area of labor. In his Report Mr. Syson spoke of a number of significant factors affecting employment relations in the Cayman Islands. As you may be aware, the 1999 Census concluded that the total labour force was 25,506, of which 42 percent 10,630 are Caymanians and 58 percent 14,862 are non-Caymanian.

These statistics illustrate the importance of expatriate labor in our economy, yet there is significant tension between Caymanians and non-Caymanians in our society. Also of critical importance is the discovery that 80 percent of local businesses

are small, employing ten or fewer employees. Accordingly these companies lack the time and resources to focus on good employment practices in the local workplace.

The need to reform our employment relations is driven by both international and local factors including the global nature of world trade and financing, the requirements of overseas territories with respect to Britain's membership in the European Community and the White Paper. Locally there are numerous catalysts driving the need of employment relations reforms, including the tension between expatriate and Caymanian employees. The unfair treatment of work permit holders by their employers, the lack of awareness of good employment relations practices and the need to address the public's concern about the dispute resolution process within labor relations.

Additionally, in the report Mr. Syson observed, and I quote, "An absence of a lively employee voice" in the Cayman Islands, which has been attributed to our tendency to deal with matters in a family environment rather than to act collectively. Accordingly, the National Alliance of the Cayman Islands (NACE) Cayman's only private trade union has not experienced burgeoning membership. In an effort to address these and other concerns, the Cayman Islands are building a tri-partite system within employment relations. The transformation to a tri-partied system involves three distinct areas: The New Employment Relations Department; The New Employment Services Center and The Labor Tribunals Secretariat.

The New Employment Relations Department is located at the Tower Building and will concentrate heavily on preventative measures specifically on issues which are irritants or potential irritants or which have already caused a breakdown in orderly relations. We are already working closely with the Chairman and the Immigration Board in defining respective roles and responsibilities.

Alternatively, the Employment Services Centre located at Paddington Place will be geared towards helping employees and employers resolve problems in the work place, through an advice conciliation and arbitration service. Furthermore programs such as the Career Advisory Service, the Government Scholarship Program, the Student Summer Internship and the Partnership and Mentoring Programs under discussion with the Chamber of Commerce; will be housed in the centre.

While focusing on the workforce and particularly the young workforce, there will be special emphasis on the entrepreneur and the small business owner. Additionally, new programs such as, the Small Business Enterprise Program will work with Cayman Islands Development Bank to provide funding and support for start up businesses. Moreover, the 'Project Prepare' that concentrates on the rehabilitation of prisoners will also be housed at the center.

Finally the Labor Tribunal Secretariat will be located at Paddington Place separate from the de-

partment, to illustrate its impartiality in labour disputes. Furthermore the Government is establishing an advice conciliation and arbitration system in the hope of institution standards that will keep litigation to a minimum. The success of the United Kingdom's ACAS (Advisory, Conciliation and Arbitration Service) Program has been attributed to its independence and the impartiality of all its work. Its terms of reference are set out in legislation and prevent any political party from intervening in its operations. The role of the ACAS's staff is to help employers and employees, resolve employment and individual rights disputes. Additionally, they promote the utilization of good practices and provide information and advice to individuals, employers and trade unions. The important guiding points for ACAS staff are independence, impartiality, confidentiality, trust, voluntary and professional.

Additionally, the report suggested the establishment of an employment forum, comprising representatives from both sides of the employment relationship as well as independent delegates. The Cayman Islands Employment Forum consists of the Director of Employment Relations as well as representatives from the Cayman Merchants Association, the Chamber of Commerce, the Cayman Bar Association, the Cayman Islands Society of Human Resource Professionals, the Public Service Commission, the Cayman Tourism Association, the National Alliance of Cayman Islands Employees (NACE), the Cayman Islands Bankers Association, the Cayman Architects, Surveyors, and Engineers, the Cayman Islands Medical and Dental Society. Every effort was made to have equal representation from employees, employers and Government in the forum.

The forum is charged with the following objectives:

a) To provide guidance and suggestions on the development of good practice standards within the work place. Keeping these standards consistent with international good practice whilst addressing issues unique to the local workplace.

b) To give feedback on issues facing employees and employers in the work place.

c) To conduct an analysis of accurate manpower trends and occurrences in the demand and supply of local labor. This will in turn provide Government with suggested areas of skills deficits.

d) To provide assurance that Government policies on Caymanianisation are effected through good practice adherence in the workplace.

Given the magnitude of the new reforms, the current Human Resources Department staff will be retrained to align them with the new vision. The Ministry has accepted Mr. Syson's Report and envisages it will be serving as a guiding document in the restructuring of the Labor Department including the establishment of a new Employment Services Centre and Advisory Conciliation and Arbitration Service.

Madam Speaker, I end with the footnote that we are already advanced in carrying out many, if not

all, of Mr. Syson's suggestions for improving employment relations in the Cayman Islands. Thank you.

**The Speaker:** Thank you Honourable Minister.  
The Honourable First Official Member.

**THE ROYAL CAYMAN ISLANDS POLICE SERVICE ANNUAL REPORT 2000**

**Hon. James M. Ryan:** Madam Speaker, I beg to lay on the Table of this Honourable House, the 2000 Annual Report for the Royal Cayman Islands Police Service.

**The Speaker:** So ordered.  
Does the Honourable Member wish to speak thereto?

**Hon. James M. Ryan:** No, Madam Speaker, I think I will let the report speak for itself. Thank you.

**QUESTIONS TO HONOURABLE MINISTERS AND OFFICIAL MEMBERS**

**QUESTION NO. 142**

*(Deferred Wednesday 9 January 2002)*

**The Speaker:** The Elected Member for East End.

**No. 142: Mr. V. Arden McLean** asked the Third Official Member responsible for the Portfolio of Finance and Economic Development, further to the commitment that the Honourable Third Official Member gave to the Legislative Assembly on 7 September 2001, would the Honourable Member verify if there has been any movement of funds into and out of the Police Commissioner's account relating to monies collected by the Drugs Task Force over the past six years.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, the answer: Six years ago the receipts and expenditures arising from operations of the Drugs Task Force (DTF) were not recorded in the Commissioner's Account. Instead the DTF kept its records of receipts and expenditures.

The Auditor General carried out a detailed review of the DTF's records, covering the period May 1995 to October 1997. One of the recommendations made by the Auditor General was that transactions in respect of the Drugs Task Force should be recorded in the Police Commissioner's Account. The first entry made in the Police Commissioner's account, in respect of Drugs Task Force's transactions, occurred in January 1998.

Madam Speaker, amounts paid into the Police Commissioner's account, in respect of DTF operations, are as follows:

|                   |             |                                                                     |
|-------------------|-------------|---------------------------------------------------------------------|
| 6 January 1998    | \$2,046     | Being a donation made by the Chamber of Commerce.                   |
| 2 January 1998    | \$1,025     | Being the proceeds obtained from the salvage of a catamaran boat.   |
| 17 March 1998     | \$5,400     | Funds obtained from the salvage of a boat.                          |
| 22 April 1998     | \$5,000     | Being the proceeds obtained from the sale of a boat.                |
| 20 May 1998       | \$18,801.84 | Being the receipt of US\$22,929.07 from US Customs.                 |
| 21 July 1999      | \$2,950     | Being the proceeds obtained from the sale of a boat                 |
| 17 September 2001 | \$10,425    | Being funds obtained from sale of miscellaneous items by the DTF.   |
| 17 September 2001 | \$1,699.80  | Being the receipt of US\$2,072.93 from US Customs.                  |
| 14 November 2001  | \$6,150     | Being the receipt of US\$7,500 from DTF law enforcement operations. |

The total of receipts for the period of 6 January 1998 to 14 November 2001 \$53,497.64

On the disbursement side the following payments have been made. Amounts paid out of the Police Commissioner's Account in respect of DTF operations are as follows:

|                   |             |                                                                                                             |
|-------------------|-------------|-------------------------------------------------------------------------------------------------------------|
| 6 January 1998    | \$500       | Being a 'float' paid to the DTF                                                                             |
| 2 February 1998   | \$1,025     | Being the pay-over of funds received from the salvage of a catamaran boat to the Cayman Islands Government. |
| 4 March 1998      | \$1,638.51  | Being expenses incurred in the collection of firearms.                                                      |
| 1 September 2000  | \$18,801.84 | Being the pay-over of funds received from US Customs, to the Cayman Islands Government.                     |
| 14 September 2001 | \$3,000     | Being an amount paid over to the DTF in respect of its miscellaneous expenses and purchases of equipment.   |
| 16 November 2001  | \$6,184.92  | Being the pay over of US\$7,542.59 in respect of DTF law enforcement operations.                            |
| 19 November 2001  | \$164       | Being the cost of purchasing a cellular phone for the DTF.                                                  |
| 22 November 2001  | \$3,000     | Being an amount paid over to the DTF in respect of its miscellaneous expenses.                              |

Madam Speaker, the payments that I have just enumerated amount to \$34,314.27 and the total of the receipts that I gave earlier were \$53,497.64.

**The Speaker:** The Elected Member for East End for Supplementaries.

**Mr. V. Arden McLean:** Thank you Madam Speaker. I wonder if the Third Official Member can tell us if the figures that he just gave, that is deposits and withdrawals from this account, were audited by the Auditor General?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** No, Madam Speaker, I am not aware of these figures being audited but I am aware that there is an independent verification of these figures by the Commissioner of Police.

Madam Speaker, the Commissioner of Police has assured that his accounts are audited every year by the Auditor General and it would encompass these figures as well.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

The question asked for the past six years, this answer that the Third Official Member has given goes back only to 1998. I wonder if the Third Official Member could tell us what happened with the transactions of the previous years.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, if you would permit me to quote from the very first paragraph of the answer I gave earlier, I pointed out that, "Six years ago the receipts and expenditures arising from operations of the Drugs Task Force were not recorded in the Commissioner's Account. Instead the Drugs Task Force kept its own records of receipts and expenditures."

Madam Speaker, there is an audit report that was done by the Auditor General in 1997 and it looked at receipts and expenditures with transactions occurring within the Drugs Task Force during that period. I should point out if you will permit me to quote from a section of the Auditor General's Report itself.

**The Speaker:** Honourable Third Official Member, was it an internal audit report and if so was it so marked confidential? Also, Honourable Third Official Member, in your response perhaps you could address the point as to who required, whether it was yourself, because if that was the case, then I would accept your consent for divulgence if you in fact requested the audit.

**Hon. George A. McCarthy:** No, Madam Speaker, this audit was independently conducted by the Auditor

General himself, but the point I was going to make (and, again, if I can just make reference to a memorandum that was issued by the Financial Secretary on the 12 December 1990) . . . . In an earlier question relating to this matter I quoted from that memorandum and a copy of this can be made available to honourable Members through being tabled.

**The Speaker:** Are you in the position to now so table?

**Hon. George A. McCarthy:** Once I have quoted, Madam Speaker.

**The Speaker:** Please proceed then Honourable Member.

**Hon. George A. McCarthy:** Madam Speaker, there was a float that was issued to the Drugs Task Force and this occurred, it seems, around 1995 or there about. The head of the Drugs Task Force properly developed a cash record by what he referred to as a cash book to record the movements of funds in and out of this cash record. I am not quoting from the memorandum as yet,

In 1995 it showed total receipts of \$15,950.00 payments made out of that account \$9,248.00.

In 1996, receipts of \$31,355.00 and payments in that year, of \$27,775.00.

In 1997, up to October 1997, \$31,370.00 and payments out of that account \$35,835.00.

The payments over the three year period from 1995 through October 1997 were \$72,858.00 and receipts \$78,675.00. We have seen from the information I gave in the Parliamentary Question that commencing in 1998 then the movements of funds occurred out of the Commissioner's account. This is when instead of the independent cash book being maintained by the Drugs Task Force, that receipts and disbursements were then accounted for through the record maintained by the Commissioner of Police.

However, it was envisioned that there was a need for an account that would allow for a certain discretion to be exercised in regards to receipts and payments given the nature of the work that is done by the Drugs Task Force and also through the Commissioner's office and on the 12 December 1990, the Financial Secretary then gave approval for an account to be established. Madam Speaker, if you would just permit me to quote this memorandum, then I will table it as I said earlier.

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

**The Speaker:** Yes Honourable Member, but before so doing, we have now reached the point of 11 am. So if I could first call on the Deputy Leader to move the relevant Standing Order 23(7) and (8)

**Hon. Linford A. Pierson:** Madam Speaker, I so move the suspension of the relevant Standing Order so that business can continue.

**The Speaker:** The question is that Standing Order 23(7) and (8) be suspended to allow Question time to continue beyond the time of 11 am. All those in favour please say Aye. Those against, No.

**AYES**

**The Speaker:** The Ayes have it. The Standing Order has been duly suspended. Please proceed, Honourable Third Official Member.

**AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ENABLE QUESTION TIME TO CONTINUE BEYOND 11 AM.**

**The Speaker:** Please proceed, Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, it reads, "Authority for the account," this is Police Commissioner's account and it gives the account number. "**Under Financial and Stores Regulations (6.11), the Financial Secretary hereby sanctions the appointment of Barclays Bank PLC as bankers to the Government. The account shall be entitled, Cayman Islands Government Police Commissioner's Account**" and it gives the account number.

**"Purpose of the account"**

- "1) To receive monies seized from convicted drug dealers which, are forfeited to the Commissioner by the courts.
- "2) To receive interest on bank balances.
- "3) Expenditure from the account is at the discretion of the Commissioner but must be related to beneficial use in support of the Police efforts in combating drug abuse and the detection of drug related crimes."

Then under "**Accountability of the Commissioner:**

- "1) The commissioner shall maintain a simple and confidential record of receipts and payments related to the account, with appropriate supporting records and documentation sufficient to allow verification and regular reconciliation of transactions bearing in mind the need for secrecy in some instances.
- "2) As soon as possible each year, the Commissioner shall furnish the Accountant General with a copy of the bank statement showing the balance on the account at the proceeding December 31.
- "3) The Accountant General will, on receipt of this statement, include this balance under Treas-

**ury Bank Balances in the accounts of the Government**

- "4) **The Accountant General will also include an equivalent amount under Miscellaneous Deposits in the accounts of the Government.**

**"Audit of the Account"**

- "1) **The Accountant General will examine the account records at least once each year and provide a certificate to the Commissioner together with a report on the account.**
- "2) **The account will be subject to normal external audit procedures by the Auditor General as prescribed by the Public Finance and Audit Law.**

**"Limitation on the account"**

- "1) **The maximum balance to be held on the account shall be determined by the Financial Secretary and is now set at CI\$20,000 [and that is the limit that is still in place].**
- "2) **The Commissioner shall notify the Financial Secretary in writing of any amount held in excess of the prescribed limit and shall pay this amount to The Accountant General as Miscellaneous revenue of the Government as soon as possible thereafter."**

In the answer that I gave in the listing of disbursements, we have seen where at various times monies have been paid out of this account to the Cayman Islands Government and presumably this is to comply with the limit of \$20,000.00 that has been set.

**The Speaker:** Thank you, Honourable Member.  
The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. The Third Official Member just read, again, a memo that was sent to out in 1990 concerning this account. I wonder if the Third Official Member can tell us if these figures that he has given from 1998 to 2001, if they have been audited by the Auditor General.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** The figures are connected with the account of the Commissioner. As I read from the memorandum that was issued by the Financial Secretary in 1990, it was recognised that a certain level of discretion will have to be exercised. The accounts are audited on an annual basis by the Auditor General but he will not go behind the account into the details of the transactions because judgement can be used to determine that there is a need for certain level of confidentiality given the nature of the work that is done by the Drugs Task Force and also

the reason this account was set up. However, the figures are verified on an annual basis. I cannot say for the year 2001 that the figures have been audited because this year has just been completed but we would imagine that it was done for the year 2000.

The Commissioner confirms that Madam Speaker.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the Third Official Member can make available to this honourable House—keeping in mind the kind of confidentiality that we are talking about with regards to the sensitivities of the DTF and the likes—a copy of the findings of the Auditor General, and if the Auditor General makes those available to the Public Accounts Committee?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I cannot give that undertaking as I said I am aware of the fact that an audit report has been done. However, I am also aware of the fact that this is a matter that is connected with a separate Parliamentary Question that is being dealt with by the Honourable Chief Secretary. However, in terms of the findings of the Auditor General I cannot immediately commit to say that this is information that can be made available.

As pointed out, there is a certain level and need for discretion to be exercised in the examination of the accounts and the maintenance of the records. I would believe that the exercise that has been carried out or the audit exercise by the Auditor General is for verification purposes. I would have to go beyond that to determine whether it is reasonable to expect that that information should go beyond the pertinent receivers of that information.

**The Speaker:** Do you have a follow up? Please proceed.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I hear the Third Official Member and I respect the confidentiality and so on. However, the Third Official Member has just given us figures relating to this account and there is nothing confidential in these. I am just wondering, what is the difference between the figures that are given here and what the Auditor General is auditing on a yearly basis? I am wondering why this House cannot be provided with the figures from the Auditor General, keeping in mind the confidentiality or statements from the Auditor General, to say that he had duly examined the accounts and they are in proper order.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I have been made to understand from the Commissioner

that on an annual basis, once the audit exercise has been carried out, the Auditor General will then write to the Commissioner setting out his findings. However, if the honourable Member for East End is seeking is to get confirmation as to the balance at the end of the year and confirmation that the audit exercise has been done by the Auditor General, absent the details that would support the build up of the figures, I would not have a difficulty in terms of making a request of the Auditor General for that confirmation to be provided.

**The Speaker:** The Fourth Elected Member for West Bay and then after the Second Elected Member for George Town.

**Mr. Cline A. Glidden, Jr:** Thank you, Madam Speaker.

I just wondered if there is some explanation why, when we look at the amounts paid into the police Commissioner's account in respect to DTF operations, in January we had pretty regular looking transactions. Every month there were inflows (January, February, March, April and May of 1998) and then we do not have any input until July 1999. Then after that one, we do not have anything again until 17 September 2001. Does that mean that during those periods there was nothing being sold or any revenue being derived by the DTF?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, that would have to be the assumption made because the records that are on the review at this time are the records that are maintained by the Commissioner of police. These records are reflecting amounts paid into the account, amounts received and disbursements. So I cannot make any assumption for periods where there are gaps in the figures.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr:** Thank you, Madam Speaker.

I understand about not being able to make assumptions, but we have access to the Commissioner. Can the Third Official Member confirm that there were no sales of any assets that would recognise an income by the DTF during those periods, or joint operations that took place by the DTF along with our other international partners?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, the Commissioner of Police is not able to confirm that there was sale of assets that took place during this period. However, what he said was that there is a

there was sale of assets that took place during this period. However, what he said was that there is a review being carried out whereby a report will be prepared and submitted by His Excellency the Governor.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin Jr.:** Thank you, Madam Speaker.

In his response to a Parliamentary Question on 7 September last year, notwithstanding the memorandum of 1990, the Honourable Third Official Member indicated there continued to be the payment of funds realised by the Drugs Task Force into an account which was operated by the Chief Superintendent in charge of the Drugs Task Force, Derrick Haynes.

I am presuming that the reason there are some considerable gaps—two years in some instances—in the inflows into the Police Commissioner's account is because the monies were being paid into this account which was operated by the Chief Superintendent. I use the term "account" rather loosely because I believe it was established that there in fact was no established account at a bank. The funds were kept in the custody of the Chief Superintendent.

My question is the Honourable Third Official Member has said that the Police Commissioner's account has been reviewed by the Auditor-General. I wonder if he could say whether or not those reviews included a review of this account which was, I believe until September of last year, operated by the Chief Superintendent in charge of the Drugs Task Force.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, if I stated earlier that there was an independent account operated by the head of the Drugs Task Force, subsequent to the audit that was conducted by the Auditor General, I would be in error. I will apologise to this honourable House for so doing.

The report that I have seen suggests to me that there was a float that was initially issued to the Head of the Drugs Task Force and from 1995 onwards through 1997 there was a cash book that was established or a cash record. This cash book reflected movement of funds, receipts and payments. It was then brought to the attention of the head of the Drugs Task Force that this method of accounting for monies and making disbursements should cease. In future all receipts and disbursements should be made through the special account that has been set up by the Commissioner of Police.

Now we have seen the question that I have responded to today, would have demonstrated monies paid into that account or paid over to the Commissioner of Police by the Drugs Task Force and also

disbursements made from that account to the Drugs Task Force. I would believe, and it is reasonable to do so, that while disbursements are being made to the Drugs Task Force, let us say, for example, on 6 January 1998 there was a float of \$500 paid to the Drugs Task Force, it would be expected that an independent record would have been maintained to account for all of those payments that would have been made against the monies received from the account maintained by the Commissioner.

I stated that to clarify the point it is expected that internal records must exist within the Drugs Task Force Section. That would allow for the head of that Section to account to the Commissioner of Police and if needs be the Auditor-General, for monies that he would have received from the Commissioner's account. That cannot be taken to mean that, that record would have evidence that monies would continue to be received by the head of the Drugs Task Force and go into a separate account that is maintained by the Drugs Task Force, without passing through the Commissioners account.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin Jr.:** Thank you, Madam Speaker.

I shall ask the question again. Did the detailed review by the Auditor General of the Police Commissioner's account include a review of the special account which was operated by the Chief Superintendent in charge of the Drugs Task Force?

Yes or No?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, according to the Commissioner of Police, the detailed records of transactions by the Drugs Task Force are supplied to the Auditor-General on an annual basis.

**The Speaker:** The Second Elected Member for the district of West Bay.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker.

Through you, I would like to ask the Honourable Third Official Member if he could give the House an undertaking of this account. That undertaking would be that a meeting be arranged between the Commissioner of Police, the Chief Superintendent in charge of the Drugs Task Force and the Auditor General with a view to coming up with a reasonable set of internal controls surrounding the Police Commissioner's account in regards to contributions made to it by operations of the Drugs Task Force and funds removed in regards to the Drugs Task Force.

Madam Speaker, I would just like to also add that obviously in this area there would be a lot of sensitive information. Information in regards to operations that the Drugs Task Force would be involved with and



erations. Obviously, it would not be appropriate for the Drugs Task Force to agree for the Auditor-General to see the intricate details of the operations. I do not think anyone in the Chamber is asking that, but we want to try and get some semblance of accountability, because even though we see these transactions listed here, there is no way the Auditor General can ensure completeness.

**The Speaker:** Honourable Member can you perhaps move your comments or sentiments into the format of a question?

**Mr. Rolston M. Anglin:** Yes, Madam Speaker, I did that in the beginning. I asked for an undertaking but I wanted to explain to the Honourable Third Official Member that the undertaking would not involve divulging sensitive information on the like but that it would simply involve a proper system being established, whereby the Commissioner of Police would serve as the person who could in some way ensure completeness.

That is, when we look at these transactions, who is to say that there should not have been ten other transactions? Who is to say that there should not have been ten other receipts of cash? No one knows that and that is one of the major problems surrounding this whole account. That is, that no one knows whether or not the DTF went on an operation, let us say, on the 1 January 1999 and should have received ten thousand dollars and should have put it in this account.

Therefore, when the Auditor General does his audit, he cannot ensure completeness, this is not a business and this is not a standard audit. So if they could provide that undertaking, I think that would go a long way to making Members in this honourable House feel a bit better that we are moving toward the right way in terms of getting accountability and some level of transparency within this account.

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I can give the undertaking that is being sought by the honourable Second Elected Member from West Bay. However, I would say that what he is seeking for is very much in place now in terms of the detailed accountability of the activities relating to the items of expenditure that are here; a detailed break down to the Commissioner of Police.

I have got in my hand what has been presented to me by the Commissioner of Police. However, looking at the nature of the details that are here I would recognize and agree with the Second Elected Member from West Bay that there is a need for this information to be handled with sensitivity and I would not recommend that this information be made public.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

In his response to my last supplementary, the Honourable Third Official Member said that he had been advised that details relating to this special account operated by the Chief Superintendent in charge of the Drugs Task Force, had been provided to the Auditor General. I wonder if he can say whether the Auditor General has provided a report or reports in relation to this special account. If so did he find that the account had been operated satisfactorily and that sufficient records were kept so that he could determine the satisfactory operation of this account?

Could the Honourable Third Official Member also say to whom this report (if it exists) of the Auditor General has been provided on a yearly basis?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, the only response I can give is this. I have been advised by the Commissioner of Police that details in regards to the activities of the Drugs Task Force's account are provided to the Auditor-General on an annual basis. What type of review is done by the Auditor-General of those details I cannot confirm that to the Second Elected Member from George Town.

The Commissioner of Police has advised that there is a review of his accounts by the Auditor-General on an annual basis. That review would reflect disbursements that have been made to the Drugs Task Force and also receipts from the Drugs Task Force into that account. Now if the Auditor-General reviews the account of the Commissioner of Police to satisfy himself in regards to receipts and disbursements, by extrapolation, it would have to take into account receipts from the Drugs Task Force and disbursements to the Drugs Task Force. However, in terms of specific reports on the Drugs Task Force, I am not aware of any special report being done. However, I am aware, based on what the Commissioner of Police has said to me, that the Auditor General provides him with feedback through a report on the annual activities relating to his account.

**The Speaker:** I will allow three more supplementaries.

The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you.

In all of the answers to the supplementary questions that have been given I think what seems to be obvious is that assets confiscated by DTF do not seem to be recorded in any fashion that is able to be verified.

My question is, if we look at the substantive answer that has been given with regard to amounts

paid into the Police Commissioner's account (and it has been already spoken to by the Fourth Elected Member for West Bay), we see where there is a gap from May 1998 to July 1999 and there is a gap from July 1999 to September 2001, which would span nearly three years in total.

Can the Honourable Third official Member state if there is any method employed, or any records that may be kept which would allow for the Auditor General or any body else to check on any assets seized and perhaps if any of them were disposed of and funds received?

What method is employed to be able to check on that? I also believe that when the Second Elected Member for West Bay spoke to that undertaking, he was referring to these gaps because there is seemingly no way to be able to cross check and prove that. Is there any record that is kept of those assets that may be confiscated and disposed of and the transactions that may take place coming in and going out?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I have been informed by the Commissioner of Police that there are records of assets that are confiscated. However, the Commissioner of Police has also pointed out that the head of the Drugs Task Force has already appeared in front of the Public Accounts Committee and he has apologised to the Members of the Committee for the approach that has been adapted.

In that assets have been sold and there has been a netting approach where expenses relating to the sale of those assets have been deducted, without the gross receipt coming into the Commissioner's account and disbursement being made from that account. The netting would be receipts less disbursements that would be what would have been paid over.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker, and just to clarify first a little point. I am a member of the Public Accounts Committee, and I have not seen the Chief Superintendent in Public Accounts Committee. So if that can be verified somehow, he did not apologise to me. My question is—

**The Speaker:** Before you proceed, you may wish to have a response from the Honourable Third Official Member.

The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I cannot say the exact date but I have been made to understand that he has appeared in front of the Public Accounts Committee.

**The Speaker:** The Member for the district for East End.

**Mr. V. Arden McLean:** Madam Speaker, maybe the Chairman of the Public Accounts Committee can verify whether or not the Superintendent did arrive there and not to this Public Accounts Committee.

**The Speaker:** Honourable Member, I would much prefer if the Honourable Third Official Member would do a consultation across the board and have the Honourable Third Official Member do the response.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. My question to the Third Official Member is: Can he verify that the Auditor General's responsibility in this country is to audit public funds and to write a report to this honourable House? When has the Auditor General ever reported in his annual report anything on the Commissioners account or the "special account" that the Drugs Task Force operates?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I have a report here by the Auditor General on the Drugs Task Force's activity. I have been made to understand that it has not been tabled in this honourable House, but I cannot say whether the substance of this report has been carried over into the main report or by the Auditor General of the activities of the Drugs Task Force. However, it is quite likely that given the nature of the operation of the Drugs Task Force and the reason disbursements would have been made and monies received, may have been within the best interest of the country in order to keep it in a separate independent report. Such as what has been done.

I think we are all aware of the responsibilities of the Auditor General because they are presently set out in the Public Finance and Audit Law and carried over into the new Public Management and Finance Law, that was passed in September of last year. We know in terms of the boundaries that have been set, I do not have the specifics in front of me but we know that the duties and responsibilities of the Auditor General are wide ranging in order to encompass a review of Government's assets.

**The Speaker:** Honourable Minister, for the edification of the Chair, is it your responsibility to lay the report?

**Hon. George A. McCarthy:** Madam Speaker, reports of the Auditor General are tabled by the Financial Secretary after they have been presented to this honourable House. However, as you are aware, Madam Speaker, the Auditor General sends his report to this honourable House.

The Auditor General normally submits his reports to this honourable House through the Clerk and at his discretion a request can be made for the report to be tabled by an Official Member, such as myself, or it can be referred to the Public Accounts Committee.

**The Speaker:** The Fourth Elected Member for the district of West Bay.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker.

In the answers given, a lot of references were made to the fact that under the last method of accounting used we were not getting the gross inflows because they were netted as the expenditures involved the sale of some of those assets.

There is another area of concern and that is the receipts from US Customs from partnership investigations in which we would have been involved. I wonder if there is any record kept of those receipts. What we have on the answer that was given was a record of receipt of some US \$22,000 coming in May 1998 and then we have a record of some \$2,000 coming in September 2001. Is there any record kept of receipts of funds that are received from our international partners like the US Customs. If that is the case, can we say whether there were any receipts made during that period of time between May 1998 and September 17, 2001?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Yes, Madam Speaker, records are maintained. Over the past five years, according to the Commissioner, the receipts have amounted to approximately \$3.7 million dollars. In evidence of this, again I have in my possession a copy of a Memorandum that was sent to the Treasury Department by the Commissioner of Police, asking for verification that these amounts were received in respect of various cases have been lodged with the Government, through the Government's Account. The account that has maintained and reconciliation has been carried out by the Accountant General against these amounts. They have been confirmed as having been received.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Madam Speaker, I really apologise for having to do this but it is getting more confusing. Here we have a record of accounts being paid into the Police Commissioner's account, and I think we have some US \$24,000 in total during the period from January 1998 to November 2001. Now we hear there was some \$3.7 million dollars that have been collected.

We were under the assumption, as far as we could tell, that this was an accurate account of the inflows into this account but obviously there is a missing some \$3.7 million dollars somewhere. Could we get some explanation of where that money has been accounted for because obviously it is not accounted for on this answer that was given?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, all honourable Members are aware that the Chief Justice's Office serves as a competent authority under the Mutual Legal Assistance Treaty. Monies are shared with the Cayman Islands Government and the \$3.7 million dollars this is not money that has flowed through the Commissioner's Account only. It is only \$22,000 out of that which would have come directly to him as a result of Police intervention.

Some would have come through the other agencies that have been established to receive these funds. So I am talking about receipt of money, monies in the aggregate. For example, out of the money that has been received a significant amount has been set out in this year's Budget in order to allow for the prosecution of a major money laundering case that will be taking place. So there is accountability in terms of those funds and how they are accounted for.

**The Speaker:** Last Supplementary.

The Second Elected Member for the district of West Bay.

**Mr. Rolston M. Anglin:** Madam Speaker, I would like to clarify a point that was made earlier. As Chairman of the Public Accounts Committee, I can say that the Superintendent in charge of the Drugs Task Force has not appeared before the Committee since November 2000. My understanding, though, is that this apology was made during Finance Committee, during questions in Finance Committee. Again, I do not recall that but another Member has brought that to my attention as to when that actually occurred.

**The Speaker:** Thank you Honourable Member. If there are no further Supplementaries . . . Honourable Third Official Member, is it still your intention to lay the paper to which you referred to on the Table?

**Hon. George A. McCarthy:** Yes, Madam Speaker, I am looking for it at this time in order to hand it to the Serjeant.

**The Speaker:** We will just pause for a few seconds but we will not take a formal suspension.

So ordered.

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

#### QUESTION NO. 147

**The Speaker:** The Fourth Elected Member for West Bay.

**No. 147: Mr. Cline A. Glidden Jr.** asked the Honourable First Official Member responsible for the portfolio of Internal and External Affairs if he could state what

arrangements are currently in place for marine search and rescue operations and whether any request for assistance has been denied due to financial constraints.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, the answer: The Royal Cayman Islands Police Marine Unit is the primary response to any marine search and rescue requests. The 911 Emergency call-handling centre is the access point. The Marine Unit does not operate 24 hours a day, due to financial constraints. There is however a call-out system in place. Support vessels are available courtesy of the Marine Enforcement Section of the Department of Environment and private boat owners and to a limited extent the US Coast Guard.

Air cover is by way of charter from Cayman Islands private companies or the Cayman Islands flying club where a pilot is available and appropriate. I am not aware that any requests for assistance have been denied because of financial constraints.

However, the RCIP have no search and rescue budget allocation, so the salaries of staff from the Department of Environment and the Marine Unit as well as fuel and incidentals are paid from the department's budgets.

#### SUPPLEMENTARIES

**The Speaker:** The Fourth Elected Member for the district of West Bay.

**Mr. Cline A. Glidden Jr:** Thank you, Madam Speaker.

I wonder if the Member could state what arrangements have been made since we have heard so many times in this honourable House the delays in the refurbishment of the main search and rescue boat; which would have been the *Cayman Protector*.

We know that has been out of commission for quite a while and we have had some instances during this time where some of our local fishermen were lost at sea for extended periods and I just wonder what arrangements has been made. Especially since we still do not have (as given in an answer I think yesterday) a date as to when that boat will be back in operation and as to what arrangements are made for the search and rescue—in the absence of the *Protector*.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

The Fourth Elected Member for West Bay mentioned the *Cayman Protector*, but in the absence of the *Protector* we currently use a 32-foot vessel referred to as *Intrepid*, it is a Colombian class canoe. It has a range of 100 miles, it is very fast but it is an open vessel. In addition to that we have a 24-foot in-

flatable vessel named *Typhoon* commonly referred to as 'Rib', it has a 60 mile range, again, very fast.

However, it is an open vessel and the third smaller boat was referred to in an answer to a Parliamentary Question a few days ago, that one is currently out of service and is due to be replaced this year. In addition to that the DoE (Department of Environment) has three vessels. A 43-footer, 24-footer and a 19-footer assist, and, of course, the US Coast Guard will assist with air cover where possible.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr:** Thank you, Madam Speaker.

Living here on the Island I am really reassured that we have all of those assets available to us.

My question is based on all the assets that have been listed that are available for search and rescue, is there any reason or justification why on a recent rescue mission for fishermen that were lost, the family had first to hire private individuals. They had to take care of the air search and after having located the fishermen who had been lost for quite a few days, why did a private individual have to use their private fishing boat to go out to actually rescue the individual and then bring them back to shore?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.

Simply because there are no funds specifically allocated for chartering aircraft. We rely on the private aircraft that are available here in Cayman and I think the honourable House—I need to explain that in that particular case there was no delineated area, there was a very large area of search in the Caribbean because there was no specific information on where they were lost and the Caribbean sea is a big area if somebody is lost.

Sending a boat out to search or even an aircraft to search without having some information on approximate coordinates is an almost impossible task. That was the situation in that case. In the matter of the rescue when the persons were located they were outside of the range of the boats that we had available. If we had the *Protector* available she could have gone out to rescue them. However, we did not have a vessel available hence, the need for the family to use other means.

**The Speaker:** Do you have a follow up, Fourth Elected Member? Please proceed.

**Mr. Cline A. Glidden, Jr:** Thank you, Madam Speaker. I appreciate the answer but I think we are mistaken on the two cases in question. I know that the last case there were multiple individuals that were missing, I understand the explanation that was given.

There was a case where a West Bay fisherman was missing just prior to that, and where he had gone missing from a fishing trip here in Cayman. We were notified and what struck me as strange was that, we had access to the Coast Guard, other air aspects, private individuals and a lot of the family members involved with the search. However, even after he was located and we had to use (I think it was some 64 or 84 miles off Cayman, taking into account the drift patterns that were used from where he was known to have gone fishing) a private boat that went out with members of the Royal Cayman Islands Police Force on it.

However, it was actually a private vessel that went out to bring him back to safety. My concern is why did we have to depend on that. I mean it is great to know that we have the private individuals who share that concern and interest. However, why do we have to depend on that with all the assets that are available to us?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I am not sure that there was a question out of that but perhaps more of an observation. However, it is good to know that we live in a country where private individuals will come forward and assist. As I said earlier, had the *Cayman Protector* been in service we could have easily used that vessel to do the rescue operation. However, it is no good crying over spilled milk. What we are doing is to make every effort to get that vessel back into operation as soon as possible so that on a future occasion we are not caught in that position.

**The Speaker:** The Fourth Elected Member for West Bay and then we will move on to the Member from East End and the Member for George Town.

**Mr. Cline A. Glidden, Jr.:** Thank you, Madam Speaker. The question may have been missed. Yes, it is great that we are living in that kind of island society. However, what would have happened if those individuals from the private sector did not come forward, what do we have in place to take into account those situations?

**The Speaker:** The First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. What I am informed by the Commissioner of Police is that the boat I referred to earlier as the Colombian canoe, would in fact have been capable of going out to do the rescue. However, the offer was made by a private individual with a very good boat and the police officers simply joined that vessel and went out. If that had not been available, the Colombian canoe would have done the rescue operation.

**The Speaker:** The Second Elected Member for George Town, unless he wishes to give way. Please proceed.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I believe we are all equally dismayed at what I term the absence of any suitable search and rescue vessels and equipment. I wonder if the Honourable First Official Member could say whether there are any plans afoot, to establish a proper search and rescue division which would also include, for example, a helicopter. I appreciate that we are in a time of budgetary constraints and austerity but what we are speaking about are matters of life or death situations. Each one of these situations where people are lost at sea, if they are not rescued they will die.

I wonder, given the gravity of the situation, whether there are any plans afoot to seek to establish a proper search and rescue division and that we do not have to continue to be embarrassed by these sorts of situations?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. A paper was prepared a couple of years ago on the very subject and it included the facility of a helicopter. The paper did not gain a great deal of favour with the Government of the day mainly because of the very high cost of operating a helicopter. I would say and I recognise as the Second Elected Member from George Town has said we are in a time of budgetary constraints.

However, if this honourable House in its finance committee is prepared to vote the funds, then more power to this country. I would dearly love to see a first rate, search and rescue operation for this country so we do not have to be as he has said 'embarrassed', but it is not going to come cheap.

What I would add is that I am told by the Commissioner there is a proposal for a helicopter, privately owned by a company, to be stationed here. He is being asked to comment on that and possibly to work out some kind of arrangement for its use for search and rescue. I am afraid I do not have the details of that but that is perhaps a possibility.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Suffice it to say, I am embarrassed myself to hear all the list of boats that are available yet they are practically useless. I hear the First Official Member say that there was a proposal sometime ago, many years ago I believe. Well, I do not know how anyone else feels but the only way the finance committee can entertain it is if we see it. Is there a policy decision to now develop one and present it to finance committee and can the First Official Member give us an undertaking to do so?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I believe that the Member knows the procedure probably as well as I do, of how something gets here and if a policy decision is taken by the Government that we will have such a facility, then it will be costed and submitted to Finance Committee.

**The Speaker:** The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you. Through you, Madam Speaker. Given the situation that obtains at present, can the Honourable First Official Member state if there is a set policy with regards to any search and rescue operations performed by the Government, or any agency of the Government, where individuals or groups of individuals may have such a need and distress calls are made? The policy that I am asking him for (if there is one) is with regards to any remuneration that is sought by the Government for such a search and rescue operation.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. There is no charge made by the Government for search and rescue operations unless it involves the salvage of a vessel in which case charges would be made for that but not for the rescue of lives.

**The Speaker:** The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you. For purposes of clarity, is the Honourable First Official Member saying that if a search and rescue operation goes on and the lives that are sought to be saved are in a vessel that there is no charge to save the lives but if they want them to save the vessel there is a charge?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. Occasionally a call will come in from a distressed vessel, maybe 60 miles offshore asking or pointing out that they know exactly where they are but the engines have shut down, and asking to be towed in. If assistance is sent out by Government to tow in that vessel then a charge is made for the towing service.

Therefore, I suppose you could say that lives are saved at the same time but essentially there are two different things, a towing service as opposed to a search and rescue. For search and rescue there is not really a charge, it is really a towing service and this can happen maybe ten miles offshore. They are towed in and there is a charge for it.

**The Speaker:** Last supplementary. The First Elected Member for George Town.

**Mr. D. Kurt Tibbetts:** Thank you, Madam Speaker. Can the Honourable First Official Member then say whenever a charge is levied (and I think we understand now the difference between the two operations) since there is no set policy, how is the charge determined? Who does that determination and how is it collected?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. Perhaps I did not make it very clear about the policy. There is, in fact, a policy in place in terms of a charge for a towing service and in fact the charge is \$400 per hour and the money that is collected goes straight to Government's revenue.

**The Speaker:** Did you wish to follow up Honourable Member?

**Mr. D. Kurt Tibbetts:** Yes, Madam Speaker, with your indulgence just one final one if that is ok with you.

One of the last questions I asked was who determines that charge. However, so that the Honourable First Official Member knows where I am coming from; I know for a fact that on at least two occasions, fees have been charged that have not been based on the number of hours that it took and it was just a rounded figure put to the cost. I am trying to find out who determines, who sets what the amount that individuals are charged in such instances.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I am told that the towing fee is based on the per hour rate. What I am prepared to do, if that honourable Member has specifics on it would he let me have them, I would have the thing checked out for him but the Commissioner assures me it is based on \$400 per hour or a part thereof. However, there may have been some other variable that affected the cost in the two instances that that honourable Member has spoken about. Therefore, if he would permit me to do so, I am prepared to look into those two cases.

#### QUESTION NO. 148

**The Speaker:** The Fourth Elected Member for West Bay.

**No. 148: Mr. Cline A. Glidden Jr.** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs if any Reports have been undertaken by the Auditor General on the Drugs Task Force in the past four years and, if the answer is

in the affirmative, then can the Report be made available to the Legislative Assembly.

**The Speaker:** The Honourable Second Official Member (sic).

**Hon. James M. Ryan:** Thank you, Madam Speaker. I would have been very pleased if the Honourable Second Official Member had wished to answer it.

**The Speaker:** It was a Freudian slip Honourable Member!

*[chuckling]*

**Hon. James M. Ryan:** That is all right.

Madam Speaker, the answer is yes. The Auditor General's Department was commissioned to conduct an audit in the Drugs Task Force within the last four years. The audit covered the period May 1995 to October 1997. The Auditor General's report was submitted to the former Governor in December 1997. The report was never tabled and thus remains a confidential document.

Policies were changed in the accordance with the recommendations of the report. However, now that an investigation has been called for and is being carried out, no doubt this House will get a current report on the Drugs Task Force.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr:** Thank you, Madam Speaker. I am just wondering if we had any reason why the report was never tabled or if there was, I understand that since it was not tabled it remains a confidential document. However, is there any chance of getting it tabled?

**The Speaker:** The Honourable First Official member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. This report was a special report that was called for. It was not the annual report that the Auditor General would carry out and the report was fairly extensive and does include sensitive information which would compromise efforts if it were made public. The Governor of the day took the decision not to have the report tabled but instead, took the recommendations of the report and asked that the recommendations be brought into effect.

We heard from an earlier answer to a Parliamentary Question, on the account of the Commissioners account that the system is in place where funds are now handled through the Commissioners account as opposed to funds being kept—for instance, in a safe under the control of the Chief Superintendent of the Drugs Task Force.

**The Speaker:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden Jr:** Thank you, Madam Speaker, and I fully appreciate that this report was requested by the previous Governor and that it was for the period May 1995 to October 1997. After having heard an earlier answer by the Third Official Member regarding the fact that reports could be requested by any of the Official Members, I am wondering whether the First Official Member could give an undertaking to have another report commissioned for the period. I do know that an investigation has been called for, but could we get an undertaken for a request of an Auditor-General's report for the period after October 1997, which could then be tabled to this honourable House?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I hear what the Member has asked but the Auditor-General has been doing an annual report now for some years and as the Honourable Third Official Member has pointed out, I think quite clearly, this is done on an annual basis. It sounds to me like we are 'just treading water' trying to do another report, but the fact is there is a current investigation and I expect that when that is completed, it will be tabled in this House and should bring honourable Members up to date with the information that they ask.

**The Speaker:** Do you have a follow-up? Please proceed.

**Mr. Cline A. Glidden Jr:** Yes, Madam Speaker, just to say that what I was asking for is that I heard reference made to the completed Auditor General's Report, after having been a Member of the Public Accounts Committee. I do not remember having seen that Report and I am not sure exactly where that Report goes. However, my concern was to get a report for the period that would have been excluded from the current report that was given in the answer up until the current time.

If there is a report being done—I know there is an investigation being done—but we were made to understand that that investigation was being done by another member of the Police Force. What I was actually requesting was an Audit Report done by the Auditor General. If that is being done I just hope that it will be tabled sometime soon so that we can see it.

**The Speaker:** Honourable Member, perhaps I could bring to your attention that you may wish to direct that request to the Chairman of the Public Accounts Committee who may be in a better position than the First Official Member to make the request of the Auditor General.

**Mr. Cline A. Glidden Jr:** Thank you, Madam Speaker, I will be sure to do that.

**The Speaker:** If there are no further. . . The Member for—

**Mr. Rolston M. Anglin:** Madam Speaker, as Chairman of the Public Accounts Committee I undertake to speak to the Auditor General in this regard and ensure that any procedure that he would need to follow, would be followed if necessary and possible, in regards to the report being referred to us.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

**[CERTAIN WORDS WERE ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD.]**

**The Speaker:** Honourable Member, would you care to withdraw that until there is a conclusive report? I find that imputing improper motives before there is evidence so adduced to prove this said factual statement which you just purported.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Well let me withdraw that and say whether there were misappropriations or anything that was done. The audit will deal with that.

My question to the First Official Member is based on what he said in his answer that an investigation is being carried out. I wonder if that investigation is the one that we heard of under procedures, or is that the one he is talking about under audit? Whichever it is, will it be laid in this Honourable House?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I was not in the House in September when the issue came up and perhaps I was mistaken in my understanding but I thought a report had been called for to be done by the Auditor General at the time. If I am mistaken in that, I do apologise to the House and I think now that the Chairman of the PAC has undertaken to speak with the Auditor General, it is likely that there will be an audit prepared that should be available. However, yes, what I have spoken to here is in error because the report that is being done independently is a report on procedures. It is a procedural report, not an audit report. Therefore, I think, if in September an audit was not called for to be done by the Auditor General then I was mistaken in that regard.

## QUESTION NO. 149

**The Speaker:** The Second Elected Member for the district from George Town.

**No. 149: Mr. Aiden M. McLaughlin, Jr.** asked the Second Official Member responsible for the Portfolio of Legal Administration, when would a Bill be brought to the Legislative Assembly to amend the Succession Law in accordance with Private Member's Motion No. 7/01, passed by the Legislature on 15 March 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Madam Speaker. May I just say on my first appearance in 2002 that I would like to extend my best wishes to you and all Members of the House. . .

**The Speaker:** Received and we would wish to welcome you back likewise.

**Hon. David F. Ballantyne:** Thank you very much. Madam Speaker. Turning to the business in hand in relation to the amendment to the Succession Law, instructions have been given to the Legislative Drafting Department and they are currently working on the proposed amendment—

**Mr. D. Kurt Tibbetts:** Madam Speaker, please.

**The Speaker:** Do you have a point of order Honourable Member?

**Mr. D. Kurt Tibbetts:** Madam Speaker, I do not want to stop but we do not have copies of the answer and if we just listen to it word of mouth we are not going to be able to do justice to supplementaries. So I think we need copies for Members.

**The Speaker:** Madam Clerk, perhaps if we could check with the Honourable Second Official Member to see if there are copies available.

**Hon. David F. Ballantyne:** Madam Speaker, I had understood that arrangements were in hand for copies of the answer to be provided. I have an informal copy which is not in the ordinary form but it could be copied because the answer will be exactly the same, if that would assist the operation of the House. However, I do not want to circumvent the procedures.

**The Speaker:** Perhaps Honourable Second Official Member we could move on to question 151 to enable that to be copied.

**Hon. David F. Ballantyne:** Yes, Madam Speaker, I have a motion to make in relation to that question and



also the following question which I can deal with, if it pleases the House.

**The Speaker:** All right, please proceed with your motion for 150.

**Hon. David F. Ballantyne:** Thank you, Madam Speaker. In relation to Question No. 150 and Question No. 151—

#### POINT OF ORDER

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, on a point of order.

**The Speaker:** Please proceed.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I believe that the procedure called for is for the Question to be asked before the Member can move a Motion to defer it.

**The Speaker:** Certainly. Please ask Question 150. The Second Elected Member for George Town.

#### QUESTION NO. 150

*(Deferred—Standing Order 23(5))*

**No. 150: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration, what is the status of the Euro Bank prosecution?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Madam Speaker. I do not wish to 'jump the gun' on the Motion. However, in accordance with Standing Order 23(5), may I move and with, I understand, the concurrence of the question and depending on the concurrence of the House, that Question 150 be deferred as the answers are not yet complete.

**The Speaker:** The question is that Question No. 150 be deferred until it is brought back to this Honourable House. Those who are in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 150 DEFERRED.**

#### QUESTION NO. 151

*(Deferred—Standing Order 23(5))*

**The Speaker:** The Second Elected Member for the district of George Town.

**No. 151: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration, what are the terms of the agreement to retain the services of Andrew Mitchell, QC, in connection with the prosecution of the Euro Bank matter, and specifically -

- a) when was he retained;
- b) what is his brief;
- c) on what basis is he being paid, that is, hourly rate, brief fee or otherwise;
- d) how much has he been paid to date;
- e) from what source of funds is he being paid.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Madam Speaker. As with Question 150 I would move in accordance with Standing Order 23(5) that this Question also be deferred for the same reason.

**The Speaker:** The question is that Question 151 be deferred until brought back to this Honourable House. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: QUESTION NO. 151 DEFERRED.**

#### QUESTION NO. 149

*(re-called)*

**The Speaker:** The Second Elected Member for George Town.

**No. 149: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration when would a Bill be brought to the Legislative Assembly to amend the Succession Law in accordance with Private Member's Motion No. 7/01, passed by the Legislature on 15 March 2001.

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Instructions have been given to the Legislative Drafting Department and they are currently working on the proposed amendment. It is intended that the amendment to the Succession Law will be brought to the House to coincide with proposed amendments to the Children's Law and the Youth Justice Law.

It was hoped that the Bill for the proposed amendments to the Succession Law would have already been introduced to the honourable House. However, the Legislative Drafting Department has been inundated with a raft of other legislation that has

occasioned the delay with the Succession Bill. However, it is anticipated that this Bill will be introduced at the next meeting of the Legislative Assembly.

**The Speaker:** Are there any Supplementaries?  
The First Elected Member for George Town.

### SUPPLEMENTARIES

**Mr. D. Kurt Tibbetts:** Thank you. Just for purposes of clarity: In the substantive answer the Honourable Second Official Member has stated that, 'It is intended that the amendments to the Succession Law will be brought to the House to coincide with proposed amendments to the Children's Law and the Youth Justice Law'. Is that leaving us to understand that the proposed amendments to the Children's Law and the Youth Justice Law will also come at the next meeting?

**The Speaker:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I am not in a position to confirm that that will be the case, but what I am able to confirm is that although the amendment to the Succession Law will take into account proposed amendments to the Children's Law and the Youth Justice Law, its introduction to the House will not be dependent on the other two Bills coming forward. It can proceed, as I understand it, on its own account. Thank you.

**The Speaker:** If there are no other Supplementaries we move to the next Question.

### QUESTION NO. 152

**The Speaker:** The Second Elected Member for West Bay.

**No. 152: Mr. Rolston M. Anglin** asked the Honourable First Official Member responsible for the Portfolio of Internal and External Affairs what are the criteria for Civil Servant's Annual Performance Award; how many civil servants qualified for this pay award in 2000 and how many civil servants did not qualify for the 2000 pay award?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, the answer. Any civil servant whose salary is below the maximum point of their pay scale is entitled to receive an annual performance award, called an increment, providing they have performed to the level of expectation as jointly set between the individual civil servant and their senior officer and have completed one year's service and, received a satisfactory rating from their senior

officer for their performance as measured against agreed objectives.

When an eligible civil servant receives a satisfactory rating in their performance appraisal, a certificate recommending that an increment be paid is submitted to the Personnel Department which then instructs the Treasury Department to process the award of the increment.

In the year 2000 there were two thousand and fifty-six (2,056) civil servants who received an increment. There were about twelve civil servants who were not recommended by their senior officer for the award of an increment.

The remainder of civil servants were either in post for less than 12 months, promoted during the year, at the top of their scale, or, for some reason did not have their performance appraisal completed until the following year.

As was previously announced Government has suspended the payment of increments for 2002 for financial reasons.

### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker. In the substantive answer the Honourable First Official Member has said that there would be some persons who did not receive their increment because their performance appraisal had not been completed until the following year. I wonder if the Honourable First Official Member could say whether or not he could provide the House with an undertaking to make such recommendations for any civil servant who does not provide their subordinates with their performance, and thereby inhibit them from receiving their pay increment, that those civil servants would then not be eligible for their increment.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I think the observation by the Second Elected Member for West Bay is a very good one. One that I myself have been concerned about for some time and efforts have been made by the Personnel Department to ensure as far forth as possible that performance appraisals and recommendations are made on a timely matter.

What I am prepared to do, is to discuss the matter with His Excellency the Governor with a view of possibly having something put in the General Orders that would accomplish what the Member is asking.

**The Speaker:** If there are no further Supplementaries, the next item of business.

## STATEMENTS BY MEMBERS OF THE GOVERNMENT

### UPDATE ON GEORGE HICKS HIGH SCHOOL

**The Speaker:** The Honourable Minister of Education, Human Resources, Culture.

**Hon. Roy Bodden:** Thank you, Madam Speaker. I rise to make a statement which is a follow-up to a previous statement made by myself, earlier this Sitting and has to do with an update on the George Hicks High School.

Following the collapse of the ceiling in the Social Studies classroom in building phase three of the George Hicks High school on 17 December, APEC Consulting Engineers Limited, visited the site on 18 December to perform a visual inspection of the building. This inspection revealed, and I quote, **“Wide-spread and severe corrosion of the composite steel deck”** resulting in the recommendation that the use of this block be discontinued as the upper floor structure was beyond the point of repair.

Giving the condition of the buildings, it was decided that all class rooms constructed in the same time period would also be examined. These inspections resulted in the identification of varying degrees of corrosion in the following classroom blocks:

- ◆ Social Studies 1 and 2
- ◆ Spanish
- ◆ Religious Education
- ◆ Math
- ◆ Science
- ◆ English 1 and 2

Of these: Social Studies 1, Spanish and Science blocks are the most severely damaged. The latter two blocks were temporarily shored over this past week end, to safely support the weakened upper floor slab and enable continued use of the upper floors until the floor structures can be demolished and reconstructed. With regards to the other blocks, the Social Studies 2, Religious Education and Math blocks have advanced erosion and moderate erosion was found in the English 1 and 2 blocks.

APEC Consulting Engineer Limited has prepared outline specifications and drawings for the demolition and reconstruction of the floor structure of the Social Studies 1 block. The works contract was sent out to tender and the bid was awarded to McAlpine. It is expected that the project will take four weeks and will commence this week. The balance of the work will be tendered in the next three to four weeks and will be grouped into several contracts.

Following the completion of the Social Studies 1 block, work will start on each block in order of severity as previously outlined. It is expected that the reconstruction will be completed by September 2002 at a cost of approximately \$80 to \$90 thousand per building; or a total cost between \$640,000 to

\$720,000. Originally the costs were estimated at \$50,000. However, with the arrival of the structural engineering report we now have more detailed information on the required construction.

In the meantime, Government has secured the temporary use of 8 classrooms and one office at the Chapel Church of God Family Life Centre, located across the street from the school. To facilitate the movement of three hundred to three hundred and twenty five persons to the center every forty five to fifty minutes, a pedestrian crosswalk has been installed and is manned by a security officer.

Additionally, a boundary fence was put in at the Family Life Centre with an exit at the crossing to prevent students from wandering all over the road. The structures, Madam Speaker, are approximately twenty to twenty five years old and normally one should expect a longer service life from a reinforced concrete floor structure that is not directly exposed to the seafront. Accordingly, while investigating the condition of the buildings the Engineers also worked to determine the cause of the problem. Possible causes include -

- ◆ The quality of the concrete mix;
- ◆ The amount of time the buildings were exposed to high humidity and
- ◆ The amount of concrete cover protecting the reinforced steel.

Concrete dust samples were extracted and analyzed at a laboratory in Florida to determine the percentage of chlorides in the concrete. I quote, **“A concentration in excess of 1 percent, suggests that chloride attack will occur at an advanced rate in the presence of moisture and oxygen. The average chloride concentration measured for the four samples tested, is approximately 1 percent. Therefore, it would be expected that the reinforcing steel corrosion would continue at an accelerating rate.”** Furthermore, since the buildings were only air conditioned a few years ago a concrete floor structures have been exposed to high humidity levels for the majority of their lives.

To recap, the structural engineering report has made the following conclusions and recommendations:

1. The condition of the upper floor reinforced concrete and steel deck structures is very poor. Typically for the classroom block surveyed.
2. Visible evidence of steel deck corrosion was observed in all of the classroom blocks examined to varying degrees.
3. The Social Studies 1 block, Spanish block and Science block are severely affected by corrosion and the load carrying capacities of these floor structures have been compromised.

It is unlikely that the load carrying capacities of these floor structures meet the live load carrying requirements of the Cayman Islands building code for classroom occupancy. It is recommended that the use of these classroom blocks be discontinued. The upper

floor classrooms for the Spanish block and Science block can be reopened for occupancy once temporary shoring has been properly installed under the floor structure. As recommended the shoring was installed this past weekend.

In APEC's opinion the other five class room blocks in question are likely to experience similar corrosion in the near future if no remedial action is undertaken. The next step is to receive the Public Works Department's recommendations which are expected in two to three weeks. When this information is available the Education Capital Works Committee will reconsider all the documentation so future plans can be drafted. As I did on this occasion, I will undertake to keep the House apprised when we have received this report from the Public Works Department. I thank you.

**The Speaker:** Thank you Honourable Minister. At this time we will take the luncheon break reconvene at 2.15 pm.

#### PROCEEDINGS SUSPENDED AT 12.55 PM

#### PROCEEDINGS RESUMED AT 3.25 PM

**The Speaker:** Please be seated. Proceedings are resumed.

Before proceedings, I should wish to deviate somewhat. Earlier this morning I asked the honourable Member from the district of East End to withdraw remarks which he had made and he gracefully accepted that and did in fact, withdraw it.

On the basis of what the Elected Member for East End said, and, although partially withdrawn, there is in my view a real risk that the persons within the Drug Task Force (DTF) might be viewed as unfavourable in the minds of the members of the public, to the extent that the comments fueled suspicion of criminal misappropriation. To have honourable Members avoid this risk it would be preferable that these comments were not made public in any way in the interest of the avoidance of prejudice to any party who is entitled to the presumption of innocence.

I propose that, with the leave of the House, we strike the concluding statements made by the Elected Member from East End at the conclusion of supplementary questions, being that of No. 148.

May I take it that I have the leave of the House to proceed accordingly?

*[One audible Yes]*

**The Speaker:** The question is that the concluding remarks of Question 148 made by the Elected Member from East End be accordingly struck to expunge them from the record and there will be no public expression thereof. All those in favour please say Aye.

**AYES.**

**The Speaker:** Those against, No. The Ayes have it. I am grateful.

Madam Clerk, please proceed.

*[Pause]*

### SUSPENSION OF STANDING ORDERS 45 AND 46 (1) AND (2)

**The Speaker:** The Honourable Deputy Leader.

**Hon Linford A. Pierson:** Madam Speaker, I move the suspension of Standing Orders 45 and 46(1) and (2) so that the First Reading of the Marine Conservation (Amendment) Bill, 2001 can be taken.

**The Speaker:** The question is that Standing Orders 45 and 46(1) and (2) be suspended. All those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 45 AND 46(1) AND (2) SUSPENDED.**

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

#### MARINE CONSERVATION (AMENDMENT) BILL, 2001

*(Deferred—Standing Order 14(4))*

**The Clerk:** The Marine Conservation Bill 2001.

**The Speaker:** The Bill is deemed to have been read a first time and is set down for Second Reading.

**The Clerk:** Second Reading.  
Suspension of Standing Order 46(4).

**The Speaker:** The Honourable Leader.

**Hon W. McKeeva Bush:** Madam Speaker, let me ask for a few minutes to briefly talk with Members on a few areas in the Bill.

**The Speaker:** Would you wish to move Standing Order 14(4) to defer it until a later time today or would you just want to pause for a discussion now?

**Hon W. McKeeva Bush:** Madam Speaker, perhaps I had better move the relevant Standing Order in order to take it at a later moment on the Agenda.

**The Speaker:** The question is that Standing Order 14(4) the Bill for Marine Conservation (Amendment) Bill, 2001, be deferred until a later time during this Sitting. All those in favour please say Aye. Those against No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MARINE CONSERVATION (AMENDMENT) BILL, 2001 DEFERRED UNTIL A LATER TIME DURING THIS SITTING.**

**The Clerk:** The Insurance Amendment Bill, 2001. The Second Reading.

**The Speaker:** The Honourable Third Official Member.

**Mrs. Edna M. Moyle:** Madam Speaker, if I may.  
I think the suspension of the Standing Order 46(4) to allow the Second Reading . . . the question was not put.

#### **SUSPENSION OF STANDING ORDER 46(4)**

**The Speaker:** The question is that Standing Order 46(4) be suspended in order for the Second Reading of the remaining Bills to occur here in this Sitting. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 46(4) is accordingly suspended.

**AGREED: STANDING ORDER 46(4) SUSPENDED.**

**The Speaker:** The Honourable Third Official Member.

### **SECOND READINGS**

#### **THE INSURANCE (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Insurance (Amendment) Bill, 2001.

**The Speaker:** The Bill has been duly moved, does the Mover wish to speak thereto?

**Hon. George A. McCarthy:** Thank you, Madam Speaker.

For some time now it has become quite evident to the Monetary Authority that the legislation governing the Insurance Industry needed to be enhanced in order to ensure more effective regulation and supervision of the insurance industry. The insurance division of the Monetary Authority does not have the same range of regulatory powers as found under

other regulatory Laws, such as the Banks and Trust Companies Law or the Mutual Funds.

For example, while under the Banks and Trust Companies Law there exists a wide range of enforcement powers including the power to appoint an advisor or a controller, the power to require substitution of directors and officers, the power to require a licensee to take necessary actions as well as the power to suspend and revoke a licence. In contrast the Insurance Law had only two main options of enforcement actions and these are suspension or revocation of the licence.

In the KPMG Review of Financial Regulations in the Cayman Islands, released in September of 2000, it was stated, and I quote, "**We consider that the regulation of the insurance is generally in line with international standards.**" The Report, however, also noted the need to expand enforcement powers in this area to mirror those found in other pieces of Legislation. The Amendment under the Bill being presented today seeks to address the deficiencies identified in the Insurance Law. These amendments will also bring the Legislation more in line with current international standards as recognised by the International Association of Insurance Supervisors.

The Memorandum of Objects and Reasons for the Bill states that the principal purpose of the Bill is to repeal and replace section 11 of the Insurance Law.

Clause 2 of the Bill provides an amendment to the definition of the long term business to bring the definition in line with international practice by removing credit life and term life business as long-term business.

Clause 3 of the Bill corrects an incorrect reference appearing in section 4 of the Law.

Clause 4 of the Bill allows the Monetary Authority to appoint any person including an actuary at the expense of the licensee to examine the affairs of any licensee carrying on insurance business.

Clauses 5 through 7 of the Bill require the approval of the Monetary Authority of any independent auditor who audits licensees and carries out other functions for the licensee.

Clause 6 of the Bill prohibits shares totalling more than that 5 percent of the issued share capital of a licensee from being issued or transferred without the approval of the Monetary Authority. This amendment is in line with similar provisions under the other regulatory Laws.

Clause 8 of the Bill inserts in the Insurance Law, a new provision enabling the Monetary Authority to issue, cease and desist orders where in the opinion of the Authority the licensee is committing an act that is unsafe or unsound practice in conducting its business.

Clause 9 of the Bill repeals and replaces section 11 of the Insurance Law for the purpose of extending the enforcement powers of the Governor in

relation to licences, bringing it in line with similar powers in other regulatory laws.

Clause 10 of the Bill inserts into the Insurance Law, a section enabling a licensee to surrender its insurance licence for voluntary cancellation.

Madam Speaker, this is a summary of what the amending legislation represents and I commend this Bill to honourable Members.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak to this Bill? Does any other Member wish to speak to this Bill? Last call. Does any other Member wish to speak to this Bill? If not, would the Mover wish to exercise his right of reply?

**Hon. George A. McCarthy:** Just to thank honourable Members for their support, Madam Speaker.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker?

**The Speaker:** Yes, Honourable Member.

**Mr. Alden M. McLaughlin, Jr.:** I do not believe the Question was put.

**The Speaker:** You are correct, thank you. The question is that the Bill shortly entitled, The Insurance (Amendment) Bill, 2001 be given a second reading.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: A BILL SHORTLY ENTITLED, THE INSURANCE (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** The Honourable Third Official Member.

#### **THE SECURITIES INVESTMENT BUSINESS BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Securities Investment Business Bill, 2001.

**The Speaker:** The Bill has been duly moved. Does the Mover wish to speak thereto?

**Hon. George A. McCarthy:** Thank you, Madam Speaker. The Securities Investment Business Bill, 2001 is a response to:

1. an internal recognition that there is a regulatory gap with regards to security business;
2. Commitments given with respect to the KPMG and FATF Reviews;

3. The need to progress from observer status to a membership within IOSC, that is, the International Organization of Securities Commissions.

The Bill seeks to regulate persons who deal in, manage or advise on securities and since the publication of the KPMG Review in October 2000 the intention to introduce such legislation has been publicly confirmed. I think it is also fair to say that the financial services sector recognizes the need for the Legislation.

It should be noted that the conduct of investment business was added to schedule two of the Money Laundering Regulations 2000 in anticipation of this Bill. The Bill has been informed by the input from the KPMG and the Monetary Authority and by extensive consultation with the private sector financial services industry, ably coordinated by the Law Society. Legislative precedents from local regulatory Laws from Bermuda, from the United Kingdom and from Jersey were extensively referenced in the development of the Bill. These precedents are particularly reflected in the four schedules of the Bill; and

4. Deals with false or misleading market and insider dealings which is derived from the United Kingdom's Criminal Justice Act 1993.

Madam Speaker, part one of the Bill, Clauses 1 through 3 and Schedule 1, contains introductory matters and definitions. It should be noted that in Clause 1, subsection (2), provides that the Law will come into force on or such a date appointed by order made by the Governor in Council. This is to allow time for the Monetary Authority to put forward the necessary regulations to Executive Council and to put in place, the necessary staff policies and procedures within the established Legislative framework. It is expected that this will be achieved by the end of the first quarter of this year.

Part 2 of the Bill, Clause 4 and Schedules 2 and 3 define the scope of securities investment business for the purposes of the Law. Any Cayman Islands entity or entity that has an established place of business in the Cayman Islands that is engaging in any of the activities specified in Schedule 2 is covered. This is subject to Schedule 3 which identifies activities that are not considered securities investment business for the purposes of the Law and the schedule which defines persons who are permitted to carry out security investment business without a licence.

There is an amendment to section 4(3) and that has been circulated to honourable Members.

Certain persons are subject to a simple registration requirement under Part three, the exclusive purpose of which is to assist the Monetary Authority in carrying out its compliance monitoring functions with respect to the money laundering regulations.

Part Three Clauses 5 through 22 deals with licensing and regulation of persons under the law and spells out the powers and duties of the Monetary Authority.

Licensing and enforcement authority lies directly with the Monetary Authority with an appeal to the Grand Court on certain matters and to the Governor-in-Council on others. The latter appeals route is an intra-measure until a dedicated appeal tribunal is established as part of the independence framework of the Monetary Authority. Part three also deals with duties and protection for auditors and specifies that the Securities Investment Business Law is a regulatory Law for the purposes of the Monetary Authorities Law (2001 Revision).

Part 4 covering Clauses 24 through 35, establishes the offences of creating false or misleading markets in securities and insider dealing and attendant defenses. Proceedings with respect to these offences may only be instituted by the Attorney-General.

Part 5 Clause 36 deals with the duties of the Stock Exchange and the Monetary Authority in relation to broker members of the Exchange. I should like to confirm that with the passage of this Law, the Stock Exchange will retain regulatory responsibility for its broker members in respect of training over the Exchange only. The Law gives the Monetary Authority a desecration to require its licensees to become members of a recognized securities exchange which includes the Cayman Islands Stock Exchange or a recognized securities organization.

Part 6 covering Clauses 37 through 41 contain general provisions concerning offences by co-operations, indemnities, general offences and transitional provisions. The latter allows a period of six months from the commencement date of the Law for a person required to be licensed to apply for one. Following the existing policy of functional licensing, current licensees under other Laws who conduct securities investment business, will be required to be licensed for that activity under this Law. The Monetary Authority will be working to ensure that the associated procedures are published to those affected and implemented smoothly.

Minor consequential amendments to section 2 of the Mutual Funds Law and section 3 of the Companies Management Law, will be brought during the course of this year to make it clear that the management of assets that are securities fall under the Securities Investment Law.

Madam Speaker, as I said earlier, a simple committee stage amendment to the Bill, to remove section 4(3) is required and this has been circulated to honourable Members. The Government accepts the industry's comment that in its current form it is too broad and creates uncertainty. Prior to the Law coming into force and after consultation, the Government will seek to add appropriate provisions to deal with the practice of cold calling and related activity. These are persons just coming off a plane in the Cayman Islands, holding a seminar and inviting people to trade or deal in securities activities, and as I said, this will be dealt with.

Madam Speaker, this Law will be of commercial and regulatory benefit to the Cayman Islands as it will create a proper environment either to lacking or to retain and attract, quality securities investment business. It is a very important part of our financial services infrastructure development and I therefore commend the Securities Investment Bill to this honourable House for passage.

I should mention that the removal of section 4(3) from the Bill itself will not affect the rest of the Bill. Madam Speaker, once again I commend this Bill to honourable Members.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak? If not would the Honourable Third Official Member exercise his right of reply?

**Hon. George A. McCarthy:** Once again, Madam Speaker, to say thanks to honourable Members for their support.

**The Speaker:** The question is, that a Bill shortly entitled, The Securities Investment Business Bill, 2001, be given a second reading.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE SECURITIES INVESTMENT BUSINESS BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Could I get an indication from the Government Bench as to whether they are in a position to proceed now, or is it the will of the House to take a short adjournment for further discussions?

The Honourable Minister responsible for District Administration.

**Hon. Gilbert A. McLean:** Madam Speaker, the Government would appreciate if we could take a short suspension at this time.

**The Speaker:** I shall suspend for 15 minutes.

**PROCEEDINGS SUSPENDED AT 3.48 PM**

**PROCEEDINGS RESUMED AT 4.34 PM**

**The Speaker:** Please be seated. Proceedings are resumed. The House will now go into Committee to consider the Bills.

**Hon. W. McKeeva Bush:** Madam Speaker.

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, I think out of an abundance of caution, I had better suspend Standing Orders in order to continue after 4.30 pm.

**The Speaker:** Thank you, Honourable Leader.

### SUSPENSION OF STANDING ORDER 10(2)

**Hon. W. McKeeva Bush:** I so move.

**The Speaker:** The question is that Standing Order 10(2) be duly suspended so that we can proceed beyond the hour of 4.30 pm. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 10(2) SUSPENDED TO ALLOW THE CONTINUATION OF THE HOUSE BEYOND THE HOUR OF 4.30 PM.**

### HOUSE IN COMMITTEE AT 4.35 PM

### COMMITTEE ON BILLS

**The Chairman:** Please be seated. The House is now in Committee.

With the leave of the House may I assume that as usual we should authorise the Honourable Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk please state the Bill and read its Clauses?

### THE TRAFFIC (AMENDMENT) BILL, 2001

#### CLAUSES 1 THROUGH 5

**The Clerk:** The Traffic (Amendment) Bill, 2001

- Clause 1 Short title.
- Clause 2 Amendment of section two of the Traffic Law 2001 (Revision) definitions.
- Clause 3 Amendment of Section 74. Provisions of Specimens for analysis.
- Clause 4 Amendment of Section 96. Regulations under this part.
- Clause 5 Repeals.

**The Chairman:** The question is that Clauses 1 through 5 do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 5 PASSED.**

**The Clerk:** A Bill to amend The Traffic Law 2001 (Revision) and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

### MERCHANT SHIPPING (AMENDMENT) SURVEYS AND CERTIFICATION AND MISCELLANEOUS PROVISIONS) BILL, 2001

#### CLAUSES 1 THROUGH 7

**The Clerk:** The Merchant Shipping (Amendment) (Surveys and Certification and Miscellaneous Provisions) Bill, 2001.

- Clause 1 Short title.
- Clause 2 Definition.
- Clause 3 Amendment to section 2 Definitions.
- Clause 4 Amendment of section 8, termination of registration.
- Clause 5 Amendment of section 11. Register.
- Clause 6 Amendment of section 12. Entries and Register.
- Cause 7 Amendment of section 30.

Application of this Law where a ship is registered under section 28.

#### CLAUSES 8 THROUGH 12

- Clause 8 Amendment of section 36—Registration of Transfer of Ownership.
- Clause 9 Amendment of section 54—Requirement fro Insurance Cover.
- Clause 10 Amendment of section 122—Conduct Endangering Ship persons etc.
- Clause 11 Amendment of section 171— Interpretation.
- Clause 12 Amendment of section 180—Survey Requirements for Passenger Ships.

**The Chairman:** The question is that Clauses 1 through 12 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 12 PASSED**

#### CLAUSES 13 – 24

**The Clerk:** Clause 13 Repeal and substitution of



|           |                                                                                                                                                                             |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Clause 14 | section 181—Survey Requirements for the Radio Installations of Cargo Ships. Repeal and Substitution of section 182—Survey Requirements for Safety Equipment of Cargo Ships. |
| Clause 15 | Repeal and Substitution of section 183—Survey Requirements for the Structure, Machinery and Equipment of Cargo Ships.                                                       |
| Clause 16 | Amendment of section 184—Responsibilities of Owner and Master Compliance with ISM Code.                                                                                     |
| Clause 17 | Amendment of section 186—Issue of Certificates to Cayman Islands Ships, engaged on international or short international voyages.                                            |
| Clause 18 | Amendment of section 188—Form of certificate.                                                                                                                               |
| Clause 19 | Repeal and Substitution of section 189—Duration and validity of certificate.                                                                                                |
| Clause 20 | Repeal and substitution of section 191—Extension and other provisions.                                                                                                      |
| Clause 21 | Amendment of section 202—Arbitration.                                                                                                                                       |
| Clause 22 | Amendment of section 204—Inspection of ships holding safety convention certificates.                                                                                        |
| Clause 23 | Amendment of section 222—Definitions and interpretations in this part.                                                                                                      |
| Clause 24 | Amendment of section 224—Load line regulations.                                                                                                                             |

**The Chairman:** If there is no debate, I shall put the question that Clauses 13 through 24 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 13 THROUGH 24 PASSED.**

#### **CLAUSES 25 – 37**

**The Clerk:**

|           |                                                                           |
|-----------|---------------------------------------------------------------------------|
| Clause 25 | Amendment of section 228—Issue of load line certificates.                 |
| Clause 26 | Amendment of section 234—Valid convention certificates.                   |
| Clause 27 | Amendment of section 241—Further powers to exempt ships.                  |
| Clause 28 | Amendment of section 242—Issue of exemption certificates.                 |
| Clause 29 | Amendment of section 244—International load line exemption certificates.  |
| Clause 30 | Amendment of section 251—Convention countries.                            |
| Clause 31 | Amendment of section 269—Appointment and powers of receiver of wreck.     |
| Clause 32 | Amendment of section 287—Powers of Port Authority in relation to wrecks.  |
| Clause 33 | Amendment of section 319—Application to the Government.                   |
| Clause 34 | Amendment of section 355—Limitation of funds liability under section 354. |
| Clause 35 | Amendment of section 356—                                                 |

|           |                                                                                                                   |
|-----------|-------------------------------------------------------------------------------------------------------------------|
| Clause 36 | Jurisdiction and effect of judgment. Amendment of section 414—Appointment of directors, surveyors and inspectors. |
| Clause 37 | Amendment of section 422—References of notices to arbitration.                                                    |

**The Chairman:** If there is no debate, I shall put the question that Clauses 25 through 37 do stand part of the Bill. All those in favour please say, Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 25 THROUGH 37 PASSED.**

**The Chairman:** Honourable Third Official Member, if I could direct your attention to page 26 and the side margins where it refers to amendment of section 458 next to Section 38, that actually goes on to read section 459. It seems like there is a reversal of the marginal lines and I think that it is something that can be corrected by the Honourable Second Official Member, but I would wish to draw it to your attention.

**Hon. George A. McCarthy:** Thank you, Madam Speaker. The Clerk drew that to my attention yesterday and I take it that is the type of consequential amendment that would be picked upon by the Honourable Second Official Member.

**The Chairman:** The Honourable Second Official member. Do you wish to speak?

**Hon. David F. Ballantyne:** Thank you, Madam Chairwoman. I am not clear whether I am looking at the correct version of the Bill but on the version of the Bill that I have, I do not see a Clause 37.

**Mr. V. Arden McLean:** Madam Chairwoman, there are two Clauses numbered 35.

**The Chairman:** Yes, thank you.

**Hon. David F. Ballantyne:** Madam Chairwoman, may I suggest that we could just deal with it by renumbering the Clauses from 38 onwards as 36?

**Hon. George A. McCarthy:** No, 36 is there.

**Hon. David F. Ballantyne:** I beg your pardon, 36 is there followed by 35. The numbering has just gone haywire. So 35 should be 37 and that will correct the matter.

#### **CLAUSES 38 – 41**

**The Clerk:**

|           |                                                              |
|-----------|--------------------------------------------------------------|
| Clause 38 | Amendment of section 458. Payments to be made into Treasury. |
|-----------|--------------------------------------------------------------|

|           |                                                                      |
|-----------|----------------------------------------------------------------------|
| Clause 39 | Amendment of section 449. Registrar of shipping and shipping master. |
| Clause 40 | Amendment of section 459. Regulations et cetera.                     |
| Clause 41 | General amendment of Principal Law.                                  |

**The Chairman:** The question is that Clauses 38 through 41 do stand part of the Bill.

The Honourable Second Official Member?

**Hon. David F. Ballantyne:** Excuse me for intervening again, Madam Chairwoman, but I was slightly baffled by the side note reference to what I think is Clause 39. If I have it correctly, it is that payments should be made into Treasury. Amendment of Section 449; am I understanding it correctly that it is supposed to relate to Clause 39, because it is 38?

**The Chairman:** It is 38.

**Hon. David F. Ballantyne:** That is fine.

**The Chairman:** I think that is what she read, did she not?

**Hon. David F. Ballantyne:** No. Probably I may have misunderstood it. Thank you.

**The Chairman:** Sorry, Honourable Second Official Member. Before your interruption did I get an opportunity to take the question, Deputy Leader? I was interrupted correctly so by the Honourable Second Official Member for an inquiry. However, I cannot remember if I had had the opportunity to put the question.

The question is, that Clauses 38 through 41 do stand part of the Bill. If there is no debate, I put the question that Clauses 38 through 41 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

#### **CLAUSES 38 THROUGH 41 PASSED.**

**The Clerk:** A Bill to amend the Merchant Shipping Law 2001 (Revision) to update the provisions relating to the safety of life at sea, particularly regarding the survey and certification requirements to clarify various other aspects of the existing Law and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

## **MERCHANT SHIPPING (MARINE POLLUTION) BILL, 2001**

### **CLAUSES 1 THROUGH 24**

**The Clerk:** The Merchant Shipping (Marine Pollution) Bill, 2001.

|           |                                                                                           |
|-----------|-------------------------------------------------------------------------------------------|
| Clause 1  | Short title.                                                                              |
| Clause 2  | General interpretation and definitions.                                                   |
| Clause 3  | Powers of Minister.                                                                       |
| Clause 4  | Delegation by Minister.                                                                   |
| Clause 5  | Protection of Government and public officers.                                             |
| Clause 6  | Power of Governor to make regulations generally.                                          |
| Clause 7  | Director to maintain documents.                                                           |
| Clause 8  | Convention to prevail.                                                                    |
| Clause 9  | Surveys, inspections and monitoring.                                                      |
| Clause 10 | Communication co-operation and consultation.                                              |
| Clause 11 | Interpretation for the purposes of part 3.                                                |
| Clause 12 | Pollution prevention measures.                                                            |
| Clause 13 | Notification of eminent or actual damage.                                                 |
| Clause 14 | Measures relating to seaworthiness of vessels to avoid pollution.                         |
| Clause 15 | Violation of the Law by vessels navigating in territorial sea or exclusive economic zone. |
| Clause 16 | Monitoring of the risks of effects of pollution.                                          |
| Clause 17 | Publication of reports by Director.                                                       |
| Clause 18 | Assessment of potential effects of activities.                                            |
| Clause 19 | Interpretation for the purposes of Part 4.                                                |
| Clause 20 | Director to take measures regarding pollution.                                            |
| Clause 21 | Duties of Director.                                                                       |
| Clause 22 | Nomination of experts.                                                                    |
| Clause 23 | Limitation on measures by Director.                                                       |
| Clause 24 | Compensation.                                                                             |

**The Chairman:** The question is that Clauses 1 through 24 do stand part of the Bill. Is there any debate?

The Member for North Side.

**Mrs. Edna M. Moyle:** Thank you, Madam Chairman. In Clause 2, the definition of Cayman Islands ship and director, we refer to section 2(1) of the Merchant Shipping Law. In the definition of natural waters, we refer to section 2(2) (b) of the Merchant Shipping Law. However, I have looked through the Merchant Shipping Law and I do not see a 2(1) or a 2(2) (b) in the Definition section.

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** I will have to seek the assistance of the Second Official Member on this Madam.

**The Chairman:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Madam Chairwoman, I would need to have a look at the 2001 Revision of the Merchant Shipping Law.

**The Chairman:** Honourable Member for North Side, would you happen to have in your possession a copy that you could perhaps share with the Honourable Member?

**Hon. David F. Ballantyne:** Madam Chairwoman, I can confirm that there is no section 2(1) in the Merchant Shipping Law (2001 Revision) . . . well, there is a definition of Cayman Islands ship in section 2. If you take out the reference to subsection (1), what I suspect is the case, maybe in the original Merchant Shipping Law there was a reference that has not been picked up on. Could I be reminded of the other query?

**Mrs. Edna M. Moyle:** The definition of 'national waters' refers to section 2(2)(b) of the Merchant Shipping Law (2001 Revision).

**Hon. David F. Ballantyne:** The same comment applies, there is no section 2(2)(b). I can confirm it should just be section 2 and I think that will cure it.

**Mrs. Edna M. Moyle:** Madam Chairwoman, the same thing applies to the definition of 'Minister', which says section 2(1).

**Hon. David F. Ballantyne:** Agreed.

**The Chairman:** Honourable Second Official Member is that the same case in this scenario as well?

**Hon. David F. Ballantyne:** It appears that that is the same and the definition of 'Minister' in the revision is in section 2 of the revision. That is how the reference should read in this Bill. Thank you.

**The Chairman:** Yes, honourable Member for North Side.

**Mrs. Edna M. Moyle:** The definition of Governor other than in section 167(1) means Governor-in-Council. Does the definition of the word 'Governor' in section 167 mean, as in Interpretation Law, the person that is here from White Hall?

**The Chairman:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Thank you, Madam Chairwoman. The expression in section 167(1) runs as follows. The Minister shall establish a national system for responding promptly and effectively to oil pollution incidents and the Governor acting in his desecration shall appoint a national coordinator. In my view, it would not be necessary even to say that Gov-

ernor means Governor-in-Council with that exception. That is, acting in his discretion gives the game away because it means that he does not have to act on the advice of council. If there is no such expression or the context does not otherwise require it, then it can be assumed, provided that it is not one of the reserve responsibilities under the Constitution, that it is the Governor-in-Council.

Governor-in-Council is just shorthand; it is not really a term that is known to the Constitution. However, it is a convenient shorthand as everybody knows, I think, for Governor acting on the advice of Executive Council. I hope that helps.

**Mrs. Edna M. Moyle:** Madam Chairwoman, I thank the Second Official Member for his explanation but as the Interpretation Law gives us two definitions, 'Governor-in-Council' and 'Governor', that is why I asked the question. However, that is fine I appreciate your answer.

**The Speaker:** The Honourable Deputy Leader.

**Hon. Linford A. Pierson:** Madam Chairwoman, I believe that if we look under section 2, where it gives the definition of Governor, it states specifically that other than in section 167(1) it means Governor-in-Council. So I think that may throw some light on that problem.

**The Chairman:** Thank you.

The Honourable Second Official Member.

**Hon. David F. Ballantyne:** I appreciate the point made by the Member for North Side. I think as it stands it seems all right to me other than that reference to section 167. Any reference to Governor is taken to be a reference to Governor-in-Council.

Just for the record, it was the 1997 version that had a section 2(1) and a section 2(2) with 2(2)(b), so those references were simply not corrected on the revision. I will draw this to the attention of the appropriate party.

**The Chairman:** Thank you.

The Member for North Side.

**Mrs. Edna M. Moyle:** Madam Chairman, my last question. The definition of Minister has the meaning given in section 2 of the Merchant Shipping Law (2001 Revision). If we would look at the last page of the Merchant Shipping Law, note 3, where it refers to Minister in the Law, it must be read with this note 3. It says, "In relation to this Provision, reference should be made to section 16(a) of the Constitution of the Cayman Islands set out in Schedule 2 to the Cayman Islands Constitution Orders 1972 to 1993."

I find that I am unable to accept that the Honourable Financial Secretary, who is responsible for the

Merchant Shipping Bill and shipping as a whole, can be referred to as a Minister. The Constitution in the amendment in 1993 made it very clear that **“Executive Council in and for the Islands which subject to Section 10 of the Constitution shall consist of the Chief Secretary, the Attorney General and the Financial Secretary ex-officio who are herein after referred to as the Official Members of the Council and five Elected Members who shall be elected by the Elected Members of the Assembly from among the Elected Members of the Assembly, who shall be entitled Ministers.”**

**The Chairman:** Honourable Second Official Member do you wish to respond to that?

**Hon. David F. Ballantyne:** I agree Madam Chairwoman, that the reference to Minister in relation to the Financial Secretary, even though it may be legally correct by virtue of the definition here, does not sit very easily with the provisions of the Constitution. The definition says Minister in Clause 2 of the Bill. Minister means the Member of the Executive Council for the time being responsible for Merchant Shipping and Seamen. Well, as we know, the responsible Member of Executive Council is the Financial Secretary who is not a Minister.

I think what has happened is that this is a bit of hybrid drafting with an external shipping consultant, a shipping advisor and then a review made by our own draftsman. It does allow for the possibility that responsibility for Merchant Shipping could be in the province of a Minister, but it is a little confusing as it is presently worded.

The alternative would be to adopt an expression, such as, ‘Member of Executive Council’, which could be either an Official Member or a Minister. It is a little bit cumbersome but it is more accurate and it would allow for the possibility that if responsibility for Merchant Shipping and Seamen were to be transferred to a Minister, it would not be necessary to change the Law.

I think what has happened in the United Kingdom, from which much of this Merchant Shipping Legislation is drawn, is that it is a Minister who is responsible. Therefore, the reference to section 16(a) is, as I recall, because at some point in the development of this Legislation there was a suggestion that the Minister have exclusive or some responsibility for prosecution, which did not sit with section 16(a) of the Constitution. So that is why I think that reference is there but it still leaves this question of ‘Minister’ which does not in fact do justice to my learned colleague, the Financial Secretary as an Official Member. It might be that if appropriate, it is a little difficult to do at Committee Stage. However, we could adopt a Committee Stage Amendment that said for any reference to Minister it should be amended to read Member of the Executive Council, which would be a bit more ac-

curate. The reasons have already been given if that solution recommended itself to the House.

**The Chairman:** Thank you Honourable Member. Am I then to understand that you wish to move a Committee Stage Amendment, or is it a position where it was a typographical error and we could leave it for you to amend?

**Hon. David F. Ballantyne:** I am not too comfortable with it being viewed just as a typographical error because it really is a difference of substance. However, I would think it appropriate, if the House agreed, that as Second Official Member I would be permitted to move a Committee Stage Amendment, provided that could be done verbally without holding up the work of the House. I think we all understand what is required.

**The Chairman:** Perhaps, then, I should just put the question on Clause 1 first, since we have come upon this in respect to Clause 2. The question is that Clause 1 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**CLAUSE 1 PASSED.**

## **CLAUSE 2**

**The Clerk:** Clause 2. General interpretation and definitions.

**The Chairman:** Would you wish to move your amendment at this stage Honourable Member?

**Hon. David F. Ballantyne:** Thank you, Madam Chairwoman, I wish to move an amendment to Clause 2 of the ... sorry, Madam Chairwoman. I just need a moment to check on a section that has been drawn to my attention.

*[Pause]*

**Hon. David F. Ballantyne:** I had understood, and I remain to be proved wrong, that that reference to Minister (to which my attention has just been drawn) in the 2001 Revision, had in fact been corrected in this Bill. However, if that is not right, then it should be corrected because that is exactly the provision to which I made reference that no proceedings for any offence. This is page 82 of the 2001 revision. Section 122(7)(b) states **“No proceedings for any offence under this section shall be instituted against any such person, without the consent of the Minister.”** We did point out to our esteemed colleagues in the Merchant Shipping Fraternity that this did not sit with the Cayman Islands Constitution. Ultimately, I believe

that point was accepted and therefore the Bill that is before the House ought to correct that clause. In my opinion, if it does not, we should seek to do it of our own volition.

In fact I may have misled myself and the House unintentionally but the Merchant Shipping Amendment Surveys and Certification and Miscellaneous Provisions Bill, 2001, which I believe we have already dealt with, did amend section 122 of the principal Law. It will repeal subsection (7) and substitute the following subsection which does not contain the second part. In other words, it does not contain the reference to needing the consent of the Minister. I will just confirm that.

In the application of this section to a person falling within subsection (1)(b), subsection (2) and (4) shall have effect as if subsection (2)(a)(1) and (b)(1) were omitted and it stops there. So that offending provision has been taken out and my esteemed Merchant Shipping Colleagues have obviously acted on the advice that was given. So there is not an issue in relation to that part. I do not know whether or not any amendment was made to the definition of Minister by the other Bill, but if it was not (excuse me) we should do that now. If I am on my feet in that regard metaphorically, Madam Chairwoman, perhaps I might move that the Bill before us—

**The Chairman:** Before you so move, I should indicate that leave is granted.

**Hon. David F. Ballantyne:** I beg your pardon, thank you very much.

**The Chairman:** Please proceed.

**Hon. David F. Ballantyne:** Thank you. In that case, Madam Chairwoman, I would move that a Committee Stage Amendment be made to this Bill to substitute for the word 'Minister' wherever it appears, with the expression, 'Member of Executive Council'.

**The Chairman:** The amendment has been duly moved, do you wish to speak any further to it or have you already exhausted your comments there on?

**Hon. David F. Ballantyne:** I have probably exhausted my competence. No, Madam Chairwoman, I think we know the reason why we are doing this. Thank you.

**The Chairman:** There is no further debate. I put the question that the amendment do stand part of the Clause. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

## **CLAUSE 2 AMENDED.**

**The Speaker:** I will now put the question that Clause 2 as amended do stand part of the Bill. All those in . . . did you wish to speak, Sir?

**Hon. David F. Ballantyne:** If I may, just to say that we are not only amending Clause 2 but any reference in the Bill to the word 'Minister'. Any subsequent reference to 'Minister' will automatically be amended to read 'Member of Executive Council', if that is acceptable.

**The Chairman:** I will put the question that the amendment as stated do stand part of the Clause, which includes all consequential amendments. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

## **THE AMENDMENT STANDS PART OF THE CLAUSE.**

**The Chairman:** I will put the question that the Clause as amended stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

## **CLAUSE 2 AS AMENDED PASSED.**

**The Chairman:** Clauses 3 to 24 have already been read, so I shall put the question that Clauses 3 through 24 do stand part of the Bill. If there is no debate, I put the question that clauses 3 through 24 do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

## **CLAUSES 3 THROUGH 24 PASSED.**

### **CLAUSES 25 THROUGH 37**

#### **The Clerk:**

|           |                                                        |
|-----------|--------------------------------------------------------|
| Clause 25 | Rights et cetera, preserved.                           |
| Clause 26 | Settlement of disputes.                                |
| Clause 27 | Scope and application of parts and exemptions.         |
| Clause 28 | Interpretation for the purposes of part 5 generally.   |
| Clause 29 | Description of special areas.                          |
| Clause 30 | Violation of this part.                                |
| Clause 31 | Certificates and special rules on inspection of ships. |

|           |                                                       |
|-----------|-------------------------------------------------------|
| Clause 32 | Detection of violations and enforcement of this part. |
| Clause 33 | Undue delay to ships.                                 |
| Clause 34 | Reports on incidents involving harmful substances.    |
| Clause 35 | Communication of information.                         |
| Clause 36 | Casualties to ships.                                  |
| Clause 37 | Promotion of technical co-operation.                  |

**The Chairman:** If there is no debate, I shall put the question that Clauses 25 through 37 do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 25 THROUGH 37 PASSED.**

#### **CLAUSES 38 THROUGH 40**

**The Clerk:**

|           |                                               |
|-----------|-----------------------------------------------|
| Clause 38 | Interpretation for the purposes of Chapter 2. |
| Clause 39 | Application of Chapter 2.                     |
| Clause 40 | Equivalence.                                  |

**The Chairman:** If there is no debate, I shall put the question that Clauses 38 through 40 do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 38 THROUGH 40 PASSED.**

**The Chairman:** Honourable Second Official Member, perhaps if you could assist by looking at Clause 41 and the notation thereof, the arrangement. It seems to me that 42 says annual and additional surveys, whereas in the index, 41 says surveys and 42 says annual and additional surveys and perhaps clarify that for us.

**Hon. David F. Ballantyne:** Madam Chairman, 41 appears to refer to an initial survey and a renewal survey an intermediate survey whereas 42 refers to annual surveys and additional surveys and if we want to differentiate between them, we should probably re-annotate 41 as initial, renewal and intermediate surveys.

**The Chairman:** Could you please repeat that for the Clerk to record.

**Hon. David F. Ballantyne:** I am suggesting that the present annotation on Clause 41 which reads, 'annual and additional surveys' be replaced by 'initial, renewal and intermediate surveys'. That would leave Clause

42 with annual and additional surveys, which I think appears to be accurate.

**The Chairman:** Thank you. Is it your intention to take that as a consequential amendment?

**Hon. David F. Ballantyne:** I think as long as we have a record of this discussion for subsequent reference that would be perfectly fine. Thank you.

**The Chairman:** Thank you.

**The Clerk:**

|           |                                                                                 |
|-----------|---------------------------------------------------------------------------------|
| Clause 41 | Initial renewal and intermediate surveys.                                       |
| Clause 42 | Annual and additional surveys.                                                  |
| Clause 43 | Nominated surveyors and recognised organisations.                               |
| Clause 44 | Corrective action.                                                              |
| Clause 45 | Withdrawal of IOPP Certificate and detention.                                   |
| Clause 46 | Assistance to other Marpol member states.                                       |
| Clause 47 | Maintenance requirements.                                                       |
| Clause 48 | Report of accidents and defects.                                                |
| Clause 49 | Issue or endorsement of IOPP certificate.                                       |
| Clause 50 | Issue or endorsement of IOPP certificate upon request by a Marpol member state. |
| Clause 51 | Form of IOPP certificate.                                                       |
| Clause 52 | Duration and validity of IOPP certificate.                                      |
| Clause 53 | Transfer of flag.                                                               |
| Clause 54 | Discharge of oil.                                                               |
| Clause 55 | Ships less than 400 gross tonnage.                                              |
| Clause 56 | Special areas.                                                                  |
| Clause 57 | Control of discharge of oil in special areas.                                   |
| Clause 58 | Voyage partly through a special area.                                           |

**The Chairman:** If there is no debate, I shall put the question that Clauses 41 through 58 do stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 41 THROUGH 58 PASSED.**

**The Chairman:** The Honourable Second Official Member.

**Hon. David F. Ballantyne:** Madam Chairwoman, I do not wish to take us back, but I have to go back to the amendment that we made to Clause 2 of this Bill. It is not going to be enough just to change the reference to 'Minister', to 'Member of Executive Council' in this Bill. The Committee Stage Amendment will also have to say in addition to what we have already said and the reference to Minister in the Merchant Shipping Law (2001 Revision) shall be amended to read, 'Member of Executive Council'.

**The Chairman:** Would you care then to move a motion to recommit Clause 2?

**Hon. David F. Ballantyne:** Yes I would move that we recommit Clause 2.

**The Chairman:** The question is that Clause 2 be re-committed. All those in favour please say Aye. Those against, No.

**AYES.**

**Hon. David F. Ballantyne:** Madam Chairwoman, before we take the vote, it might be simpler for the House if I wrote this out in the form of the Committee Stage Amendment. Then we can let the rest of the Bill proceed and then come back and recommit Clause 2, when we are ready to do that. Then everybody can see what we are doing and we would not have any confusion. Thank you.

**The Chairman:** Thank you,

### CLAUSES 59 THROUGH 116

**The Clerk:**

Clause 59 Special provision for Antarctic Area.  
 Clause 60 Discharges containing chemicals et cetera, prohibited.  
 Clause 61 Investigations.  
 Clause 62 Retention of oil residues on board.  
 Clause 63 Tanks for oil residues, sludge.  
 Clause 64 Exceptions under Chapter 2.  
 Clause 65 Provision of reception facilities.  
 Clause 66 Location of reception facilities.  
 Clause 67 Capacities of reception facilities.  
 Clause 68 Notice of inadequate reception facilities.  
 Clause 69 Oil record book.  
 Clause 70 Special requirements for drilling rigs and other platforms.  
 Clause 71 Ship board oil pollution emergency plan.  
 Clause 72 Offences under Chapter 2.  
 Clause 73 Power to make regulations under Chapter 2.  
 Clause 74 Interpretation for the purposes of Chapter 3.  
 Clause 75 Application of Chapter 3.  
 Clause 76 Conversion of a ship to a chemical tanker.  
 Clause 77 Modification or delay of application of amendments.  
 Clause 78 Equivalence.  
 Clause 79 Categorisation and listing noxious substances.  
 Clause 80 Other liquid substances.  
 Clause 81 Provisional assessment and categorisation of substances.  
 Clause 82 Clean or segregated ballast.  
 Clause 83 Special areas.  
 Clause 84 Discharge of Category A substances outside and within special areas.  
 Clause 85 Discharges of Category B and C substances outside special areas.  
 Clause 86 Discharge of Category B and C substances within special areas.  
 Clause 87 Discharges of Category D substances in all areas.

Clause 88 Discharges from a slop tank and meaning of on route.  
 Clause 89 Special provision for Antarctic Area.  
 Clause 90 Ventilation procedures.  
 Clause 91 Uncategorised substances.  
 Clause 92 Retention on board of residues of Category B or C substances.  
 Clause 93 Pumping, piping and unloading arrangements.  
 Clause 94 Exceptions under Chapter 3.  
 Clause 95 Reception facilities for noxious liquid substances.  
 Clause 96 Arrangements at cargo unloading terminals.  
 Clause 97 Notification to organisation regarding reception facilities.  
 Clause 98 Measures of control.  
 Clause 99 Cargo record book.  
 Clause 100 Surveys.  
 Clause 101 Nominated surveyors and recognised organisations.  
 Clause 102 Corrective action.  
 Clause 103 Withdrawal of MLS certificate and detention.  
 Clause 104 Assistance to other Morpol member states.  
 Clause 105 Maintenance requirements.  
 Clause 106 Report of accidents and defects.  
 Clause 107 Issue or endorsement of MLS certificate.  
 Clause 108 Issue or endorsement of MLS certificate upon request by a Morpol member state.  
 Clause 109 Form of MLS certificate.  
 Clause 110 Duration and validity of MLS certificate.  
 Clause 111 Transfer of flag.  
 Clause 112 Survey and certification of chemical tankers.  
 Clause 113 Requirements for minimising accidental pollution.  
 Clause 114 Carriage and discharge of oil like substances.  
 Clause 115 Offences under Chapter 3.  
 Clause 116 Power to make regulations under Chapter 3.

**The Chairman:** If there is no debate, I shall put the question that Clauses 59 to 116 do stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 59 TO 116 PASSED.**

### CLAUSES 117 –THROUGH 161

**The Clerk:**

Clause 117 Interpretation for the purposes of Chapter 4.  
 Clause 118 Application of Chapter 4.  
 Clause 119 Prohibitions on carriage, shipment and jettisoning of harmful substances.  
 Clause 120 Packing.  
 Clause 121 Marking and labelling.  
 Clause 122 Documentation.

|            |                                                                         |
|------------|-------------------------------------------------------------------------|
| Clause 123 | Stowage.                                                                |
| Clause 124 | Quantity limitations.                                                   |
| Clause 125 | Power to make regulations under Chapter 4.                              |
| Clause 126 | Exceptions under Chapter 4.                                             |
| Clause 127 | Offences under Chapter 4.                                               |
| Clause 128 | Interpretations for the purposes of Chapter 5.                          |
| Clause 129 | Application of Chapter 5.                                               |
| Clause 130 | Surveys.                                                                |
| Clause 131 | Power to make regulations under Chapter 5.                              |
| Clause 132 | Issue of international sewage pollution prevention certificate (SPPC).  |
| Clause 133 | Issue of SPPC upon request by a Morpal member state.                    |
| Clause 134 | Form of SPPC.                                                           |
| Clause 135 | Duration of SPPC.                                                       |
| Clause 136 | Discharge controls.                                                     |
| Clause 137 | Public notice of standards.                                             |
| Clause 138 | Exceptions under Chapter 5.                                             |
| Clause 139 | Sewage reception facility and standard discharge connections.           |
| Clause 140 | Inspection of sewage reception facility.                                |
| Clause 141 | Notice of inadequate sewage reception facilities.                       |
| Clause 142 | Offences under chapter 5.                                               |
| Clause 143 | Interpretations for the purposes of Chapter 6.                          |
| Clause 144 | Application of chapter 6.                                               |
| Clause 145 | Special areas.                                                          |
| Clause 146 | Disposal of garbage outside special areas.                              |
| Clause 147 | Disposal of garbage from fixed or floating platforms.                   |
| Clause 148 | Disposal of garbage within special areas.                               |
| Clause 149 | Special provision for wider Caribbean Region.                           |
| Clause 150 | Mixed wastes.                                                           |
| Clause 151 | Special provision for Antarctic Area.                                   |
| Clause 152 | Exceptions under Chapter 6.                                             |
| Clause 153 | Garbage reception facilities.                                           |
| Clause 154 | Inspection of reception facilities and notice of inadequate facilities. |
| Clause 155 | Placards.                                                               |
| Clause 156 | Garbage management plans.                                               |
| Clause 157 | Garbage record book.                                                    |
| Clause 158 | Power to make regulations under Chapter 6.                              |
| Clause 159 | Regional co-operation.                                                  |
| Clause 160 | Notification of garbage disposal prohibitions.                          |
| Clause 161 | Offences under Chapter 6.                                               |

**The Chairman:** If there is no debate, I shall put the question that Clauses 117 to 161 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 117 THROUGH 161 PASSED.**

## CLAUSES 162 THROUGH 205

### The Clerk:

|            |                                                                          |
|------------|--------------------------------------------------------------------------|
| Clause 162 | Interpretations for the purposes of part 6.                              |
| Clause 163 | Application of part to Government ships and naval vessels.               |
| Clause 164 | Oil pollution emergency plans.                                           |
| Clause 165 | Oil pollution reporting procedures.                                      |
| Clause 166 | Action on receiving an oil pollution report.                             |
| Clause 167 | National system preparedness and response.                               |
| Clause 168 | International co-operation in pollution response.                        |
| Clause 169 | Research and development.                                                |
| Clause 170 | Technical co-operation.                                                  |
| Clause 171 | Bilateral and multilateral co-operation in preparedness and response.    |
| Clause 172 | Relation to other parts.                                                 |
| Clause 173 | Interpretation for the purposes of part 7.                               |
| Clause 174 | Application of part 7.                                                   |
| Clause 175 | Objects of part 7.                                                       |
| Clause 176 | Administration of part 7.                                                |
| Clause 177 | Obligations of authorised person.                                        |
| Clause 178 | Director of environmental affairs may make more stringent measures.      |
| Clause 179 | Prohibition of dumping of wastes.                                        |
| Clause 180 | Dumping permits.                                                         |
| Clause 181 | Duty to notify organisation.                                             |
| Clause 182 | Prohibition of incineration at sea and of export of wastes.              |
| Clause 183 | Offences under part 7.                                                   |
| Clause 184 | Exceptions in cases of forced measure.                                   |
| Clause 185 | Exceptions in cases of other emergencies.                                |
| Clause 186 | Record keeping and reporting.                                            |
| Clause 187 | Co-operation regarding enforcement.                                      |
| Clause 188 | Liability for damage arising out of dumping at sea.                      |
| Clause 189 | Settlement of disputes.                                                  |
| Clause 190 | Interpretation for the purposes of part 8.                               |
| Clause 191 | Application of part 8.                                                   |
| Clause 192 | Liability of the owner.                                                  |
| Clause 193 | Incidents involving two or more ships.                                   |
| Clause 194 | Limitation of liability.                                                 |
| Clause 195 | Limitation fund to be constituted in dollars.                            |
| Clause 197 | Bar to other actions.                                                    |
| Clause 198 | Death and injury.                                                        |
| Clause 199 | Compulsory insurance of the owner.                                       |
| Clause 200 | HNS fund and miscellaneous matters relating to the convention.           |
| Clause 201 | Power to make regulations under part 8.                                  |
| Clause 202 | Enforcement, et cetera.                                                  |
| Clause 203 | Service of documents on ship owners' application of fines, et cetera.    |
| Clause 204 | Restriction on jurisdiction over offences outside Cayman Islands limits. |
| Clause 205 | Suspension of proceedings at flag stage requests.                        |

**The Chairman:** If there is no debate I put the question, that clauses 162 to 205 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 162 THROUGH 205 PASSED.**



**SCHEDULES 1 THROUGH 20****The Clerk:**

|             |                                                                                                                                                                                                            |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Schedule 1  | List of Substances established by the Marine Environment Protection Committee of the Organisation, in accordance with Paragraphs 2(a) of Article 1 of the Protocol of 1973 to the Intervention Convention. |
| Schedule 2  | Conciliation and Arbitration under the Intervention Convention annexed to the Intervention Convention.                                                                                                     |
| Schedule 3  | Substances listed in appendix 1 to annex 1 of Morpol.                                                                                                                                                      |
| Schedule 4  | Form of IOPP Certificate and supplements.                                                                                                                                                                  |
| Schedule 5  | Form of oil record book.                                                                                                                                                                                   |
| Schedule 6  | List of noxious liquid substances carried in bulk.                                                                                                                                                         |
| Schedule 7  | Guidelines for the categorisation of noxious liquid substances.                                                                                                                                            |
| Schedule 8  | List of other liquid substances.                                                                                                                                                                           |
| Schedule 9  | Form of cargo record book for ships carrying noxious liquid substances in bulk.                                                                                                                            |
| Schedule 10 | Form of NLS certificate.                                                                                                                                                                                   |
| Schedule 11 | Guidelines for the identification of harmful substances in packaged form.                                                                                                                                  |
| Schedule 12 | Form of ISPP certificate.                                                                                                                                                                                  |
| Schedule 13 | Standard dimensions of flanges for discharge connections.                                                                                                                                                  |
| Schedule 14 | Form of garbage record book.                                                                                                                                                                               |
| Schedule 15 | Annex to the International Convention on oil pollution preparedness response and co-operation, 1990 reimbursement of the costs of assistance.                                                              |
| Schedule 16 | Dumping of wastes                                                                                                                                                                                          |
| Schedule 17 | 1996 Protocol to the London Convention.                                                                                                                                                                    |
| Schedule 18 | Form of certificate of insurance regarding carriage of HNS.                                                                                                                                                |
| Schedule 19 | Texts of chapter 3 and 4 Article 52 and Annex 2 of the HNS Convention.                                                                                                                                     |
| Schedule 20 | Texts of Article 48 of the HNS Convention amendment of limits.                                                                                                                                             |

**The Chairman:** If there is no debate, I shall put the question that Schedules 1 through 20 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**SCHEDULES 1 THROUGH 20 PASSED.**

**The Chairman:** We are awaiting the amendment for Clause 2, before we actually put the Title. Perhaps if the Government Whip could check with the Second Official Member to see at what stage he has proceeded. Perhaps it may be prudent to take a 5-minute break at this time.

**PROCEEDINGS SUSPENDED AT 5.36 PM**

**PROCEEDINGS RESUMED AT 5.49 PM**

**The Chairman:** Please be seated. Proceedings on Committee are resumed. It is my understanding that the amendment has been circulated and agreed. Perhaps the Second Official Member would wish to read it into the record?

**AMENDMENT TO:****THE MERCHANT SHIPPING MARINE POLLUTION BILL, 2001 (CLAUSE 2)**

*And*

**THE MERCHANT SHIPPING LAW (2001 REVISION)**

**Hon. David F. Ballantyne:** Thank you, Madam Chairwoman.

Notice of Committee Stage Amendment Merchant Shipping Marine Pollution Bill, 2001. I would beg to move suspension of the relevant Standing Order to allow the Committee Stage Amendment.

I, the Second Official Member give notice that I intend to move the following Committee Stage Amendment to the Merchant Shipping Marine Pollution Bill 2001, that Clause 2 of the Bill be amended by deleting the definition of 'Minister' and substituting therefore the following definition, "Member of Executive Council", means the Member of Executive Council for the time being responsible for Merchant Shipping and Seamen and all references to 'Minister' in this Bill and in the Merchant Shipping Law (2001 Revision) are amended to read, 'Member of Executive Council'. May I so move? Thank you.

**The Chairman:** Thank you. Just on a point of clarification, are you also seeking to amend the Merchant Shipping Law, 2001?

**Hon. David F. Ballantyne:** Yes, Madam Chairwoman. The reason being that if we do not do that, we will continue to have a reference to 'Minister' in the Merchant Shipping Law. Whereas, we will have a reference to 'Member of Executive Council' in the Merchant Shipping Marine Pollution Law. There is no reason why one Bill cannot amend two Laws, if the House finds that acceptable.

The reason is, that the original definition in this Bill said that 'Minister' has the meaning given in section 2(1) of the Merchant Shipping Law (2001 Revision) what I have done is to take the definition from the 2001 revision and put it in to the definition in this Law and if we change the reference to 'Minister' in the Merchant Shipping Law as well, then instead of saying 'Minister' in the Merchant Shipping Law it will say 'Member of Executive Council'. It will then read 'Member of Executive Council' means the Member of Executive Council for the time being responsible for Merchant Shipping and Seamen. It will at least bring the two Laws into consistency with each other. It is a

little untidy for us, but it will be neater, I think, at the end of the day.

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak to it? Do you wish to speak any further in reply, Honourable Second Official Member?

Sorry the Second Elected Member for the district of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I am not sure what bearing this will have on the attitude adopted by the Honourable Second Official Member in relation to this amendment but, just to note, that 'Minister' is defined in the Constitution.

**The Chairman:** Is that the extent of your thing or is there a conjunction after that?

*[Inaudible comment from Mr. Alden M. McLaughlin]*

**Hon. David F. Ballantyne:** I agree with that and that probably reinforces the need to move away from the definition of 'Minister' because I think Member of Executive Council can be either Minister or Official Member. If we leave it at 'Minister' I think we are stuck with an anachronism which would be better removed.

**The Chairman:** I will put the question that the amendment do stand part of the Clause.

The Member for East End.

**Mr. V. Arden McLean:** Madam Chairwoman, under the Merchant Law 'Minister' means the Member of Executive Council for the time being responsible for Merchant Shipping and seamen. So, I am just wondering if there is a need to refer to the Merchant Shipping Law.

**Hon. David F. Ballantyne:** I agree on the face of it, there is no need to do so, because it is exactly that. However, it uses the word 'Minister' and the effect of this amendment would be to change that word to read 'Member of Executive Council' right throughout the Merchant Shipping Law. So, we are going to have to do a revision of the Merchant Shipping Law but I think that is preferable because it provides a basis for the accurate reference to the Honourable Financial Secretary.

**The Chairman:** I follow you, Honourable Second Honourable Minister. I was just thinking that when you said about reprint—but that is not a matter for my concern.

**Hon. David F. Ballantyne:** I can reassure you that if I can find the Merchant Shipping Law, we have just amended it anyway so it is going to have to be reprinted or a revision of it prepared in any event to reflect the amendments that we have made in the Mer-

chant Shipping Amendment Surveys and Certification and Miscellaneous Provisions Bill 2001. So, I do not think it will be an unnecessary reprint. Thank you.

**The Chairman:** I put the question then that the Amendment stand part of the Clause [2 of the Merchant Shipping Marine Pollution Bill, 2001.]

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

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2 AMENDED.**

**The Chairman:** I will now put the question that the Clause as amended do stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 2 AS AMENDED PASSED.**

**The Clerk:** A Bill for a Law to prevent the deliberate, negligent or accidental release of oil and other harmful substances from ships for the protection and preservation of the marine environment and the conservation of the natural resources therein and to that end to regulate maritime activities and for incidental and connected purposes.

**The Chairman:** The question is, is that the Title stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

## **THE INSURANCE (AMENDMENT) BILL, 2001**

### **CLAUSES 1 THROUGH 5**

**The Clerk:** The Insurance (Amendment) Bill, 2001.

|          |                                                                          |
|----------|--------------------------------------------------------------------------|
| Clause 1 | Short title.                                                             |
| Clause 2 | Amendment of section 2 of the Insurance-Law (2001 Revision) definitions. |
| Clause 3 | Amendment of section 4. Applications for licenses.                       |
| Clause 4 | Amendment of section 5, the Authority.                                   |

**The Chairman:** If there is no debate, I put the question that Clauses 1 through 4 do stand part of the Bill. All in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 4 PASSED.**

**CLAUSES 5 THROUGH 10**

**The Clerk:**

- |           |                                                                                                   |
|-----------|---------------------------------------------------------------------------------------------------|
| Clause 5  | Amendment of section 7. General requirements for licensed insurers.                               |
| Clause 6  | Insertion of section 7 (a). Shares not to be issued or transferred without approval of authority. |
| Clause 7  | Amendment of section 9. Annual returns by licensed insurers.                                      |
| Clause 8  | Insertion of section 10(a). Cease and desist orders.                                              |
| Clause 9  | Repeal and replacement of section 11. Powers of the Governor.                                     |
| Clause 10 | Insertion of section 11(a). Surrender of licence.                                                 |

**The Chairman:** If there is no debate, I shall put the question that Clauses 5 through 10 do stand part of the Bill. Those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 5 THROUGH 10 PASSED.**

**The Clerk:** A Bill to amend the Insurance Law, 2001(Revision); to enable insurance businesses to be regulated to the same extent as other financial institutions, and for incidental and connected purposes.

**The Chairman:** The question is that the Title stand part of the Bill. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**THE SECURITIES INVESTMENT BUSINESS BILL,  
2001**

**The Clerk:** The Securities Investment Business Bill, 2001.

- |          |                               |
|----------|-------------------------------|
| Clause 1 | Short title and commencement. |
| Clause 2 | Interpretation.               |
| Clause 3 | Group of companies.           |

**The Chairman:** If there is no debate, I shall put the question that Clauses 1 through 3 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 THROUGH 3 PASSED.**

**The Chairman:** Receive notice of amendment to Clause 4 and I have granted leave. The Honourable Member.

**CLAUSE 4**

**The Clerk:** Clause 4 Meaning of Securities Investment Business.

**The Chairman:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, in accordance with the provisions of Standing Orders 52 1 and 2, I the Third Official Member give notice that I intend to move the following Committee Stage Amendment to the Securities Bill, 2001. That Clause 4 of the Bill be amended by deleting subsection (3).

**The Chairman:** The Amendment has been duly moved. Is there any debate? If not I shall put the question that the Amendment stands part of the Clause. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 4 AMENDED.**

**The Chairman:** I shall put the question that the Clause as amended do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSE 4 AS AMENDED PASSED.**

**CLAUSES 5 THROUGH 12**

**The Clerk:**

- |           |                                                                                     |
|-----------|-------------------------------------------------------------------------------------|
| Clause 5  | Requirement for a licence.                                                          |
| Clause 6  | Application for a licence.                                                          |
| Clause 7  | Fees and returns.                                                                   |
| Clause 8  | Shares not to be issued or transferred without the prior approval of the authority. |
| Clause 9  | Use of words connoting Securities Investment Business.                              |
| Clause 10 | Segregation of property.                                                            |
| Clause 11 | Regulations.                                                                        |
| Clause 12 | Guidance notes.                                                                     |

**The Chairman:** If there is no debate, I put the question that Clauses 5 through 12 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 5 THROUGH 12 PASSED.**

**CLAUSES 13 THROUGH 22**

**The Clerk:**

|           |                                                                    |
|-----------|--------------------------------------------------------------------|
| Clause 13 | Accounts.                                                          |
| Clause 14 | Certain prohibitions on Licensee.                                  |
| Clause 15 | Number and approval of directors.                                  |
| Clause 16 | Powers and duties of the Authority.                                |
| Clause 17 | Enforcement powers of the Authority.                               |
| Clause 18 | Injunctions and restitution and disgorgement orders.               |
| Clause 19 | Duty of auditor.                                                   |
| Clause 20 | Entry and search of premises.                                      |
| Clause 21 | Winding up.                                                        |
| Clause 22 | Appeals against decisions made under Section 17(2) (i) and (viii). |

**The Chairman:** If there is no debate I shall put the question that Clauses 13 through 22 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 13 THROUGH 22 PASSED.**

**CLAUSES 23 THROUGH 36**

**The Clerk:**

|           |                                                               |
|-----------|---------------------------------------------------------------|
| Clause 23 | Appeals against other decisions of the authority.             |
| Clause 24 | Creation of false or misleading market.                       |
| Clause 25 | Insider dealing.                                              |
| Clause 26 | Defences.                                                     |
| Clause 27 | Territorial scope of offence insider dealing.                 |
| Clause 28 | Limits on section 25.                                         |
| Clause 29 | Dealing in listed securities.                                 |
| Clause 30 | Procuring the acquisition or disposal of a listed security.   |
| Clause 31 | Inside information.                                           |
| Clause 32 | Price affected securities and price sensitive information.    |
| Clause 33 | Information as an insider.                                    |
| Clause 34 | Definition of 'made public'.                                  |
| Clause 35 | Penalties.                                                    |
| Clause 36 | Duty of exchange and authority in relation to broker members. |

**The Chairman:** If there is no debate, I shall put the question that Clauses 23 through 36 do stand part of

the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 23 TO 36 PASSED.**

**CLAUSES 37 THROUGH 41**

**The Clerk:**

|           |                             |
|-----------|-----------------------------|
| Clause 37 | Offences by corporations.   |
| Clause 38 | Indemnity.                  |
| Clause 39 | Offences.                   |
| Clause 40 | Transitional provisions.    |
| Clause 41 | Amendment of the Schedules. |

**The Chairman:** If there is no debate, I shall put the question that Clauses 37 through 41 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 37 THROUGH 41 PASSED.**

**SCHEDULES 1 THROUGH 4**

**The Clerk:**

|            |                                                       |
|------------|-------------------------------------------------------|
| Schedule 1 | Securities.                                           |
| Schedule 2 | Securities investment business. Regulated activities. |
| Schedule 3 | Excluded activities.                                  |
| Schedule 4 | Excluded persons.                                     |

**The Chairman:** If there is no debate, I put the question that Schedules 1 through 4 do stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**SCHEDULES 1 THROUGH 4 PASSED.**

**The Clerk:** A Bill for a Law to provide for the licensing and control of persons engaged in Securities Investment Business and for incidental and connected purposes.

**The Chairman:** The question is that the Title stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** The Question is that the Bills be reported back to the House. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: COMMITTEE TO REPORT TO THE HOUSE.**

**The Chairman:** That concluded Committee proceedings.

**HOUSE RESUMED — 6.06 PM****REPORTS ON BILLS**

**The Speaker:** Please be seated. Proceedings in the House are resumed.

The Honourable First Official Member.

**THE TRAFFIC (AMENDMENT) BILL, 2001**

**Hon. James M. Ryan:** Madam Speaker, I have to report that a Bill entitled, The Traffic (Amendment) Bill, 2001, was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill has been duly reported to this Honourable House and is set down for a Third Reading.

**THE MERCHANT SHIPPING (AMENDMENT) (SURVEYS AND CERTIFICATION AND MISCELLANEOUS PROVISIONS) BILL, 2001**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled, The Merchant Shipping (Amendment) (Surveys and Certification and Miscellaneous Provisions) Bill, 2001, was considered by a committee of the whole House and passed without amendment.

**The Speaker:** The Bill has been duly reported to the Honourable House and is set down for the Third Reading.

**MERCHANT SHIPPING (MARINE POLLUTION) BILL, 2001**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled, The Merchant Shipping (Marine Pollution) Bill, 2001 was considered by a commit-

tee of the whole House and was passed with amendment.

**The Speaker:** The Bill has been duly reported to the Honourable House and is set down for a Third Reading.

The Honourable Third Official Member.

**THE INSURANCE (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled, The Insurance (Amendment) Bill, 2001, was considered by a committee of the whole House and was passed without amendment.

**The Speaker:** The Bill has been duly reported to the Honourable House and is set down for the Third Reading.

The Honourable Third Official Member.

**SECURITIES INVESTMENT BUSINESS BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled, The Securities Investment Business Bill, 2001, was considered by a committee of the whole House and was passed with amendment.

**The Speaker:** The Bill has been duly reported to the Honourable House and is set down for the Third Reading.

Third Readings.

**SUSPENSION OF STANDING ORDER 47**

**The Speaker:** The Honourable Leader of Government Business or the Deputy Leader for the suspension of Standing Order 47.

**Hon. Linford A. Pierson:** Madam Speaker, I move the suspension of Standing Order 47 to allow for a third reading.

**The Speaker:** The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 47 SUSPENDED.****THIRD READINGS**

**The Speaker:** The Honourable First Official Member.

**THE TRAFFIC (AMENDMENT) BILL, 2001**

**Hon. James M. Ryan:** Madam Speaker, I beg to move that a Bill entitled The Traffic (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled, The Traffic (Amendment) Bill, 2001, be given a third reading and passed.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE TRAFFIC (AMENDMENT) BILL 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** The Honourable Third Official Member.

**THE MERCHANT SHIPPING (AMENDMENT) (SURVEYS AND CERTIFICATION AND MISCELLANEOUS PROVISIONS) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled the Merchant Shipping (Amendment) (Surveys and Certification and Miscellaneous Provisions) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Merchant Shipping (Amendment) (Surveys and Certification and Miscellaneous Provisions) Bill, 2001, be given a third reading and passed. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MERCHANT SHIPPING (AMENDMENT) (SURVEYS AND CERTIFICATION AND MISCELLANEOUS PROVISIONS) BILL, 2001 GIVEN A THIRD READING AND PASSED.**

**The Speaker:** The Honourable Third Official Member.

**THE MERCHANT SHIPPING (MARINE POLLUTION) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled the Merchant Shipping (Marine Pollution) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Merchant Shipping (Marine Pollution) Bill, 2001, as amended, be given a third reading and passed.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE MERCHANT SHIPPING (MARINE POLLUTION) BILL, 2001, (AS AMENDED), GIVEN A THIRD READING AND PASSED.**

**The Speaker:** The Honourable Third Official Member.

**INSURANCE (AMENDMENT) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled Insurance (Amendment) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Insurance (Amendment) Bill, 2001, be given a third reading and passed. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE INSURANCE (AMENDMENT) BILL, 2001 HAS BEEN DULY READ A THIRD TIME AND PASSED.**

**The Speaker:** The Honourable Third Official Member.

**SECURITIES INVESTMENT BUSINESS BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill entitled, the Securities Investment Business Bill, 2001, as amended, be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Securities Investment Business Bill, 2001, as amended, be given a third reading and passed. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE SECURITIES INVESTMENT BUSINESS BILL, 2001, AS AMENDED, GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Honourable Deputy Leader of Government Business would you wish to move a motion for the adjournment?

## ADJOURNMENT

**Hon. Linford A. Pierson:** Madam Speaker, I beg to move the adjournment of this Honourable House until 10 am tomorrow, 11 January.

**The Speaker:** Thank you. The question is that the House do now adjourn until 10 am tomorrow, 11 January. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. This Honourable House stands adjourned until 10 am tomorrow, 11 January.

**AT 6.14 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM FRIDAY, 11 JANUARY 2001.**

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**11 JANUARY 2002**  
**10.36 AM**  
*Fourteenth Sitting*

**The Speaker:** I will invite the Honourable Minister responsible for Education to grace with prayers.

**PRAYERS**

**Hon. Roy Bodden:** Let us pray.

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

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

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

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

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

**APOLOGIES**

**The Speaker:** Please be seated. Proceedings are resumed. I have apologies for the late arrival of the Honourable Second Official Member who will be joining us in the afternoon part of today's sitting.

The Second Elected Member for the district of West Bay.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REPORT OF THE STANDING PUBLIC ACCOUNTS  
COMMITTEE ON THE REPORT OF THE AUDITOR  
GENERAL ON THE FINANCIAL STATEMENTS OF  
THE GOVERNMENT OF THE CAYMAN ISLANDS  
FOR THE YEAR ENDED 31 DECEMBER 1999 TO-  
GETHER WITH THE REPORT OF THE AUDITOR  
GENERAL ON THE FINANCIAL STATEMENTS OF  
THE GOVERNMENT OF THE CAYMAN ISLANDS  
FOR THE YEAR ENDED 31 DECEMBER 1999**

**Mr. Rolston M. Anglin:** Madam Speaker, I wish to lay the Table of this Honourable House the Report of the Standing Public Accounts Committee (PAC) on the Report of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the year ended 31 December 1999, together with the report of The Auditor General on the Financial Statements of the Government of the Cayman Islands for the year ended 31 December 1999.

**The Speaker:** So ordered. Will the Member wish to speak thereto?

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker.

I would first like to give an acknowledgement of thanks to all the Members of the Public Accounts Committee who took part in deliberating and formulating the Report that we now have before us. I would like to also thank the former Clerk, Ms. Georgette Myrie, who was Secretary to the Committee. I would like to thank the current Clerk and the staff of the Legislative Assembly for putting together the final Report that we have before us. I would also like to thank the Auditor General and his staff, the Deputy Financial Secretary and the Accountant General who were present at all the calling of witnesses. I also thank the witnesses who appeared before the Committee and so ably gave responses that allowed us to formulate a report.

Madam Speaker, it is my understanding that in the past there was a practice of reading the entire report. However, this Report is a lengthy one and I believe that it would be more appropriate to give some brief highlights of the Report and, especially now that it has been tabled, it is obviously a public document. I would commend this to be read by the wider public.

I would like to first say that one of the goals of the Committee working in tandem with the Auditor General and his office and the other relevant agencies within the Cayman Islands Government, is that we



would be able to bring to this honourable House (and therefore to the public of the Cayman Islands) more timely reports. We are now in the year 2002 and here we are laying on the Table a report of the audited accounts of the Cayman Islands Government for the year ended 31 December 1999.

Madam Speaker, as you and others are aware, first of all a different Government would have provided the Minutes in response to these two reports. Most of us who are on the Committee were not even in this Legislative Assembly in the year in question. So, that is something we hope will be improved over the next few years so that we can bring more timely reports back to the House. Obviously, the Public Accounts Committee does indeed represent and work on behalf of this entire Legislative Assembly.

In conformity with the National Strategic plan for the Cayman Islands—Vision 2008, the Public Accounts Committee is committed to Strategy (a), Open and Accountable Government; in particular, Action Plan 2, to ensure that public finances are managed prudently and that the disclosure and reporting standards provide timely, relevant, reliable and understandable information to legislators and the community. It is, as I said earlier, with great sadness that our first task is to report on the financial statements from 1999.

The Auditor General in his report outlined a number of areas on which he has had to qualify his opinion. Those areas include: an excess and unauthorised expenditure amounting to some \$6,310,209 on the department heads for Health Services; the Department of Vehicles and Equipment Services; the Ministry of Education, Aviation and Planning. On that report there was a disagreement with the accounting treatment for overseas medical advances which currently amounted to \$15,940,367; that is at 31 December 1999. Pre-payments totalling some \$1,926,311 were made from the Capital Development fund contrary to the Public Finance and Audit Law and the regulations thereto. Another area reported was the lack of legal authority to make pension payments amounting to some \$3,710,263 between the months of April and December 1999.

Madam Speaker, in regard to the excess and unauthorised expenditure of some \$6,310,209, the largest amount related to the Ministry of Education, Aviation and Planning, which was \$5,860,333. The biggest concern in this area is the debts owed by Cayman Airways Limited to the Civil Aviation Authority (CAA) and the Customs Department. No supplementary appropriation was sought in respect of settling Cayman Airways Limited debts to the Civil Aviation Authority and the Customs Department. In December 1999 the Finance Committee authorised the settlement of the amounts due to the CAA as follows:

The CAA was relieved of certain debt obligations it owed to Cayman Airways Limited's (CAL) sole shareholder (Cayman Islands Government). The Cayman Airways Limited sole shareholder (Cayman

Islands Government) was to receive an equivalent nominal value of shares in Cayman Airways Limited. That is, the nominal value would be equivalent to the amount owed by CAL to the CAA. It is noteworthy knowing that to the date of preparing this Report those shares were still not issued.

For many years the opinion of the Auditor General on the Government's accounts has been qualified in regard to the accounting treatment for overseas medical advances. To be exact, the opinion has been qualified for the last five years due to this issue. The current accounting treatment understates the recurrent expenditures and materially overstates both the total assets reported in the statement of assets and liabilities and the accumulated surplus reported in the statement of surplus and deficit. In regard to the amounts that have been paid on behalf of persons in need of medical care, many of these accounts have not had any repayment back to the Cayman Islands Government.

Madam Speaker, the crux of the matter relates to the fact that for these amounts to be treated as an advance there should be a reasonable prospect of recoupment of those funds in a relatively short period of time by the Cayman Islands Government. However, most of these accounts are indeed long term debts owed to the Cayman Islands Government and many of them are such that if the Cayman Islands Government were to request payment today, it would be highly unlikely that that repayment would be in full. More than likely most of these would have to be put on some sort of terms of repayment. Therefore, just on that note alone it could not be accurately reflected to say that they are an advance.

The issue of pre-payments, totalling some \$1,926,311 made from the Capital Development Fund, is (in the opinion of the Auditor General and indeed endorsed by the PAC) contrary to The Public Finance and Audit Law (1997 Revision) and The Financial and Stores Regulations.

Any payment by the Cayman Islands Government, unless duly authorised by the Financial Secretary's office, should not be made in advance of receipt of the goods or the services. So, due to such pre-payments taking place in the year 1999, without the prior approval of the Financial Secretary's office, the Auditor General has qualified the financial statements on that issue.

The last point upon which there is a qualification is in regards to illegal pension payments. That is, pension payments that were made without the necessary legal basis. This whole issue came about due to the fact that there was a change in the Pensions Law and the new Law which is termed in our Report "The Public Service Pensions Law" did not have provision to make those payments at the time and in the manner that they were made. In section 16 of the new Law it states that all pension benefits shall be paid from the Public Service Pension Fund.

The repeal of the Pensions Law (1999 Revision) ended the legal authority to make pension payments to retired civil servant, their widows and orphans from the General Revenue of the Cayman Islands Governments. For the period April to December 1999 the Government continued to make pension payments in the amount of some \$3,710,263 from the General Revenue. Payments from September through December 1999 were made by payment to the Public Service Pensions fund from the General Revenue Fund and then a further payment onto the recipients. Adequate authority did not support these payments. The PAC was informed that the decision was made to continue to make payments until the fund could be certified as self-sustaining and that these payments would be made with a view that the technical or legal issues would be corrected at a later date.

Those are the issues surrounding the qualification of the Auditor General's opinion. Just for clarity's sake, I would like it to be in the records and clearly explained that whenever an auditor seeks to audit financial statements, an unqualified opinion is what we call a clean opinion, that is, it is deemed that the financial statements do represent a true and fair view of the financial position of the entity in question at that particular date. It does qualify an opinion, once you look at the items upon which the qualification is made, which basically says that the items in the financial statements (other than the statements) are being qualified because they would then present that true and fair view. In other words, the Auditor General is basically saying that other than those five items listed he would have issued an unqualified opinion.

I am now turning to the main highlights of our general comments and recommendations.

#### **AUDITOR GENERAL'S REPORT**

The current process causes delays as to when any report from the Auditor General becomes a public document and therefore it can lose its impact, as is the case currently before us. As I said earlier, these are the 1999 financial statements and we are currently in the year 2002.

Due consideration should be given to changing the Standing Orders and other relevant legislation to allow the Auditor General's reports to be made public upon submission to the presiding officer of the Legislative Assembly so that the PAC can deliberate and call witnesses. The result would be that the general populace would have access to more timely information. It is also noteworthy that in the new Public, Finance and Management Bill there is a call for such a process to occur.

So there is a need, Madam Speaker, for us here in the Legislative Assembly to modernise our Standing Orders—indeed, there has been a Motion that called for that which was accepted and passed. I understand a committee will be called shortly to look at the Standing Orders with a view to modernising

them so as to allow the business to be carried out here in a more efficient and modern manner. This is a matter that will be raised once that that process starts, that is, to modernise the Standing Orders.

#### **INTERNAL CONTROLS OVER CASH RECEIPTS**

The Financial Secretary has overall responsibility to ensure that funds of Government are collected. Internal control surrounding cash receipts and deposits need to be more clearly communicated to every department by the Financial Secretary. Controlling officers need to follow the instructions of the Financial Secretary and be held accountable for the collection of cash.

Madam Speaker, with your permission I would just like to add that I understand this matter was followed up by the Honourable Third Official Member in the years 2000 and 2001 and that there are now in place much more acceptable practices in regard to this matter. However, this is a matter that does require continual follow up and it is my understanding that that has been happening over the last two years.

#### **GRANTS TO ENTITIES AND INSTITUTIONS**

Funding provided to organisations such as the Cayman Islands Stock Exchange, the Tourism Attraction Board and the Community College of the Cayman Islands need to be reviewed annually to ensure that the level of funding is appropriate. These annual reviews should ensure that any excess funding is not allowed to build up in such organisations. In that regard there has been a correction of certain issues in regards to one particular entity, which is the Cayman Islands Stock Exchange. Just to expand on this a bit.

The Committee recognises that when the Cayman Islands Government does seek to start up such organisations, that there will be seed capital provided by the Government and more than likely there would be a need to have some form of annual subsidy provided to those organisations. However, the Committee is cognisant of the fact that there has been issues in the past as to exactly when these organisations do become self-sustaining and it would be reasonable to expect that they would provide back to the Cayman Islands Government some sort of contribution.

We believe that it is important that any funding provided by the Government to any such agencies is monitored and that we do ensure that we do not see a build-up of excess cash in those entities, yet the Government continue to provide a substantial subsidy.

#### **LACK OF COMMUNICATION**

There appears to be a lack of communication between government departments, statutory authorities and other agencies, in regards to sharing of information that may be beneficial to other entities. This

lack of communication and sharing of information is causing inefficiencies within the government as a whole. For example, problems are being identified between the Treasury, Immigration, Computer Services and other various departments. For Government to progress efficiently there is a need for timely sharing of information.

Holding of information and 'empire building' by individuals or departments must no longer be tolerated. Relevant information must flow between departments in order for the Government to plan and develop strategic direction and vision.

### UNRESOLVED MATTERS

The Committee is aware that many issues raised in previous Public Accounts Committees have never been satisfactorily addressed or resolved. This Committee will continue to draw attention to all matters affecting the financial health of the Government. We hope that the present Government—and I can say they do—will accept our observations and recommendations in the spirit that they are intended. That is, to improve financial management throughout Government and to seek the best possible value for the taxpayers dollars.

One long outstanding matter that has been brought to the Committee's attention concerns the failures since 1992 to regularise expenditure by means of a Supplementary Appropriation Bill. This is required under section 10 of the Public Finance and Audit Law (1997 Revision). This Bill should be brought to the Legislative Assembly as soon as possible after the close of the financial year to which the expenditures relate. The Committee respectfully calls upon the Government to regularise these long outstanding matters without any further delay.

### OVERALL ACCOUNTABILITY

Recommendations of prior Public Accounts Committees and the Auditor General have not been addressed in a timely manner. Just as major private sector firms have an auditor committee there is a dire need for the Government to implement similar concept. This would allow for more timely and effective resolution of matters raised by the Auditor General in his reports and management letters. The Committee recommends such a committee be comprised of the Auditor General and the Permanent Secretaries. Provisions for such a committee should be enshrined in the necessary legislation which would at this time be the new Public, Finance and Management Bill. However, at the date of this Report it would have been the Public Finance and Audit Law (1997 Revision).

The Committee would call for upper management to agree upon target dates for resolutions for any matter with their subordinates. Each department head would be held responsible for resolving the matters by the agreed upon dates. This would create

greater transparency and accountability. It would also enhance/create teamwork and instil oneness that is needed within the upper management of the Government. Just to touch briefly on the matter of unresolved matters and the reference made to the need for a Supplementary Appropriation Bill (having been outstanding since 1992), it is just for clarity when such monies are spent within a particular year even though the monies are spent there is a need for them to be legalised. There is a need for it to be brought back to the Finance Committee just so there is a technical legalisation of those matters.

Madam Speaker, within the Report there are numerous issues raised. There is indeed a description of the matters, the views put forward by witnesses, and then the recommendations of the Committee. I recommend the reading of this Report along with the Honourable Auditor General's report to all Members and indeed the wider public.

Under Standing Orders of this House and to be more precise Standing Order 77 section 7, "**The Government Minute shall be laid on the Table of the House within three months of the laying of the report of the PAC and the report of the Auditor General to which it relates.**" Therefore, the Government now has three months from today to provide the Minute in response to the matters raised. I would then so move that debate on the PAC report of the Auditor General on the financial statements of the Government of the Cayman Islands for the year ended 31 December 1999 and the relevant Government Minute be debated together.

I thank you, Madam Speaker.

### MOTION TO DEFER DEBATE

**The Speaker:** Thank you, Honourable Member.

The question is that the debate on the reports as mentioned, emanating from the Standing Public Accounts Committee be deferred until the Government Minute is laid upon the Table of this honourable House. All those in favour please say Aye.

**AYES.**

**The Speaker:** Those against, No. The Ayes have it. Debate is accordingly deferred.

**AGREED: DEBATE UPON THE REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE GOVERNMENT OF THE CAYMAN ISLANDS FOR THE YEAR ENDED 31 DECEMBER 1999, TOGETHER WITH THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF THE GOVERNMENT OF THE CAYMAN ISLANDS FOR THE YEAR ENDED 31 DECEMBER 1999, DEFERRED UNTIL THE GOVERNMENT MINUTE IS LAID UPON THE TABLE.**

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**COMMUNITY COLLEGE OF THE CAYMAN ISLANDS—AUDITED STATEMENTS 2000 AND ANNUAL REPORT 2000/01**

**Hon. Roy Bodden:** Madam Speaker, I beg to lay on the Table of this Honourable House audited financial statements of the Community College of the Cayman Islands for the year 2000 and the Annual Report of the Community College of the Cayman Islands for 2000/01.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Roy Bodden:** Yes, Madam Speaker.

**The Speaker:** Please proceed.

**Hon. Roy Bodden:** The 2000/01 school year was a milestone in the history of the Community College, with the achievement of a number of significant goals. These goals include increased enrolment especially of Caymanian students the ability to cover over 20 percent of the recurrent expenditure, the ability to maintain low fees and graduating for the first time over 100 students. Additionally, one of the most significant accomplishments during this period was the increased acceptance of the Community College's Associate Degrees by schools throughout the United States, Canada and the United Kingdom.

The College was also challenged by a significant staff shortage during this time frame as two lecturers left on short notice. Their departure represented a 12 percent reduction in teaching faculty and could have affected the programmes offered at the college. Fortunately, the staff rose to the occasion and filled in where needed. We often hear about the staffing problems facing primary and secondary schools but this dilemma also extends to the local tertiary institutions and re-enforces the need for a local teacher-training programme.

With an increase in enrolment and the likelihood of more people pursuing post-graduate education via distance learning, the College dedicated some of its resources to improving and increasing its collection of library materials. Feedback from college and outside users indicates that the facility has the "best research reference and current materials of academics on the Islands." In addition to building its library materials the college also completed the construction of its multi-purpose hall in August 2000. The hall will serve as an additional hurricane shelter for George Town and houses the canteen, sporting facilities and various student offices for the college.

At this point it is important to underscore that governments throughout the Caribbean, the United States and the United Kingdom fully fund their capital

projects. However, the Government and the Community College jointly funded this hall. Furthermore, since 1998 the college has contributed to the cost of more than 20 percent of its recurrent expenditures. When compared to other community colleges throughout the world this is exceptional since most cover cost less than 20 percent of their expenses. The college has been able to accomplish this milestone without increasing fees because its Board recognises that increased fees would drive the cost of education beyond the reach of many Caymanians especially those who need it most.

In terms of the college's enrolment the certificate programmes continue to have a small number of participants for a variety of reasons. The administration thinks this trend is partially due to the community's belief that technical education is second rate; availability of ready employment regardless of educational attainment and the college's ability to admit and accommodate most students.

With regards to society's views of technical education, it is time for Caymanians to realise the administrative or office type positions are not for everyone. Despite the community's beliefs, blue-collar positions require a significant amount of training and expertise. Spend a day with any blue-collar worker and you will understand the amount of knowledge needed to complete their assignments. The jobs may not be as glamorous as white-collar positions but they are no less skilled and critical for our society.

Madam Speaker, permit me, if you will, to take a digression here to say that this year my agenda is focusing on education and educational initiatives and I take full cognisance of the need to develop a more effective technical and vocational education programme. To this extent it is proposed—and I have held initial discussions with some members of the private sector and I have set down on the agenda to fully discuss with my Permanent Secretary and support staff—the notion of convening for the very first time in the history of this country a technical and vocational trade fair. We can begin to promote appropriately the necessity to have our people qualified in technical and vocational areas and where we can develop some sense of appreciation for the contributions made in these areas. Approximately 75 percent of the students enrolled in the Associate degree programme are Caymanians.

The numbers enrolled in the part-time programme continue to increase and the majority of these individuals are mature students. The college is therefore allowing individuals that may otherwise not be able to pursue tertiary education an opportunity to obtain an advanced degree. In addition to assisting mature students, the college is also enabling full-time students to begin their studies in a familiar environment at a significant savings to their families. This opportunity will enable students to better adjust to the distinct differences between high school and college. These students then transfer to universities through-

out the United States, Britain and Canada to obtain their Bachelors degrees.

The students transferring from the Community College usually receive advanced standing at either sophomore or junior status. The universities accepting transfer credits from the Community College include the prestigious Columbia University, The University of Pennsylvania, University of London, Bristol University, McMaster University, Queens University and the University of the West Indies. I congratulate the Community College, its President, Board members and faculty on these accomplishments. In the words of the former British Prime Minister, Benjamin Disraeli, I remind everyone that the secret of success is "constancy of purpose."

Thank you.

**The Speaker:** Thank you, Honourable Minister.

## QUESTIONS TO MINISTERS AND MEMBERS

### QUESTION NO.128

*(Deferred)*

**The Speaker:** The Second Elected Member for the district of George Town.

**No. 128: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Minister responsible for the Ministry of Tourism, Environment, Development and Commerce what is the current employment status of the Director of the Port Authority.

**The Speaker:** The Honourable Minister responsible for Tourism, Environment, Development and Commerce.

**Hon. W. McKeeva Bush:** Madam Speaker, before I move on, I would like to suspend Standing Orders to allow questions to be asked after 11 am and I so move the relevant Standing Order.

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

**The Speaker:** Thank you, Honourable Leader of Government Business. The question is that Standing Order 23(7) and (8) be suspended to allow question time to continue beyond 11am. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Standing Order has been duly suspended and question time will continue.

### AGREED: STANDING ORDER 23(7) AND (8) SUSPENDED TO ALLOW QUESTION TIME TO CONTINUE BEYOND 11 AM

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, under Standing Order 23(5) I ask that this question be further deferred.

**The Speaker:** The question is that under Standing Order 23(5) that question No. 128 be deferred until it is brought back to the House.

**Hon. W. McKeeva Bush:** Yes, Madam Speaker. The Permanent Secretary is still moving with the question.

**The Speaker:** All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Question 128 is hereby deferred until brought back to the House.

### AGREED: QUESTION NO. 128 DEFERRED.

**The Speaker:** The Third Elected Member for West Bay.

### QUESTION NO.153

*(Withdrawn)*

**No.153: Capt. A. Eugene Ebanks:** Are there any plans in place for proper restroom facilities, garbage collection, beach cabanas, etcetera, at the Cemetery beach in West Bay. *[Question withdrawn]*

**The Speaker:** Thank you. We will move on to the next question.

### QUESTION NO.154

*(Withdrawn)*

**No. 154: Capt. A. Eugene Ebanks:** Break-down of the users of the sport's/recreation hall at the Community College. *[Question withdrawn]*

**The Speaker:** Moving on the next question.

### QUESTION NO.155

**The Speaker:** The Second Elected Member for the district of George Town.

**No. 155: Mr. Alden M. McLaughlin, Jr.** asked the First Official Member responsible for the Portfolio of Internal and External Affairs why was the former Director of Tourism summarily relieved of her office

without suitable replacement having been identified and why is it that, to date, no suitable replacement has yet been found.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. Following extensive consultation within the tourism industry groupings and with Ministry of Tourism there was a consensus view on the need to reposition the tourism product. That decision coincided with the need to become proactive on the planning and organisation of the Quincentennial celebrations for 2003, for which the Director of Tourism seemed an ideal candidate as Executive Director. His Excellency the Governor, therefore, appointed her to the post of Executive Director of the Quincentennial Celebrations 2003.

As it was vitally important to get the Quincentennial Office in operation quickly, the Director of Tourism was relocated to that office and an interim Director of Tourism was appointed for the Department of Tourism while a search was made for a replacement Director of Tourism. In seeking a replacement Director of Tourism it was felt that the widest consultation should take place in an effort to find an industry professional to fill this position.

In December five candidates were interviewed and a selection was made by the Public Service Commission and recommendations made to His Excellency the Governor. His Excellency accepted that recommendation and the new Director of Tourism will be taking up duties on Monday 14 January 2002 as was publicly announced yesterday.

#### SUPPLEMENTARIES

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I wonder if the Honourable First Official Member could say when the former Director of Tourism was relieved of her duties and when was an interim Director appointed.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. The former Director was relieved of her duties on 31 August 2001 and an interim director was appointed on 23 October. During that period there was a management team in place until the interim director was actually appointed.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I wonder if the Honourable First Official

Member would say who comprised this management team and what criteria were applied to the appointment of the members of the team.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. The management committee was actually referred to as the committee of managers in that interim period. It was chaired by the person heading up the North American operations (a Caymanian) and consisted of the heads of Manager of Public Relations, Manager of Tourism Development Services, et cetera. In addition to the heads of sections in the tourism department, there were two marketing officers. On the question of the authorisation for this team, the decision, as far as I am aware, was taken by the Permanent Secretary in the Ministry in discussions with His Excellency.

**The Speaker:** The Second Elected Member for George Town

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I wonder if the Honourable First Official Member could tell us whether or not the Director of North American operations who chaired this committee is the same individual who was ultimately appointed interim director on the 23 October.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. Yes, Madam Speaker, I can confirm that.

**The Speaker:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. The substantive response states that the decision was taken following extensive consultation with the Tourism industry and the Ministry of Tourism that there was a consensus view on the need to reposition the tourism product. Against that background—which does not indicate any mismanagement or misconduct on the part of the former Director—why was such a radical decision taken summarily which left the management of the Department of Tourism in a vacuum for almost two months before an interim director was appointed and a further two and a half months before a substantive director was appointed yesterday or the announcement was made yesterday?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I am not aware that there was any misconduct on the part of the former Director. I think if there had been it would have been dealt with through the disciplinary process but as the substantive answer indicated, there was a consensus view on the need to reposition

tourism product and at the same time there was a need for a person to head up the Quincentennial office and the former Director was considered to be an ideal candidate for that and His Excellency therefore appointed her to the new post.

I do not accept the fact that there was a vacuum before an interim director was appointed because there was a committee in place of experienced individuals, managers of the various sections with the interim director chairing that before the formal appointment was made. I believe that after the interim director was appointed she continued to do a good job, unless the Member can tell me otherwise.

**The Speaker:** The Second Elected Member for the district of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker. I certainly was not suggesting that anyone had or had not done a good job. I can only ask questions.

**The Speaker:** Could you please move on to formulate it into a question honourable Member?

**Mr. Alden M. McLaughlin, Jr.:** That was a preface to my question, Madam Speaker.

I wonder if the Honourable First Official Member could say whether or not the absence of an interim director during the period of August and October created uncertainty and concern within the Tourism industry and whether or not that has contributed to our current tourism woes.

**The Speaker:** Honourable First Official Member, it is my view that that is asking for an opinion and a speculative response. You have the discretion if you wish to respond thereto.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I am not going to try to speculate on something that I do not know.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** Thank you Madam Speaker. Can the First Official Member tell us how many Caymanians were short-listed and interviewed?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. It is my understanding that there were two Caymanian candidates short-listed or interviewed.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Can the First Official Member tell us if there will be a Deputy Director of Tourism chosen from those candi-

dates that were short-listed? And if that is a "no", where will the Deputy Director come from?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. It is my understanding that the Deputy Director's post will be filled in due course. However, I would expect it would have to first be advertised.

**The Speaker:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Is it my understanding then from the First Official Member that there has been no Deputy Director and how long has that existed?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. I do not have the actual date that the Deputy Director's post became vacant but it was sometime last year.

**The Speaker:** The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. I wonder if the First Official Member can tell us why, then, were both positions not advertised in tandem and filled.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. It is my understanding that the Deputy's post was advertised and there were no suitable candidates. It has since been re-advertised. So my earlier response in saying that it was likely that it would be advertised is probably not accurate. The post has been re-advertised and there are applicants so I expect, then, that the filling of the Deputy's post is in the process of being done.

**The Speaker:** I will allow one more supplementary.  
The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. If it was advertised in tandem with the Director's post and there were no suitable applicants, we would have a short list of applicants for the Director's post. Since at least two Caymanians were in the short list, I would expect that they were all close together with qualifications. May I then ask the First Official Member if the Deputy Director's post was offered to any of those candidates, particularly the Caymanians?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. It is my understanding that the two posts (Deputy's and the Director's posts) were not actually advertised in

tandem. However, when the two Caymanians were interviewed, the matter of the Deputy's position was discussed with them but it is my understanding that neither of those candidates have applied for the Deputy's post.

**The Speaker:** The First Elected Member for George Town, final supplementary.

**Mr. D. Kurt Tibbetts:** Thank you. First of all in the substantive answer, just in the middle of page 2 (this is just for purposes of clarity), I see where it says, "in seeking a replacement director of Tourism it was felt that 'why this'" . . . should that read 'the widest'? I just wanted to make sure that I understood the context. The question is on top of that same page where it says, 'His Excellency the Governor appointed her to the post of executive director of the Quincentennial Celebrations 2003'. Bearing in the mind the various timings that have been stated thus far in the answer to the supplementary questions, can the Honourable First Official Member state when the former director was appointed to the post of director of the Quincentennial Celebrations 2003?

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker. The former Director was appointed as the executive director of the Quincentennial Celebrations effective 1 September.

**The Speaker:** The Second Elected Member for West Bay.

#### QUESTION NO.156

**No. 156: Mr. Rolston M. Anglin** asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development, what instruments are General Reserves currently invested in?

**Hon. George A. McCarthy:** Madam Speaker, the answer: the General Reserves of the Cayman Islands are currently invested locally and overseas. The local investments are in fixed deposits and the overseas investments are in the United States in instruments of

- The Federal Home Loan Mortgage (Freddie Mac)
- Federal National Mortgage Association (Fannie Mae)
- Home Loan Mortgages
- Government National Mortgage Association (Ginnie Mae).

**The Speaker:** Are there any supplementaries? If not we will move on to the next question. The Second Elected Member for West Bay.

**Mr. Rolston M. Anglin:** Thank you, Madam Speaker. Question No. 157 standing in my name—

**The Speaker:** Honourable Member for West Bay, could I have a moment please?

Madam Clerk, can we please have the answers circulated to Question No. 156?

*[pause]*

**The Speaker:** Are there any supplementaries to question 156? If there are no supplementaries we will move on to question 157.

The Second Elected Member for West Bay.

#### QUESTION NO.157

**No. 157: Mr. Rolston M. Anglin** asked the Third Honourable Official Member responsible for the Portfolio of Finance and Economic Development what has been the rate of return on the General Reserves' investment account(s) in each of the last two years?

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, the answer: The average rate of return on the local General Reserves was 5.9 percent in 1999 and 7 percent in 2000, whilst the rate of return on overseas investment was 4.1 percent in 1999 and 7.4 percent in the year 2000.

**The Speaker:** Honourable Third Official Member would you be in possession of extra copies for circulation to your response?

**Hon. George A. McCarthy:** Madam Speaker, these were included among the batch that I gave this morning. There were three envelopes that—

**The Speaker:** Perhaps in the interest of time if one of your staff members could have them copied and will take a break for about five minutes.

#### PROCEEDINGS SUSPENDED AT 11.48 PM

#### PROCEEDINGS RESUMED AT 12.04 PM

**The Speaker:** Please be seated. Proceedings are resumed. Are there any supplementaries?

The Elected Member for East End.

#### SUPPLEMENTARY

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Can the Third Official Member tell us what percentage of the Reserves is invested locally and overseas respectively?

**The Speaker:** The Honourable Third Official Member.



**Hon. George A. McCarthy:** Madam Speaker, the percentage of the Reserves that is invested locally is approximately 50 percent and overseas 50 percent.

**The Speaker:** If there are no further supplementaries we will move on the next item.

The Second Elected Member for West Bay.

#### QUESTION NO.158

**No. 158: Mr. Rolston M. Anglin** asked the Honourable Third Official Member responsible for the Portfolio of Finance and Economic Development, what are the investment criteria for General Reserves?

**Hon. George A. McCarthy:** Madam Speaker, the answer:

##### (a) Overseas General Reserves Investment

- Schroder Capital Investment Incorporated manages the overseas investment. Under the investment guidelines the investment manager may invest in deposits and certificates of deposits with institutions within the meaning of the United Kingdom Banking Act of 1987 or any other statutory re-enactment or amendment provided that such banks have been approved by the Investment Manager's Credit Committee.
- Investments are authorised to be in fixed rate, floating rate and index-linked bonds issued by, or guaranteed by the Government of Austria, Australia, Canada, Japan, Norway, Sweden, the United Kingdom and the United States of America, and the International Bank of Reconstruction and Development (the World Bank).
- There are no restrictions on the market on which the investment manager may invest, nor are there any restrictions as to the proportions of the fund which may be invested in each of the investments.
- Investments are denominated in the United States dollar and should not exceed a maximum final maturity of five years.

##### (b) Legal General Reserves Investment

- Local General Reserves investments are placed locally with any class 'A' bank providing the highest interest rate at the time of investment. The investments are usually placed for periods of six months with maturity of 31 December in order that the interest received on the investment can be accounted for within the current financial year.

**The Speaker:** Are there any supplementaries? If there are no supplementaries, it is my intention to take the luncheon break at this time. We will return at 1.45 pm.

**PROCEEDINGS SUSPENDED AT 12.08 PM**

#### PROCEEDINGS RESUMED AT 3.07 PM

**The Speaker:** [Please be seated.]

Honourable Leader of Government Business, would you move the suspension of Standing Order 46(4)?

#### SUSPENSION OF STANDING ORDER 46(4)

**Hon. W. McKeever Bush:** Madam Speaker, I move the suspension of Standing Order 46(4) in order to take the Bill through its Second Reading.

**The Speaker:** The question is that Standing Order 46(4) be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Orders 46(4) is hereby suspended.

**AGREED: STANDING ORDER 46(4) SUSPENDED.**

### GOVERNMENT BUSINESS

#### BILLS

#### SECOND READING

##### THE MARINE CONSERVATION (AMENDMENT) BILL, 2001

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Madam Speaker, after much delay, I move The Marine Conservation (Amendment) Bill, 2001, which amends The Marine Conservation Law (1995 Revision) in order to further protect marine life in Cayman waters.

The Bill establishes specific guidelines to prevent the further depletion of threatened marine creatures and to provide an opportunity for these species to be naturally replenished for the future enjoyment of the people of these Islands. It has been widely recognised that our existing Marine Conservation Law and Regulations require updating in order to effectively protect the marine environment that is so vital to the economic survival of the Cayman Islands. I am not satisfied that this Bill will accomplish what I set out to do in the earliest stages.

The Opposition has had some points which they were adamant they could not support and some Members on our side were not satisfied on some areas. So, there is an element of compromise which may not serve the matter of conservation of the marine creature, first asked for by The Marine Conservation Board, the Department of Environment and mem-

bers of the general public in meetings in the communities.

Madam Speaker, the fact is that this country faces a difficult decision. Research indicates in certain instances, that certain species of marine life are being so rapidly depleted from Cayman waters that they are likely to be approaching critical mass. That is, a stage where the numbers may be too low to allow the species to recover. This has been the experience of Florida and its conch population. Despite all of the conservation efforts over the past 10 ten years, the Florida conch population has shown no sign of meaningful improvement. Our best efforts are required now to see that Cayman's vulnerable marine life does not reach a similar point of no return. Either we act to conserve our precious and limited marine resources or we risk losing them altogether, losing them for a meal now and then.

We must act as a country with prudence and wisdom although we realise in the short term that we may experience some inconvenience and even to an extent some hardship. We must make this sacrifice in the short term so that we may reap the benefits of our marine life in the longer term. By establishing limits and in some instances from outright bans, this Bill provides the necessary framework to allow for the continuation of healthy and abundant marine populations, which have come to be associated with the Cayman Islands. While I appreciate that marine conservation is a highly sensitive matter, I am also aware that corrective action must be taken sooner rather than later or the issue will be mute. When one considers factors such as the growing resident population of the Cayman Islands and the increasing demand being placed on our Islands limited marine resources, it is evident that the strain on certain marine life has taken its toll over the years.

Madam Speaker, when I was a boy, as no doubt others did growing up in these Islands, I went out on the ironshore on the Bay and threw out a line. I could catch all the fish I wanted. If you went swimming or diving around the ironshore or inner reefs the ornamental fish were in schools. Today, you can go fishing all day and you might not catch one and you go swimming in some areas you might see small schools or three or four here and there, but nothing like the previous abundance. It is obvious that we have to take some measures. Ornamental fish today are being destroyed by spear guns, fish-traps and s-traps that were never used by the population here. Things I see being speared today—whether by spear gun, Hawaiian sling or some other home-made spear—were never troubled when I was growing up.

This Bill provides very necessary corrective measures for the marine creatures cited in the Laws including lobsters, whelks, conch and Nassau groupers. Some of those amendments originally tabled in the House are now also amended. If we do not take bold action now, in time these creatures may not be available locally for any of us to enjoy—Caymanians,

residents and visitors alike. This could have a far longer and devastating impact on the Caymanian way of life and the appeal of our tourism product.

This Bill has been brought forward to try to protect local marine life and to preserve the ability of future generations to meet their needs in this regard. Subsequent to the drafting of this Bill and following consultation with Members of this honourable House I intend to move certain committee stage amendments. For the sake of clarity, Madam Speaker, I will outline provisions of this Bill and cite those areas where additional amendments are proposed.

The Bill provides for a complete 3-year ban on catching: lobsters, whelks, chitons, periwinkles and bleeding teeth, and closed seasons for Conch and Nassau groupers. I proposed that this provision be amended during committee stage to provide instead:

1. A closed season and catch limits for lobsters (that is the compromise) on whelks, conch and Nassau groupers.
2. A complete ban on catching chitons, periwinkles and bleeding teeth up to the 31 December 2004; which nobody eats in any event.

Madam Speaker, the Bill provides a temporary ban on the catching of lobsters in Cayman waters but instead it is intended in committee stage to further restrict closed seasons and catch limits for Lobsters. The Bill reduces to five (5) the total number of conch which a person may take from Cayman waters in any one day. The Bill also provides that any person who permits or causes to be cut from or loaded onto any one vessel in any one day more than five (5) conch for each person on board, such vessel or ten (10) such conch in total, whichever is the lesser amount would be guilty of an offence.

Clause 8 of the Bill clarifies the principal Law by providing that the Governor may by notice in the Gazette designate certain areas of Cayman waters to be spawning areas for any type of marine life.

Clause 9 amends section 14 to provide a complete prohibition the use of spear guns. The compromise: it is proposed that during committee stage this will be amended to allow for the Marine Conservation Board continue to issue licence for use of spear guns.

Clause 10 restricts the use of fish pots in Cayman waters. A person must be licensed by the Marine Conservation Board to use a fish pot. The new section 15(a) sub-clause (2) provides that any person who uses a fish pot for the purpose of taking any marine life within a one-mile radius of any designated group or spawning area during the months of November to March inclusive is guilty of an offence.

Clause 11 amends section 16 to widen the restrictions on taking certain marine life from Cayman waters. It will be an offence to take fish less than 8 inches in length other than goggle eyes, herrings, anchovies and silver side fish. Persons will also be prohibited from taking certain types of ornamental fish.

Clause 12 provides that it is an offence to feed or to attempt to feed sharks in Cayman waters. Madam Speaker, let me say on this point that recent tragedies in other tourist destinations involving shark attacks highlight the fact that Government must be mindful of the potential dangers associated with this activity.

While there is still some controversy regarding the relationship, if any, between the occurrence of shark feeding and shark attacks, I believe we owe it to the people of these Islands and those who visit our waters to always act in the interest of promoting safety. There are also very cogent environmental reasons for ceasing this activity including concerns for the health of the marine Eco-system and the welfare of the animals themselves. Therefore, this controversial practice of feeding sharks has been prohibited.

I can never forget earlier this year one of the dive magazines that sell for the Cayman Islands sent me a copy of a newspaper article with a shark and on its head was Mickey Mouse (half of it) and the other half underneath and the caption saying, "Wasn't so bad in Florida but better in the Cayman Islands." We know that we have never had a shark attack here last year or in recent years but that is how the opposition (if I can call them that) or the newspapers (we can call them that) will spin whatever message they want to get out.

Clause 13 provides that a person who immediately before the commencement of this Law was licensed to use or possess a spear gun is entitled to use or possess such spear gun until the expiration of his licence. I propose that this provision be deleted in committee stage and rather than the Marine Conservation Board issue by way of directives the necessary provisions which are required from time to time.

It is important to note, Madam Speaker, that for the most part the provisions made today were first outlined in a press conference in June last year and it was followed up on a White Paper to the Assembly which was distributed to Members several months ago. After further discussion changes—as I said, compromises—I propose to amend this Bill in committee stage. These changes involve removing the temporary ban on whelks, proposed in the Bill and instead imposing a catch limit and close season for whelks taken from Cayman waters. That was one of the changes asked for.

Another change involves the deletion of section 9(a) sub-clause (2) which prohibited during certain months vessels which exceed 20 ft. in length from entering the designated Nassau grouper spawning areas, another change that was asked for by Members.

Also, a change is proposed to section 7 sub-clause (3) to replace the words 'from Cayman waters' with 'designated Nassau groupers spawning areas'. These compromises and consequential changes are proposed to be finalised in committee stage.

Despite extensive consultation on this matter issues have been raised regarding the enforceability

of these conservation provisions. Members throughout the time have talked about this. Madam Speaker, when legislation was first introduced to create marine parks there were no enforcement officers. Nevertheless, the Law was passed and served as a deterrent for most people. In response to that element which chooses to break the Law, enforcement officers were hired to enforce the Law.

I think it is important to stress to Members that when this Bill comes into effect, additional enforcement resources if necessary can subsequently be addressed upon determining the level of need for such service. The point is firstly there must be adequate provisions in place to enforce. If there is no law or regulation to enforce well, what do you enforce? No matter how many officers are there, or will be, there are those who will break the law in any event. They will take a chance and if you put law enforcement officers all over the North Sound, all over South Sound, all over this Island, there are those who are going to break the law. Some people see it as part of their heritage. But it is a part of their heritage that is fast disappearing!

I say if we can help today to preserve some of that then let us be reasonable. Let us take the political fall-out that perhaps will come but nevertheless, in the long run it will be better for our children, grandchildren and great-grand children, for our future generations. People will be better able to catch more fish in fish-pots and perhaps catch more fish from fishing with a line. However, if we do not put in place restrictions, and leave people to do as they please, and then what do honourable Members feel? What do they say?

When we strive and spend money to promote our marine environment as a tourist destination and they come and they cannot catch a queen fish or they cannot catch bill fish or they go reef fishing and they do not catch any fish, what then do Members say? There comes a time when we all have to stand up and say 'I believe this is right' and there are people who vote for us but they have to understand that we are doing this in their long-term best interest.

The Bill provides for designated spawning areas for groupers and a ban from the 1 January 2003 to 31 December 2003 and every alternate year thereafter. People are prohibited from catching groupers taken from such areas during those periods. During the spawning season there is also a prohibition on setting of fish-pots within a one-mile radius of any designated grouper spawning areas and outside of the designated spawning areas there is a restriction on the taking of grouper less than 1 foot on length using a fish-pot during the month of April to October inclusive and the S-pot as it is called, is also prohibited.

Madam Speaker, I cannot say that I am satisfied with the Bill, but it is a compromise. I would rather have something than nothing at all.

In closing, I recommend this Bill for the perusal of this honourable House. I again would like to emphasise that the provisions call for sacrifices some

of which are temporary and have been drawn up as a result of several years of research, extensive dialogue and consideration by the Marine Conservation Board to professionals at the Department of Environment and meetings with the affected groups in various districts in Grand Cayman and Cayman Brac and Little Cayman. It must also be borne in mind, as previously stated, that Members of this honourable House had time to consider the vast majority of the provisions in this Bill since about mid-year 2001 when the White Paper on Marine Conservation was first announced.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Leader.

Does any other Member wish to speak? Does any other Member wish to speak? Last call. Does any other Member wish to speak?

The First Elected Member for the district of George Town.

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

The Honourable Minister has moved the Bill and, as he has stated, perhaps the proposed amendments are not in exactly the format that he would have wished; but, as he said, he would rather have something than nothing at all, which means it will remain as it was.

Before I speak to the Bill itself I would like to just raise two quick points with the hope that this is the appropriate time to do so. When we got the original White Paper it had attached to it some proposed regulations and also some proposed directives. While the Bill that we are debating does not include the two documents that I speak of, I am presuming that regulations and directives will follow passage of the Bill. I believe that the regulations and the directives will not come via the Legislative Assembly. I would like to take this opportunity to make a couple of observations regarding the regulations and the directives because they have a direct bearing on what is hoped to be achieved through the Bill.

**The Speaker:** Honourable Member, I have listened and I can see the reason and justification for one wanting to address it seeing that it would not come back to the honourable Parliament. The problem I find myself is that I have no cognisance as to what those regulations or directives will be. Hence it is going to be very difficult to rule whether or not your debate is relevant. I have no problem pausing informally for you to speak to the Leader of Government Business and I would ask his permission to see whether or not those regulations and directives have remained the same as published. If that is the case then I will go ahead and allow the debate.

**Mr. D. Kurt Tibbetts:** Madam Speaker, in order to be pointed . . . and if I have to limit it to one area then I will. However, one area deals with fish-pots and the

Bill deals with fish-pots so I cannot see whether there could be any question of relevance.

**The Speaker:** What I am saying honourable Member is that because I have not been informed or have privy to any knowledge that the White Paper draft form has been changed or whether they remain the same, I am not in a position to make rulings that would be relevant and I would not wish to enter into that area at any stage of my chairing of this honourable House. Therefore, I have offered you the position to get an indication from the honourable Minister, if he is so desirous of sharing it, if that has changed. If it has not changed then I have no problem with allowing debate by any Member and those regulations.

**Mr. D. Kurt Tibbetts:** Madam Speaker, I hear your dilemma and I will be able to deal with my debate in such a way that the question will not arise.

*[The Honourable Leader of Government Business rose]*

**The Speaker:** Honourable Leader of Government Business?

*[Addressing the First Elected Member for George Town]* Will you give way?

**Hon. W. McKeever Bush:** Madam Speaker, as the Member knows, regulations and directives were approved in Council and cannot be put in place before the Law is passed and assented to by His Excellency the Governor. There will be consequential changes to those regulations and directives based on what has happened here today with the amendments.

**The Speaker:** Honourable Member, please proceed on the basis that they would be public knowledge and if there are consequential anticipated things, of course, you have a wide enough discretion that you can so debate.

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

The first point that I wish to raise is one that I believe to be simply of logistics with regard to the fish-pots issue. I heard what the Minister said about the S-pots. I do not think anybody is going to argue that point. I think everybody is in total agreement with that. Under the directives in section 20 part 5 'Licensing of Fish-pots', and section 20(b) it reads in these directives that **'the fish-pot shall not exceed 2 feet in height by 2 feet in width by 4 feet in length.'** I think that needs to be re-examined with regard to those dimensions. I do not think that a fish-pot with the dimensions given in these directives is what people would need, if they only check their fish-pots once per week. The proposed size does not allow for fairly reasonable size fish inside the fish-pot. They will probably die because they will not have enough space to move.

The normal fish-pot that most of us know about is 4x4x2 not 2x2x4. I do not think the height or length is a problem but where it has the width as only 2 feet, I think it is just not sensible. So, I think they have to re-examine it.

There are different configurations that people will use. Some will use 2x3x4 but 2x2x4 is really a problem and I am just speaking to the logistics of the matter when we look at it, and if fish are in there for more than three or four days . . . I just wanted to make sure that that point did not go by the wayside.

Madam Speaker, with regard to the Bill that is before us, and, while there are committee stage recommendations, I am presuming that it is sensible for us to debate both rather than deal with the original Bill as it was and then have to come back and deal with a totally different understanding again.

**The Speaker:** Yes, you have my approval to debate together because that is in the essence of time.

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

First of all let me speak generally and say that I certainly recognise the need (as the Minister has said in the introduction of the Bill) for us to be looking very carefully also at the preservation of certain species of shellfish. Over the years those who do a bit of fishing, whether it is recreational or otherwise, have certainly experienced the proof of the pudding by observing that certain species are no longer as prolific as they were. It is quite obvious.

The first area that I wish to speak to . . . and I will quite readily say what my discussion has been. I understand the situation with the conch and I see there is also a problem with the whelks. If I look to the committee stage amendments, I think the final situation is going to be a closed season for both conchs and whelks, and there will be set limits for both, whenever they are able to be taken.

I believe from the discussions that the Department of Environment is of the opinion that both species perhaps share the same sort of reproductive timeline during the course of the year. So I think that the time of year that you cannot take these species should be the same time for both. I was hoping that it would be a situation that could be alternated between when you could not take the conch and when you could take the whelks, or vice versa. Therefore, it would not be the period of time during the course of the year when neither one could be taken once you took within the limits. The truth of the matter is, I do not think anyone of us will have knowledge to be able to counter the argument to say that that is not the time when reproduction takes place with the whelks. So, as much as I would personally prefer to see it that way, I cannot stand here today and argue that it is not what should happen. I have to just voice an opinion to say how I would have liked it but accept what is being said. I certainly am not going to try to give any arguments for something about which I am not certain.

I really need to talk about the other amendment and I do not know whether it stands alone on this or not, but of this I am totally convinced. During discussions regarding the taking of the grouper, my understanding is based on the assumption that everybody agrees that something needs to be done about the large quantities and the way in which the grouper are taken during grouper season. It is accepted that something has to be done. I think the department's position is that it is almost impossible (in their minds) to police the situation or to enforce whatever legislation may be put in place for it. Therefore, the Marine Conservation Board, the department and whoever else was involved, whether it was taking public input or whatever, the conclusion is that you do not allow any taking of the grouper for one year and then for the next year they can take all they want.

Personally, I am not going to stand and argue forever about the enforcement about the Law. I am going to say that I see absolutely no sense in doing it that way because there can be no good results from that. I call it feast or famine to not allow any to be taken this year but then the next year individuals who like to engage whenever grouper season is around have the ability to go and take as many as they want. That cannot serve any purpose to me. In my view, there has to be another way than doing like that. This is not about politics. I want people to think of what I am trying to say. You cannot tell me that one year you cannot touch them but next year you can go and slaughter them. In my opinion, there is no sense in that.

I can stand here today without calling any names and I can speak of many of the individuals who take these grouper. They will get as many as they can get and sometimes they do not even have the ability to readily sell the quantities that they have because the market cannot absorb it that quickly. If they store it for three months the people are not going to buy it because it is not fresh, but they are still going to do it. If there is no law which restricts them on alternate years, no amount of preaching is going to stop them from doing it because there is nothing to prevent them. This I do not just pontificate on—I know this because I have seen this. I believe that there must be some other way of looking at this and it is not about arguing to set a limit that people can have them every year. However, I believe that if there is any limit set then it is much better than simply having no limit for one year and that you can take whatever you wish and then the next year you can take none.

Let us look at the grouper: if my memory serves me right I think there are five recognised spawning areas within the territorial waters in the Islands. I believe there are five, somewhere in that region. I understand that there may be difficulty, but if we also look at what we know as the grouper season, all of those who fish know which month it is and how many days that you are able to do so. You will find that as people fish for them they trail off and after a

few days after each of those moons, people do not go back because they realise it makes no sense because they are gone!

In a simple conversation with the Honourable First Official Member—I am not just using him but the conversation arose yesterday and it is not just him that I have spoken to in this manner before—he has memories of 15 to 20 years ago when you went to the grouper hole and you looked down in the water glass they were literally 15 or 20 ft thick down below. You could not count them! That was in those days. Not so very long ago, that is how they found them in Little Cayman.

Now I am going to tell it like it is, and I know them all and know them well. Although the Minister and I differ in many other things, the point that he made that is correct, that I agree with, is, even if we have to face some hardships now, it is better for us to look sensibly and make an approach that will preserve these species rather than to just be looking in the immediate period. Somebody might say *'well, I'm not voting for you anymore because you do not make me go and take the grouper'*. This is not what I am arguing about. However, those people who have the desire . . . and we can truly say it is part of the culture that they are used to being able (whenever that time comes around whether or not it is for grouper) to go and get, they have to understand that if they are left alone to do it the way they see it, before long they will not have any to go and get.

We have so many other species that we can speak to and say that it is 'proof of the pudding' so this is why we are trying to do it with these. I agree with that, but I come back to the point . . . and I beg you not to charge me with tedious repetition, but I am asking whoever it is that can do something about it not to pass this law in this situation or word it like this. It is not going to do it any good. It is not going to serve its purpose and I will not take any pleasure in saying 'I told you so'. I am not suggesting that I can see it different from anybody else; I am asking everybody to think of it like this and it has to be obvious! How long does it take before one of these fish matures to be able to reproduce? So, if I leave him alone this year and he gets one year older and next year I go and kill all of them . . . It makes no sense, Madam Speaker.

I hear and respect the problem, and I am saying, notwithstanding all the problems that we have, if we are going to make meaningful strides in this area, we have to do it right. Otherwise it makes no sense to do it at all.

We may be depending on the belief that we are not able to cure this problem and perhaps assuming that if legislation is in place it might be a good enough deterrent. However, let us look at the logic of not being able to enforce it even if we have the appropriate legislation. If it is only the legislation that we are going to depend on and not sure we can find enough bodies to monitor these five areas, then is it not better to use that legislation and put a limit every year than

to tell them 'one year you cannot get any but the next year you can get all you want'? It has to be! I am not even asking for you to make any movement to say, 'yeah or nay.'

Forgive the passion. However, I am hoping that somebody will listen to it because I would hate to see this happen, or we will regret it.

I am going to tell you something else. The talk that has been going on for a couple of years about putting a ban on them, even with the problems that we now have with it, the fever is not so bad. However, you make this go into legislation and you hear that this year you cannot get any and the next year there is slaughter, there would never be the word to justify it. You know how it is, Madam Speaker, we all know how it is. The difficulty is the short period of time and I have seen this happen. I have seen huge fish stay in the freezer and you cannot get rid of them so they are freezer burned. Nobody will buy them, you cannot give them away! However, when you are catching them, it is impossible to have that self-discipline to say on your own *'well, let me stop now, oh just one more...look at that one down there through the water glass, hmm'*. That is how it is and I hope that the point is made.

I really believe we need to forget politics or who will vote and who do not vote, I believe we are 100 percent better off setting limits. I do not mean limits that they can get 50 or 100 either. I can say what I believe and others can have their input. I believe the way that all of the other limits are set—for instance, when you speak to how many per person, but a maximum per boat, whichever is the lesser of the two—should be done like that, that is fine! That has to be a lot better than the feast and famine situation that is going to exist with this. I do not raise this point to try to say that somebody does not know what they are doing because I understand the problems with the whole situation.

Even when the department knows what is best to do, they have the politicians to deal with yet they think of where they come from, their strengths and now with whom they have to deal with. I know how that is—

*[Inaudible comment]*

**Mr. D. Kurt Tibbetts:** Yeah, but even with all of that I am trying to strike a balance to the situation. So, for me, if there was a situation where you said 10 per person per day, for whatever season, and if you had limits along with all of the other things, I think there is the maximum length of a boat and that kind of stuff. I do not have any problems with any of that, I just have a real problem with people being able to do what they want to do one year because they could not get them the year before. However, the maximum of 15 per boat per day, whichever is less, means that if two people are in the boat they can only get 15 and so they cannot get 20. That is just off the top of my head. I do

not know, but I certainly would not want to see huge numbers. I just used that as a type of yardstick to deal with the situation.

So, if we speak to hypothesis, if every year each boat that went could get 15 during the season it would be less taken than if you could not get any one year and the next year you could get all you want. Anyway, I see logic in what I am trying to say. We will have to see what happens with that.

I would like to make it clear with the other issues. I explained my position and feeling with the whelks, and I accept what the department is saying because I cannot argue that they are not correct. I spoke to the situation with the groupers for no other reason than I believe that we are going to make it worse if we pass the legislation in this manner, rather than if we left it alone. I really mean that. Before we pass it like this, I would rather leave it how it is.

There will be others who will speak behind me about issues with the lobster and the spear guns, but the Minister was talking about the Opposition and other Members. So, I wish to make it very clear that as far as my knowledge is with whatever discussions may be had, the two points that I have raised are the only two points that we have problems with at the end of the day.

Everybody would like to see it a little bit different but if we could have it our own way it will be like the old time saying, 'having the cake and eating it'. If we could have it our way we would still like to be able to do what we want to do but hope to God that replenishment would take place and there would be no depletion of the stocks. We know by experience if by nothing else that that is not the case so we have to accept what is reality and the situation that obtains at present.

I am not going to spend a lot of time on the other issues because even with the committee stage amendments, as with the issue of the Nassau grouper they may not be quite as I would personally have it. That is what is coming through the pipeline from the majority and I too would rather see something than nothing so I am not going to get into a lot of arguments about that. As far as I am concerned we have to experience some pain if we are going to get any gains and I do not have any problems with that. I argue the point with the grouper especially because I really believe we are going to make it worse if we do it like that. The more I think about it the more I believe it.

I raise the issue about the fish-pot and I saw while I was speaking that the Head of Department was nodding her head accepting that they already know about it and that is a relief so I think that will be taken care of. I do not know how we feel about some other issues. Also, in those directives perhaps I might leave my good friend, the Member for East End to argue at length with this one.

But, first of all, I do not know if anybody has a copy of the proposed regulations here but there is also a 'typo'. I had a problem because I thought that

this size mesh was only one-quarter inch but I see where it is 'tow' it should be 'two'—Two and a quarter inches. I was a bit confused for a second so that needs to be corrected.

In these directives . . . again, we can argue this from different angles, but I would like if this could be considered. Section 21(1) reads: **"The Board may revoke a licence under this part if it appears to the Board that**

**"(b) The licence holder is convicted of any offence under the law or any regulations under the law. The licence holder is convicted of any offence involving violence or the threat of violence or the licence holder contravenes any condition or restriction of the licence whether or not the licence holder is prosecuted or convicted of an offence in relation to such contravention."**

With all of these things, it says "...if it *appears* to the Board." In my opinion and this has nothing to do with any individuals who are there now or whoever may be on another Board, but where it says "if it appears to the Board", then I think that that is too wide-ranging a licence. If it reads like that in the Law, people are always going to feel aggrieved whenever anything happens. They are going to say some individuals have spite against him, do not like him and so on, because it is not seen as a conviction but it is. I do not have the answer as to how that should read, I am only pointing a difficulty that I see with actually being able to live in that environment and for the Board to function properly. The worse thing is every day or whenever there is a problem you always have everything being pointed at the Board, it is not fair and it is 'this and that'. So, I do not know if that can be worded in any other way or if it can be tightened up whereby it might be able to operate more smoothly.

Section 21(2) says, **"any revocation of a licence under this part will be notified to the licence holder and to the police by a notice in writing and such notice will be expressed to terminate the licence 14 days after the service of the notice on the licence holder, and thereafter he will no longer be licensed by the Board."** So, one leads to the other, Madam Speaker.

Really, what this is saying to me (unless I did not read it right) is that not only may the Board revoke licence under this part ('if it appears to the Board') . . . the Board [can] take away his licence. That is it. He could live as long as Methuselah and there would be no more licence and I do not know if we want to do that. That is what I am saying. That is the way I understand how this reads. I am not suggesting that there should not be penalties but the way it reads is, *if it appears to the Board*, the result can be losing a licence and the end result of that is never to get it again. That is what I am saying. I do not know whether I have read this the wrong way or not but perhaps that needs to be revisited.

I think those in the profession call that 'rough justice', that is how I hear it.

So, with the best of intentions I fully believe that there are issues that need to be looked at and restrictions have to be placed in different areas in order to allow for certain species to become more prolific and for stocks to be replenished. I think we also need to accept that as has been mentioned when the Minister was making his presentation; the numbers in the population are a lot different now. There are many more people around. The demand is much greater but I do not believe that the stocks are increasing accordingly in order to balance the equation. In fact, I think it is exactly the opposite. So, we have to accept that if we are going to allow for any replenishment of stocks we have to lessen the limits in certain areas.

In my opinion if there were bans on certain species that put specific periods to allow that replenishment, I would not have any huge problems. However it comes and whatever the committee stage amendments proposed, we will see.

I will close, Madam Speaker, but I am going to say it one more time: I am asking this honourable House not to pass this legislation allowing groupers to be taken at will, whether it is every other year or anytime. Let us see the wisdom in a better result by having a limit that is reasonable rather than anytime for any individual or any groups of individuals to be able to take as many as they can get during the spawning season. Thank you.

**The Speaker:** Does any other Member wish to speak?

The Second Elected Member for the district of George Town.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

I rise to offer my short contribution to the debate on this important Bill, shortly entitled The Marine Conservation (Amendment) Bill, 2002.

Perhaps I should preface my remarks by addressing a matter raised by the Honourable Minister for Tourism when he introduced the Bill. He stated that he is not entirely happy with the proposed amendments, which he made to the Bill, and that if passed in its amended form, the Bill would not go as far as he would have liked in furthering the cause of marine conservation. He intimated that the Bill as amended will reflect a compromise, and he certainly gave the impression to me that this was a compromise as a result of submissions or suggestions made by Members of the Opposition.

I acknowledge that the honourable Minister was not present at the meeting to which we were invited by other Members of the UDP Government. However, it is not correct to say that this compromise reflects changes suggested by Members of the Opposition. To put it beyond doubt, we had hoped that perhaps some of our suggestions might have been taken on board, but at the very early stage in the meeting, the Fourth Elected Member for West Bay made it plain

that the purpose of the meeting was for so that questions which we had could be answered by the technical staff and in particular the Director of Environment. The term he used was that 'conceptually we (UDP) are fine with the Bill in its current form'.

I can stand here this evening and say categorically that if there is compromise, it is as a result of disagreements within the UDP—not as a result of suggestions made from this side of this honourable House. I just wish to make that absolutely clear.

Madam Speaker, I did make suggestions in relation to technical issues and in relation to aspects of the Bill which appeared to me to be either unclear, contradictory, or did not give the effect which the Memorandum of Objects and Reasons suggested was intended. I am grateful that all of those were taken on board and that those technical changes have been effected. In fact, I put forward no suggestions and none of those suggestions that were put forward by any other Member of this side were taken on board.

Having said that, let me make it absolutely clear that I am fully in support of conservation; I am fully supportive of efforts to preserve our marine life and heritage.

The question of possible political fall out as a result of taking a strong line in relation to the catching of certain marine life has been raised. If that is the result then so be it. I have never intended to be a politician all of my life, but I intend to live here as long as I breathe. I have children, I love seafood and I especially love to cook it. And I would very much like that when I am old and bent and grey I could still taste a little bit of conch and fry a little lobster that have not come from somewhere else.

So, Madam Speaker, I come back to this question of compromise. Let me make it plain that the White Paper (which was circulated in mid 2001) did not propose a ban on the taking of whelks but it did propose a complete ban on the taking of lobster. The Bill which we received yesterday morning—and which I pause again to point out has never been gazetted . . . indeed, I am reminded by the Elected Member for East End that virtually none of the Bills which we have dealt with in this meeting have been gazetted—proposed a complete ban on catching lobster, whelks, chitons, periwinkles and bleeding teeth up to 31 December 2004. Let me say that that is a position that I could support and a provision that I wish had been retained in the Bill which is now going to be amended at committee stage.

Madam Speaker, I grew up here catching all of these types of marine life—lobster, whelks, conchs, fish—and I gather from speaking with the Director of Environment that they do not have data to substantiate what appears to be anecdotal evidence of decline in the numbers of whelks. Unless the whelks have gone somewhere else and are hiding, I know, like most other people that whelks are not generally available in places that they were even 10 years ago. You will not find any whelks on the Ironshore.



I heard the Second Elected Member for Cayman Brac say that they are still in abundance in his constituency. That is certainly not the case in Grand Cayman.

While I have some constituents who will be most unhappy with me taking the position, there should be a complete ban on the taking of whelks for a period of years. That is my considered position. There is far too little known about the reproductive lives of these marine creatures and the actual numbers in this jurisdiction for us to accept the perception that the numbers are decreasing for us not to take what some may consider the drastic step of banning the taking of whelks altogether. I do wish that that provision had remained. The same issues are relevant to lobsters. I do believe that we should ban the catching of lobster for a number of years to permit the population to recover, but, having said all of that I hasten to add to use the language of the Minister for Tourism 'something is better than nothing'. I certainly will give those aspects of the Bill, which I believe contained the proposals of the Department of the Environment, my support even though I believe that the Government should have continued on the course set out in the Bill circulated yesterday.

Madam Speaker, the one aspect of the Bill circulated yesterday with which I did have some disagreement with was in relation to the suggested reduction in the number of conchs that could be taken in the course of one day. The current limit is 20 per boat or 15 per person, and the proposed reduction is 5 per person or 10 per boat. I believe that the reduction limit to 5 per person is too low. My concern about that is that if the legislation is unduly restrictive to a point where even the most law-abiding persons may feel that they are being hard done by, it is going to become next to impossible to enforce those provisions. It is very difficult, Madam Speaker, to accept that you are only entitled (because most people would not go to catch conch everyday or two or three days a week they might go out) over the course of the weekend to get enough for dinner. Unless you got five very big conchs and you had a small family five conchs would be too little to provide a good meal. My suggestion is that the number per person should be in the range of 8 to 10 per person.

I certainly supported the complete ban on the use of spear guns and, again, I wish that that was a provision that was going to be retained in the Bill to be passed.

The provision banning the feeding of sharks is another one which I am happy to support.

I endorse the remarks made by the First Elected Member for George Town in relation to the catching of groupers and I will not rehearse what he said, but I believe that his suggestion that there should be a catch limit in relation to the number of groupers which may be taken from the spawning areas is an eminently sensible one. I hope those who hold the reins of power in this honourable House will

not simply discard this one on the basis that it was suggested by the First Elected Member for George Town.

There is one other aspect which I find illogical and troubling in relation to The Marine Conservation directives—

### MOMENT OF INTERRUPTION

**The Speaker:** Honourable Member before you embark thereon, we have now reached the hour of 4.30. I should wish to call on the Leader of Government Business to move the appropriate Motion for the suspension of Standing Order 10(2).

### SUSPENSION OF STANDING ORDER 10(2)

**Hon. W. McKeever Bush:** Madam Speaker, I move to suspend Standing Order 10(2) in order to complete the Business this afternoon.

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow the Honourable House to continue its Business until completion this afternoon. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The House will continue until the completion of its Business this afternoon.

**AGREED: STANDING ORDER 10(2) SUSPENDED TO ALLOW THE BUSINESS OF THE HOUSE TO BE CONCLUDED.**

**The Speaker:** Please continue Second Elected Member for George Town. Thank you.

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

I was speaking to the Marine Conservation (Amendment) Fish-pots Directives 2001 which were attached to the White Paper which was circulated and which the Honourable Minister of Tourism has indicated have been passed by Executive Council, subject to whatever consequential changes that are necessary as a result of amendments to the Bill.

The First Elected Member for George Town referred to directive 21 which deals with the revocation of licences to use a fish-pot. Again I will not repeat his arguments, but if the Honourable Minister of Tourism, in particular, who has carriage of this Bill, would refer to Directive 21(1) (c), "**The Board may revoke a licence under this part if it appears to the Board that the licence holder is convicted of any offence involving violence or the threat of violence.**" Madam Speaker, if this licence was licence to use a spear gun I could understand why someone convicted of violence of threatening violence should

not be permitted to hold such a licence. However, from my experience it would be quite difficult to use a fish-pot as a weapon. So I do not follow the reasoning in including a ground for revoking a fish-pot licence, based on the fact that the licence holder has been convicted of an offence involving violence or threatening violence. Perhaps in his wind-up or if some of the UDP Members on that side rise to speak, an explanation could be offered.

Those are my comments on The Marine Conservation Bill, 2002. I give the Bill my support. It is critical to the long-term survival of these Islands as we know them, and notwithstanding the fact that I too wish that the measures had gone further, I am much happier with half a loaf of bread than with none at all.

Thank you, Madam Speaker.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Last call— does any other Member wish to speak? If not . . . The Third Elected Member for the District of West Bay.

**Capt. A. Eugene Ebanks:** Thank you, Madam Speaker.

I rise to support this Bill on the amendments. Being involved in water sports and the charter business all of my adult life, I can truly support these conservation measures. I remember as a boy, there was an abundance of conch, lobster and fish. Even before the days of the spear guns, masks and snorkels, it did not take any time at all to get any amount of seafood you wanted.

By 1986, because of over-fishing and no regard for conservation, the Conservation Law was brought into place in Grand Cayman. When it was being introduced, I did not support it. However, after seeing how well it has worked for us I certainly support it one hundred and ten percent and I will do everything within my power to improve and increase the conservation of our marine life.

I know the First Elected Member for George Town mentioned the size of the fish-pots. That we recognised as a typo-error. We do realise that is not the normal size of the Caymanian fish-pot and when the recommendations were made, it took into account the traditional Caymanian fish-pot which did not include the S-pot as we know with two funnels; it included just the Caymanian fish-pot with one funnel.

As far as the spear guns, we made those amendments because there have been some wanton destruction of fish by spear guns and we have made amendments to correct that problem. However, there are some responsible people who have spear guns that use them occasionally and we did not feel like disenfranchising the responsible people for the irresponsible people. With the amendments we have made to the spear gun clarification and the proposed changes in the regulations we will be able to police

that in a fairly responsible way in order to help preserve our marine life.

Madam Speaker, that amount of lobster (as amended) compares to a reasonable amount compared to when the Law was introduced in 1986. Since that time there was a noticeable increase in the amount of lobster that have come back to the North Sound or around the Island. Before the Law was introduced you would have to swim long and far to find a meal of lobster or conch. Since that has been introduced there are quite a lot of them in the marine park areas where we cannot fish. So, to improve the amounts outside the marine park we thought it was necessary to reduce it some more.

The season we have opened has proven that there are no lobster with eggs at that time and it is also during the rough weather months of the year. Therefore, nature will help take care of protecting lobster since there are many days within those months that nobody can get out there or can find lobsters, even if they can get out there. We felt that that was a reasonable compromise.

Madam Speaker, we found that for a few years the conchs were coming back quite well. In fact, they are doing exceptionally well within the marine park. However, we felt that we needed to restrict the limit some more in order that the population may be replenished in a shorter period of time. At the same time we felt the amount of five was a reasonable amount. If a guy just wanted to go out and fish and not have them for a meal, five was fine if he was going fishing alone. If a guy was going out for a meal of conch and he took his child or a relative with him then the law would allow for 10. Ten conchs would allow any reasonable person or any average size family a decent meal. So, we made those recommendations after considerable consultation amongst ourselves.

It has to be remembered that although it is not possible for us to please everybody we have to do what is best or what we feel is best for the country and for the marine environment. We are so heavily dependent upon that because we are a tourism destination and we have to do whatever is necessary to protect our environment.

There was a reasonable argument that the whelk population could possibly withstand the reduction from five gallons to two and a half gallons with the same closed season as the conchs have. That is why we introduced it. However, these populations will be assessed regularly and if we find that more restrictions need to be brought in place, we will do it.

While we have to give every consideration to the marine life around us, we also cannot forget the people who have traditionally fished all their lives, so we had to make some concessions in the way of our limits. Here again, Madam Speaker, I support this Bill with the recommendation as is presented.

Thank you.

**The Speaker:** Thank you, Honourable Member. Does any other Member wish to speak?

The Elected Member for the district of East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.

I am sure everybody will agree that debate would not close without me having something to say. Before I go into my debate (which I trust will be short), let me start by saying that I understand the objectives here.

I also understand the importance of the marine life in this country, particularly, the two roles that I would like to highlight—tourism and heritage. It is an integral part of the tourism product but it is also an integral part of the maritime history of this country. While I understand that the heritage must be maintained, I also understand that we have to strike a balance to be able to maintain our heritage so that generations coming behind us can understand and enjoy the experiences that we have had in our lives.

The marine life also plays an attracting role in tourism—one of the pillars of our economy. However, I think that it is also incumbent upon us to ensure that we do not make laws to the point where we stifle our people to feel like their lives are being truncated.

Madam Speaker, I support the control of taking marine life. I think I have been one of the biggest advocates of that. When the Marine Conservation Law came into effect many years ago (in the mid '80s) I supported it then. I was a little reluctant because of the privileges that I had enjoyed as a teenager and a young man. I agree, I contributed to the reason for bringing the Marine Conservation Law—like we all did, I believe. At that time I could not really applaud Sir Vassel, but in years to come I did. I would like to say once more that I believe that the Marine Conservation Law was one of the best pieces of legislation ever passed in this honourable House in modern times.

As years progressed after the passage of that Law I specifically saw the need for enforcement. For instance, the Law allowed 15 conchs per person or 20 per boat whichever was less, and I saw the abuse of the Law. I saw many people taking more but there was no enforcement and it is no different today. I believe today that behaviour continues to exist. It may not be to the extent that it was 12 years ago, but certainly the behaviour continues. I have maintained that we have to enforce the Law.

We could stand in here until Kingdom come and make laws but, like the Minister of Tourism said, people are going to break these laws. We cannot legislate morals. We make laws but we have to enforce the laws. We have been woefully lacking over the years in the area of enforcement. In the last six months, or thereabout, I have seen a greater presence of enforcement officers particularly in East End, but it is not enough.

In my Throne Speech debate earlier last year I called for increased enforcement within the marine

section. Madam Speaker, like I said earlier, there has been an increase but it is not good enough. I have called for enforcement officers to be stationed in each district, particularly the districts that have more to lose, that is, East End, North Side, Cayman Brac and Little Cayman. I recognise it means more civil servants, like the Minister of Community Services would say, but I think it would be to the benefit of this country to ensure the preservation of the marine life.

I think it is money well spent when we increase enforcement. I would have liked to have possibly seen in the last Budget (or maybe in the not-too-distant future) a plan for total and comprehensive enforcement of the laws and, in particular, this Law, that is, the Marine Conservation Law.

When I received the White Paper (which was circulated mid 2001) I too was a little confused with some of the ways that it was set out. Since then (yesterday) we received the Bill and today amendments to that Bill. I would like to speak on some of the areas of the Bill that I believe need attention.

I start with the area on the spear gun. I note that the definition of spear gun includes a mechanical spear gun, Hawaiian sling, pole spear and harpoon, rod, or other device which may be used to take marine life by spearing it. An amendment to section 14 of the Law prohibits anyone taking marine life using all those things, without a licence issued by the Board. As it is so broad and encompassing, I wonder if we will now need to get a licence for a striker. I trust not, because further on in the Law we are allowing the populace to take five conchs per person or 10 per boat and there are many fishermen in Grand Cayman (I dare say, Madam Speaker, in your constituency) and also on West Bay, who still use strikers. I trust that that is not the case. I trust that the marine officer does not pick up someone like Mrs. Stanford Rankin in East End for striking up 10 conchs without a licence. I trust that they do not approach people like Nelson Christian—

**The Speaker:** Honourable Member I would ask you if you would refrain from using the names of persons in your constituency or otherwise as it may imply that they have a tendency to contravene the Law.

**Mr. V. Arden McLean:** Madam Speaker, I will just say then that there are fishermen, some of whom depend on fishing as a livelihood, who have no intention of contravening the Law but, certainly, would be using strikers to strike up.

By virtue of the intention of the Law, we would have a law-abiding citizen being prosecuted for something that he has done all his life. Now that is going to be tough because I am going to defend those gentlemen. I know it is not the intention of the Government to put good law-abiding citizens in jail, and, in particular, my people from East End. I know that they will look at that and get that clarified at the first opportunity. Maybe it can be brought in the committee stage to change that, so we have it properly clarified. These

gentlemen do not dive for conch and they still use their water glass and strikers to take conchs. That is not to say Madam Speaker, that I do not welcome the amendment because, again, I am going to tie enforcement into this.

The amendment to section 14 of the principal Law says, **"...any person who has a spear gun in his possession in the Islands or take any marine life with the aid of a spear gun in Cayman water or has in his possession any marine life taken from the Cayman waters with the aid of a spear gun is guilty of an offence unless licensed by the Board, who may in granting such licence make such conditions as to possession and use as it may think fit."** I welcome that but I just need the clarification on whether strikers are included.

The reason I welcome it most of all is that there are many occasions when I have been down at the docks in George Town and I have seen people selling fish from the docks with holes in them and it is not the allowed amount. It is much more. It was neither striker nor dynamite doing that. We need to stop the abuse of the spear guns. They go out and they strike.

The other thing I welcome in this amendment is the fact that they cannot catch anything less than eight inches. I have seen them with fish with holes in them that the holes from spear guns are bigger than the fish. That is ridiculous and that is what is taking and destroying our marine life and there is no enforcement. I welcome the teeth being put in the Law and for people to be prosecuted. They have to be prosecuted!

Moving on to the whelks, again, I do not have a real big problem with controlling the taking of whelks. I thought maybe we would have said the five-gallon, but so be it. What I have a problem with is subsection (9)(a)(b) which says, **"...has in his possession more than two and one half pounds of whelks which are processed and which were taken from Cayman waters."** Now, Madam Speaker, what that says to me is even if a person has it in his refrigerator and he went two days in the last two weeks and has five pounds he is committing an offence. What we are saying then is that every time you take the whelks you have to cook them before the police get to your house. I would suspect that the two and a half pounds is related to the two and one half gallons of whelks.

Then it is estimated that that would be the processed weight but we cannot do that if we are allowed to take two and a half pounds. I would like to think that we cannot tell anyone that they cannot keep the two and a half pounds until they go another time, which may be the next day and get another two and half pounds. We cannot do that.

I am just trying to show the other problem we have so that the Government can think about it and maybe make some changes to it at committee stage. **"Any person in any one day purchases or receives more than two and one half gallons of whelks in**

**the shell taken from the Cayman waters or more than two and one half pounds of processed whelks is guilty of an offence."** Madam Speaker, I am sure there is more than one person who catches whelks and sells to a restaurant. Let us talk about Heritage Week when the real food is whelks and conchs and they store it for a few months. Can we really say that those individuals bought 10 pounds of conch in a day and bought them from one person? They also have them in their possession and it is an offence?

Madam Speaker, I am only bringing it out to show that there are some flaws that need to be addressed, because, in effect, the people would be contravening the Law. Maybe it can be explained away but I doubt it, because of the way it is worded which says that **'if it is in the person's possession'**. More than one person can sell two and a half pounds. It did not say that only one person in this country could sell two and a half pounds in one day to the same individual. It could be many people who sell to that individual and they have it in their possession. I am sure the Government will look at that and assist and explain to the draft people to get that straightened out for us. Maybe my interpretation of it is wrong but that is the way I see it.

Madam Speaker, another area that I would like to touch on is that of the fish-pots. Section 9A (1) which says, **"...any person who by the use of a fish-pot takes from Cayman waters any Nassau grouper which is less than one foot in length during the months of April to October inclusive is guilty of an offence."** We are trying to control and save the grouper population. So why are we saying only April to October? I understand that in the year there is a ban on the grouper that will suffice because you still cannot catch it throughout that whole year. What happens the year that it is opened? How are we going to deal with that? No grouper under 1 foot should be caught whether it be by line or not! It should be less than 8 inches to prevent people from catching the groupers under 1 foot. No grouper less than 12 inches should be caught period! There are too many openings that will allow people to think that they can catch them when the grouper season is opened and keep them, whether it is by fish-pot or by line.

Madam Speaker, I know there are areas, particularly in the Caribbean and around Florida, where they are trying to again preserve the marine life and they have banned certain size of fish and the likes and I welcome that too. Now, it is going to be a little difficult for me to go out with my son to catch the grunts but we will just have to chuck them back in anyway, unless they are eight inches and that is fine by me. He will just have to put them back in and try and catch a grouper over 1 foot. There are not many Caymanians who are going to keep these little small fish except those who use the spear gun and will not work.

I have noticed on more than one occasion not only the Caymanians (because there are not many

Caymanians who are going to keep the small fish) but that there are residents, foreign nationals, who go out there and the only thing they do not take back home is the Caribbean Sea. Those people have to stop because they are the biggest culprits in depleting our marine life. I want to see the policemen take up persons that are walking along the road, with the little angel fish and the squirrels and the doctor fish, et cetera, on strings. They use Clorox to flush them out from under the rocks and they use it to get the lobsters too.

When the Minister for Tourism says that he had to compromise he can be comforted that a lot of this is done well. We are going to have some problems with the groupers but at least we will not see the small fish slung across people's backs walking down the street. I trust that we will no longer see speared fish for sale.

The other area is that of sharks. During the last year I have taken my licks for this shark thing and rightly so. But I do not know who else in this honourable House have received the same. I have consulted with the Minister on a number of occasions on this particular thing and he has done his best to try and get it in place. So much so that, particularly in my constituency, there was an operation that was given permission to do 'scientific research' on sharks. It was alleged that the feeding of sharks was being done for gain. I cannot say that because I did not go on any of those dives. I do not dive but I can tell you that from here on it will be clear cut that no one will feed any sharks in this country lawfully.

During last year we heard so many times of shark attacks (provoked or unprovoked regardless of how they came) within the Caribbean and in neighbouring USA, namely Florida and the Carolinas. Madam Speaker, I am sure this country was living in fear of such happening in this country. We should. We talk about tourism. If one tourist in this country is bitten by a shark, that is the end of our tourism. We will not have to worry about 11 September. I welcome the total ban of shark feeding because as an alleged result of the scientific research that was being carried on in East End, there are many sharks within the Sound. I have no scientific proof of what brought them there. I have tried to research it and I understand that the breeding time for the sharks is during the summer and they usually come into the shallows. Nobody can say that it was not a contributing factor.

I have heard from many fishermen in East End that say they are now seeing a proliferation of sharks within the Sound. I am sure they will welcome the ban on shark feeding. We cannot stop the sharks from coming in but we can stop the people from feeding them. We know what kind of havoc a shark can do to a fisherman, especially if he is pulling up his meal and the shark takes it away. I welcome the ban on feeding sharks and I thank the Minister for so doing.

Madam Speaker, I hope that I will not be called for repetition but on those same amendments

to the directives and regulations that the previous speakers mentioned, I too have a little problem with two of the areas that was mentioned and that is on the size of a fish-pot. I hear the Third Elected Member for West Bay saying that "we (I took that to mean the UDP) have recognised that it may have been a mistake in the size of the fish-pot" and it will be changed. I think the Director of Environment is probably indicating that that may be true. Just to say that I have never heard of a fish-pot 2 feet wide. I have thrown as many of them over the side as anybody else in this honourable House. I would like to suggest there can be a minimum and a maximum size, where the maximum should be 4x4x2 or 3 but we cannot go down to 2 feet wide. The smallest I have seen them is 3 feet wide. So, I just make that suggestion to the Government.

The other area in the regulations that I really have some difficulty understanding is how can a licence for a fish-pot be revoked on the basis that the licence holder is convicted of an offence involving violence or threatening violence? I really do not understand the connection between violence and a fish-pot. I am not advocating violence. If it was a spear gun yes, because that is a dangerous weapon but not a fish-pot. You cannot go down the street with a fish-pot on your head to your next door neighbour to threaten him with it. So, maybe the Government can look at that because that does not ring true to what I know a fish-pot is used for.

I would ask the Government to look also at the section concerning the trap door of the fish-pot when it says, "**...it must be hitched at the bottom and secured only by corrosive wire or decomposable cord.**" I do not know if decomposable cord is going to operate too well. I understand the corrodible wire. I suspect that is in the event that the fish-pot gets lost and we know the fish is going to get out. However, I do not know if decomposable cord is going to work well because of the fish hitting against it and within a week it probably breaks down.

The other area that I would like to be looked at is under the regulations, the application to use a fish-pot in the Cayman waters. On the one hand we say only Caymanians can get the licence to use the fish-pot, but then we are asking them the number of years they have been fishing with pots. I do not see any relationship in that. I really do not. Then it asks, '**Do you own a fish-pot?**' I guess that is why we are applying for the licence. I am sure the answer to, '**What types of fish are you are going to catch with the fish-pot?**' will be the types that actually go into the pot, so I am not sure how that is expected to be answered. I am only saying this, because it is going to appear cumbersome to the applicant when asked these questions. For example, '**Where do you most frequently set your fish-pot?**' If we are trying to find out the area and prevent people from fishing in that area—which is subject to restrictions in the marine parks and in the spawning area, et cetera—the only answer I could give to that is the sea. I am saying it

should be considered if the questions are too tedious for the applicant, not to malign anyone or embarrass anyone, but only for them to look into it.

The other area is that of lobster. I do not believe that there should be a total ban on lobsters. I believe that there are many lobsters available out there. Again, it comes back to the abuse. We hear of people catching a hundred lobsters in one day. Lobster season opens and at 12 o'clock that night at the stroke of the clock, the boats hit the water! Why is it that we cannot pay the enforcement officers' overtime so that at the stroke of 11 o'clock they too are in the water? They are destroying us because they want to go out there and get all these lobsters and then the other thing is these restaurants. We have to start prosecuting them too. If they buy it they should go face the judge. We need enforcement because we could come in here and we could totally ban all taking of all marine life but it would not work unless we have the proper enforcement.

I take note that the closed season for lobster has been changed. Well, it has been extended to include November when most of the lobsters have eggs. I have been told that by elders in the district of East End and I recognised a long time ago that the season was not in the right time of the year. From their knowledge, lobsters spawn later on in the year and I am glad to see that the Director (whom I assume has sponsored this Bill) and the Minister, have taken that into account and now hopefully we will not have too many lobsters taken with eggs.

I see where the chitons, periwinkles or bleeding teeth are banned until 31 December 2004. Madam Speaker, Caymanians do not eat them. We do not eat these. We want a permanent ban on them forever and ever and amen. It is whelks, conchs, lobsters and fish that we eat. We do not eat those little periwinkles and anyone who is eating them it means that they are not buying anything from the stores, because they are easily retrieved. Let us stop talking about 2004 and get it done forever.

In the Bill there was a provision for preventing boats over 20 feet from going into the designated areas for groupers during the spawning time. That one was going to create some serious nightmares for the people of East End. I understand the rationale because I have heard before that the engines are disturbing the spawning and running the groupers and that maybe true. I have no scientific data to support that and I do not think anybody else would have it. I recall as a youth when there were catboats (no engines) and we were bringing a hundred and twenty groupers per boat per day. It was pure brawn then, pulling or selling.

As time progressed the catch declined. I do not know what caused that depletion; it may have been the boats running the fish. I do not know and I will attest to any particular thing. I would say that not all boats over 20 feet have the same types of engines because the boats under 20 feet would have 60 horsepower and there are many boats in East End

over 20 feet, particularly the canoes. A lot of the fishermen in East End use the (Jamaican) canoes and they do not have any bigger engines, but they would not be allowed to fish for groupers. So, I see that that has been repealed and I welcome that.

I also agree with the First Elected Member for George Town, for a preference of a limit on groupers, but I guess the Minister for Tourism had to compromise so I will have to compromise.

Madam Speaker, I agree with the First Elected Member for George Town that if we close it down one year and open it the next, we are going to see some serious abuse of it. I believe a limit per day, per year, per season, whatever the case may be, would come across more palatable with the people who fish for groupers. However, that is also too difficult to enforce. It is easier to enforce by just saying that it is banned and all the enforcement officer has to do is check the boats as they come in. He will not need a boat to do that but just to drive around in the car on land and anybody with a grouper during that year must prove that he got it elsewhere. Then again, he should not have to prove it because we are saying that it is only in the spawning area that you cannot fish.

There are many areas in East End where I know you can catch groupers other than the Coxson groupers on the banks. It is going to be extremely difficult to enforce.

The amendment reads: "**with effect from 1 January 2003 to 31 December 2003 and every other year thereafter any person who by any means takes from a designated grouper spawning area or receives or has in his possession any Nassau grouper which has been taken from such an area is guilty of an offence.**" I trust that the Government understands that that area is going to have to be extremely big and that there are other areas in which the groupers can be caught. Groupers like any other fish have fins and they do not stay in the spawning area. When they are caught outside that designated area you cannot prove otherwise that they were caught inside there. Therefore, it is not enforceable. This says, Madam Speaker, '**only in the spawning area**' and I am only saying this to say that when we see in the year 1 January 2003 people coming in with groupers we cannot immediately assume came from the spawning areas.

I do not know how it can be proven because you cannot say use the colour of that grouper, the depth that he was caught at to prove anything as we can find the same depth elsewhere. The fish can move. It would be interesting for the Minister in his reply to let us know what criteria is going to be used to determine where that fish was caught. It comes back to the same thing. During that year especially during the spawning time, enforcement and regular patrols of the spawning area is necessary. The boats do not just go in and have one down, they are there for a few hours so you will find them in that area.

As I said, the amendments are a far cry from what the Bill and the White Paper dealt with and proposed. While I would like to have seen it a little different I do understand, and all of us will have to compromise and explain the objective to our people. All of us in this country will have to try and live with it because of the intent of Law. I grew up in the district of East End where it was plentiful. I have seen it diminished significantly over many years. In those days, Madam Speaker, lobster and conch were considered bait. You had to go far to sell conchs in those days. You do not need to now. I too intend to spend many years in this country; to be buried here and would like to eat some of that which I enjoyed as a youngster. I would also like to pass some of that on to my children.

Another area which I overlooked is section 11 of the Bill which talks about the principal Law as amended in section 16, by renumbering the section. In (b) it says, **'by inserting after paragraph (b) the following new paragraph: - (f) any fish less than 8 inches in length other than the following:**

- (i) **goggle eye fish (Selar crumenophthalmus);**
- (ii) **herring fish (Clupeidae);**
- (iii) **anchovy fish (Engraulidae);**
- (iv) **silverside fish (Atherinidae);**

**and (C) by inserting the following new subsection (2) Any person who takes –**

- (a) **any jew fish (Epinephelus itajara); and**
- (b) **any of the following ornamental fish –**
  - (i) **tilefish (Malacanthus plumieri);**
  - (ii) **filefish (Monacanthidae);**
  - (iii) **angelfish (Pomacanthidae),**

**is guilty of an offence."**

Madam Speaker, I see that goggle eye, herring fish, anchovy fish, and silverside fish are exempt from the offences. I do not know if sprats are included. Maybe we can do an amendment to include it, as we have in other areas used the local terms for these things, because I really did not know we have anchovies here. I knew we had herrings and I do not know silverside fish. Well, maybe it can be said in here what it is because I have caught more fries than most of us and did not know their names. I did not know anchovies were sprats either. I thought anchovies were used on pizza!

I see the indication that Government will try to address that so that the local people will understand it and I welcome that also.

I would like to thank the Minister for listening to me and I trust that he will reply to some of the things that I have mentioned. I trust that the Minister has learned something from this whole exercise too as I have and that in his reply he will try to address some of the issues that I have raised. Thank you.

**The Speaker:** Thank you. Is there any other Member who wishes to speak? Does any other Member wish to speak? Last call—does any other Member wish to

speak? If not, I will call on the Mover if he wishes to exercise his right of reply.

The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Madam Speaker, I have listened to the Opposition and have summed up their contribution in this way:

They believe this to be an emotive issue and seek to get as much mileage out of it as possible. As I said, I find that much of what they raised were the changes they already knew were being made. We could have been out of here a long time. The minutia raised by them could have been left unsaid.

The First Elected Member for George Town raised the matter of the error in the fish-pots in section 20 in the directives, as we said was a drafting error which was found out during the examination in various meetings and this has been changed a month ago. I listened to that same Member talk about the groupers. This matter of an alternate year for fishing of groupers which he made much ado and was 'parroted' by the other two Members in the Opposition. I would like to say that this was in the White Paper from the beginning but more than the White Paper was prepared for Executive Council and the First Member for George Town was a part of Executive Council that agreed to publish it. I should say to the other two Members . . . if the First Member for George Town knew you can believe that they knew about it.

*[Inaudible comment]*

Well, if you did not agree with him on that that must be the only thing you did not agree to.

However, they would like to beat up on the UDP and somehow make people believe that this was not given much attention. I would like to say to them that there was no outcry from the public on this issue. There has been none. It was in the White Paper which was out from, I think May, and we talked about in public meetings and I would believe that the only Member for the Opposition who took time to have a meeting was the Member for East End. I would suspect that he too would have brought that to the attention of his constituents.

*[Inaudible comment]*

Madam Speaker, I am hearing them say we have to compromise. But just now when I mentioned compromise, it was not much of a compromise—it was the UDP that was opposing me, according to the Second Member for George Town. They had all afternoon—

*[Inaudible comment]*

I would ask the Member for East End to give me a break. Rest me!

We will amend and provide an amount in the year where grouper fishing is allowed. We will make that committee stage amendment. However, what I am saying to the Opposition, is that they just cannot get up here and make the world believe that something is so when it is not so. The Second Member for George Town went on at length to talk about this compromise that I mentioned. They also mentioned that I was not at the meeting which is true. I was not at the meeting all the time. I had another meeting going on in the Legislative Assembly and the truth is we have had meetings between meetings here in the Chamber on various matters and meetings with various people, to the extent that we did not have space to meet. So, I was not able to be at that meeting all the time. We started yesterday and went on today as well. However, I would like say that my Permanent Secretary, the Director of Environment and the Senior Assistant Secretary in the Ministry were there and they are still here this afternoon. Therefore, I have been kept up-to-date on all that has happened.

Madam Speaker, they did not want a complete ban on lobster and whelks so they cannot come and say one thing inside there and come out here and say another thing. The truth is the two of them attended the meeting, one wanted one thing sometimes and the other one wanted something else another time. They wanted catch limits in some instances and two Members on this side of the House were in agreement on some things. So, it does not matter if they come blaming the UDP as he did. As I said, they did not have their show together either. The Member for East End was the most vocal at times and they had different positions at different times. Sometimes there was agreement on both sides, other times it was not. So, why try to make anyone believe that the amendments are due to the UDP?

There were people on both sides who did not want a ban on spear guns. Madam Speaker, the same Member for George Town spoke about the Bill not being gazetted which means the Bill would have been in the Green Bill form and he usually realises that. However, this is not the only Government which has had to pass legislation this way and certainly would not be the last.

*[Inaudible comment]*

You would not know. Yes, well, they change with the wind.

Madam Speaker, what that really means is that the Green Bill is not printed and, for instance, while some changes might have been made to a Bill, there is no difference between the Green Bill and the White Bill, unless there are significant changes. That is the only difference between the Green Bill and the White Bill. I can say that if they had another three years they still would not agree or would find something to complain about. Yet they would not have one

meeting to talk about the amendments to the people of this country.

*[Inaudible comment]*

You are not the . . . you are the Member for East End.

Instead of the Member for George Town grumbling in his seat he should have informed the public a long time ago as he had the opportunity but, he chose to take that time—

#### POINT OF ORDER

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, on a point of order.

**The Speaker:** Please state your point of order.

**Mr. Alden M. McLaughlin, Jr.:** The Minister is misleading the House. The Bill was presented yesterday morning. Did he want to adjourn the Legislative Assembly so I could have held a meeting to discuss the proposed amendments? He is misleading the House by saying that I could have held a meeting. I could not.

**The Speaker:** Honourable Leader of Government Business, did you actually say that the Bill was presented or did you say the White Paper?

**Hon. W. McKeever Bush:** Madam Speaker, I said they could have had a meeting to inform the public because that is what his colleague, the Member for East End did, and what we did. I think the Bodden Town Members should have their meeting on matters before the House. So, it was not the Bill I mentioned. I said that they should have had a meeting to inform the public and the White Paper had been public long enough for them to have a meeting. If I said a 'Bill' at that point, Madam Speaker, then I will withdraw that. I do not think I did.

**The Speaker:** Thank you, Honourable Leader.

**Hon. W. McKeever Bush:** I certainly said they should have had a meeting and I say that again. However, instead of having a meeting on the marine environment, he had a meeting on McKeever Bush!

Madam Speaker, that Member has to understand that . . .

Do you know what? I will just leave him alone because the truth is the three of them have talked here this afternoon mostly to hear themselves talk.

He also raised a matter to criticize us by saying that we should not give five conchs per person and that there should be 10 conchs per person. I wonder how many people did he want to have 10 conchs? Why does he want to increase the number of



conchs per person but would put a complete ban on whelks?

### POINT OF ORDER

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker—

**The Speaker:** Please state your point or order.

**Mr. Alden M. McLaughlin, Jr.:** That again is misleading. The current legislation provides for 15 per person and 20 per boat. I proposed 10. How is that an increase? It is an increase over what is proposed in the current Bill.

**Hon. W. McKeeva Bush:** That is what I was saying, Madam Speaker. That is all I am saying! Why does he want to increase the amendment from five conchs per person but put a complete ban on whelks? When he talks about not being political, that is his *modus operandi* at all times! Why would he say that? Is it because there are not too many whelks to get in George Town and they are available in other districts so he is not concerned about the other districts? Playing politics, Madam Speaker!

The point raised by the same Member, that the limit for catching conchs was too low and that provisions are unduly restrictive, it should be pointed out that the previous catch limit was set in 1978 (23 years ago). The catch limit should have been reduced years ago and that is why the reduction is so drastic and necessary today.

I would just like to refer to the point raised by the First Elected Member for George Town about the provisions in the fish-pot directives. The Member pointed out that the decisions of Board are binding. The reality is that in the Law there are provisions for persons to appeal decisions of the Board, to the Governor in Council. So the decisions of the Board in this respect can be appealed.

In regard to enforcement, all of us would like to see an improvement, but if I had asked for five more enforcement officers those same Members would have criticised me for raising the number of civil servants. I know that you cannot please them. I realise that. I will do what I believe is in the best interest of the country. I can only say that I believe, given the circumstances, that the enforcement officers are doing the best they can. That is not to say there is no improvement because there is improvement to be made. However, if you had enforcement officers all over Grand Cayman, Little Cayman and Cayman Brac, some people would still break the law and get away with it.

If it was only the old time Caymanian fishermen (like the Member for East End talked about), the few that we have left, then we would not have to worry. As I said, there was so much minutia raised that I do not think I should take the time of the House to deal with those matters.

In regards to the application, which the Member for East End seems to have a field day with and which left his colleagues cackling like a Christmas party. We have to bear in mind that the Department is one which operates on information. They must have information on what is going on in the marine environment and so it is best that they know who is doing what and where. So, those applications should ask those kinds of questions. At least, they will have some sort of information at hand.

These amendments were discussed from yesterday. I have been to and fro from yesterday, and we have taken a lot of time to get to this point and I do not think that I or the Department would be able to please everybody. However, we have to make an attempt to do something about what is a serious depletion in certain areas and types of fish in this country. When you look at the types of fish that are caught, most are ornamental fish. Nobody should make much of any attempt to stop this, whether it is by striker or whether it is by fish-pot or some sort of handmade spear gun.

I am going to lay them [photographs] on the Table, Madam Speaker, so Members can look at them.

**The Speaker:** So ordered.

**Hon. W. McKeeva Bush:** Madam Speaker, in many instances we are late in what we are trying to accomplish but I believe that it is in the best interest of the country. We might not have it all right the way that I want it or other Members would want it but we have to put some of these things in place. So, I want to thank all persons who were involved in this exercise, especially over the past two days. As I said, we have been working on this from May last year and the Department has probably been working on this for many years before this.

I would like to thank the Director who has worked very hard on these issues. I would like to thank the Senior Assistant Secretary and the Permanent Secretary. I would like to also thank Ms. Cheryl Neblet who was the draft person on this Bill and in fact all other persons.

The Opposition has made some good points on this matter and if they were genuine at all times it would be all right. So, Madam Speaker, I ask all Members to support the Bill.

*[Inaudible comment]*

I am glad to hear them say they are going to vote for it. They know what is in the best interest of the country and I wish they would do that at all times instead of playing the politics that they do.

**The Speaker:** The question is that a Bill shortly entitled The Marine Conservation (Amendment) Bill, 2001 be given a second reading. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Marine Conservation (Amendment) Bill, 2001 has been duly read a second time.

The House will now go into committee.

**AGREED: THE MARINE CONSERVATION (AMENDMENT) BILL, 2001 GIVEN A SECOND READING.**

**HOUSE IN COMMITTEE AT 6.25**

**COMMITTEE ON BILL**

**The Chairman:** Please be seated. The House is now in Committee. With the leave of the House may I assume that as usual we would authorise the Honourable Second Official Member to correct minor printing errors and such like in these Bills?

Would the Clerk please state the Bill and read its clauses?

**THE MARINE CONSERVATION (AMENDMENT) BILL, 2001**

**The Clerk:** The Marine Conservation (Amendment) Bill, 2001.

|          |                                                                                    |
|----------|------------------------------------------------------------------------------------|
| Clause 1 | Short title.                                                                       |
| Clause 2 | Amendment of section 2 of The Marine Conservation Law (1995 Revision) Definitions. |

**The Chairman:** If there is no debate, I will put the question that clause 1 stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clause 1 stands part of the Bill.

**The Clerk:** Clause 2. Amendment of section 2 of The Marine Conservation Law (1995 Revision) Definitions.

**The Chairman:** Honourable Leader I believe that there is an amendment to Clause 2 of the Bill.

**Ms. Edna M. Moyle:** Madam Chairman, if I could just ask a question before the Honourable Minister does his spear gun definition.

**The Chairman:** Certainly.

**Ms. Edna M. Moyle:** When we look at the Marine Conservation directives it says 1998 Revision. I do not know whether or not there is a new one since that. The definition of spear gun means, "any device whereby a harpoon, rod, spear or other projectile may

be impelled through water." I think this definition would be slightly different.

**Hon. W. McKeever Bush:** Madam Chairman, we intend to repeal that one and there is a consequential amendment to 2 which would take care of that.

**The Chairman:** Are you then going to move your amendment at this stage?

**Hon. W. McKeever Bush:** Yes.

**The Chairman:** Member for East End, did you have a question?

**Mr. V. Arden McLean:** I raised the situation of a striker.

**The Chairman:** Perhaps if you could wait one moment.

**Mr. V. Arden McLean:** All right.

**Hon. W. McKeever Bush:** Are you ready for me now Madam Chairman?

**The Chairman:** In a second. There was another question from the Member for East End. I do not know if it is from the same topic or whether you needed a separate response. Is it on the spear gun as well?

**Mr. V. Arden McLean:** Yes, Madam Chairman.

**The Chairman:** Please proceed then.

**Mr. V. Arden McLean:** I raised in my debate thereon, the question of the definition of spear gun and particularly other devices and I questioned the striker or spike as we would call it in Cayman.

**The Chairman:** The Honourable Leader.

**Hon. W. McKeever Bush:** Madam Chairman, the Member himself in his debate talked about the destruction he sees in front of the bakery and sometimes at other places. The Director has elaborated that the Department has information that quite a bit of what we see there is done by a striker form spear which is used to strike much of the fish. Now, they are shaking their head, but they have to give the Department what is due as well. I know what you call a traditional Caymanian striker. Cayman's traditional striker has two prongs.

**The Chairman:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** Madam Chairwoman, I understand the difficulty the Member for East End has as far as enforcement goes. If we have a Law in place

and all we have for evidence is a fish with a hole in it, we may leave a provision or a loophole in the Law. It will allow someone with a striker to be able to strike or spear fish, so that when the enforcement officers go down to the dock and they find some of them with a hole, how will they be able to determine whether that was a spear gun (by some mechanical device) or whether it was a permitted striker? We say it has two prongs but it is very possible that a striker could have one prong as well. When we want it enforced, the enforcement officers will see a fish with a hole in it. I know what a striker is, but I am saying if you have a striker that puts a hole in a fish how do you define what can be termed 'the Caymanian striker' versus anything else that is used to spear the fish?

**The Chairman:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Chairperson. If I could explain what a striker or traditional spike is, it is two metal prongs on a minimum of 15 feet of pole. It is not a peg. It is only used to retrieve conchs and lobsters. You cannot strike a fish with it. It is impossible to strike a fish with a striker unless he is half dead and lying on his side in the water.

**The Chairman:** The Honourable Minister responsible for Community Services.

**Dr. the Hon. Frank McField:** Madam Chairperson, the Member for East End has this attitude that I have never seen the sea and the boat. However, when my grandfather Lemmy was building boats and we were fishing in North Sound, I wonder where he was. A peg is what we call that instrument. We use it to retrieve fish-pots, we use to strike lobsters and if you are good at it and real lucky, you might be able to strike a fish with it. However, normally it is a very difficult task and you have to be extremely skilled to be able to strike a fish with it.

**Hon. W. McKeeva Bush:** Madam Chairperson, they talk about enforcement but some of these things that they do not want included (if we did not put them in it) would be an enforcement nightmare. Unfortunately, as I said, old time Caymanians would make good use of what they call the striker and I know that some districts call it striker and some call it pegs. One bad apple spoils the rest and we cannot legislate for every small matter on the Law. Unfortunately that is the point.

As I said, we talk about enforcement and not having enough enforcement but if we put in all things or take out some of the things that they have mentioned, it would create a nightmare for enforcement. Some of these matters are to help enforcement.

**The Chairman:** Member for East End did you have something to debate? If not I will ask for the amendment to be put.

**Mr. V. Arden McLean:** Yes, I have something to debate.

**The Chairman:** Please proceed.

**Mr. V. Arden McLean:** Thank you. I think the Minister for Community Services is on the right track in understanding what I am talking about. It is difficult to strike a fish with a spike, which in some places in this country is either called a spike or striker. I am familiar with it, like the Minister, in that it does not have any barbs on it and is merely used to get conchs out of deep water and maybe lobsters if they are out from under the rocks. You cannot strike fish with it and maybe he is talking a little different when he said it could retrieve fish-pots. I have never seen those that I am talking about as being capable of doing that. However, maybe we are at cross-purposes and we each have a different interpretation of what it is, but a striker needs to be excluded from the definition of spear gun in my humble submission.

**The Chairman:** The Fourth Elected Member for West Bay.

**Mr. Cline A. Glidden, Jr.:** I just want to say that as long as we all agree that it is not impossible to strike fish as was first stated, then it is going to have to remain in the Law. Otherwise enforcement is going to be impossible. Once a possibility exists there is no way of going down to try to enforce and to prove that the individual who got the fish did not get it in that manner. We agree that it is not impossible to do.

**The Chairman:** Member for East End, is it your intention to move a motion in that regard? If not we will move on the motion that we have sought leave for.

**Mr. V. Arden McLean:** Yes, Madam Chairperson, it is my intention to move a motion.

**The Chairman:** Well, I have received a request for leave from the Leader of Government Business for his motion, so that motion will come first in order so you need to formulate your motion either verbally or written and seek (through the Clerk) for me to give leave, which I will be prepared to do.

Honourable Leader of Government Business, please proceed with the moving of your notice for committee stage amendments.

**Hon. W. McKeeva Bush:** Madam Chairperson, in accordance with the provisions of Standing Order 52(1) and (2) I, the Minister responsible for Tourism, Environment, Development and Commerce, give notice that I intend to move the following committee stage amendments to The Marine Conservation (Amendment) Bill, 2001. That clause 2 of the Bill be amended by inserting the following definition in its appropriate alphabetical order:

**“‘Spear gun’ includes a mechanical spear-gun, an Hawaiian sling, a pole spear, a harpoon, rod, or other device which may be used to take marine life by spearing it.”**

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak further on it? If not, I put the question that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The amendment stands part of the clause.

**AMENDMENT TO CLAUSE 2 PASSED.**

**The Chairman:** I now put the question that the clause as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clause 2 as amended stands part of the Bill.

**CLAUSE 2 AS AMENDED PASSED.**

**The Clerk:** Clause 3. Repeal of section 6 absolute protection of certain lobsters.

**The Chairman:** The question is that clause 3 do stand part of the Bill. If there is no debate I put the question that clause 3 stands part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clause 3 stands part of the Bill.

**CLAUSE 3 PASSED.**

**The Clerk:** Clause 4. Repeal of section 7 and substitution closed seasons.

**The Chairman:** Honourable Leader, clause 4. I believe you want to do an amendment.

**Hon. W. McKeeva Bush:** Madam Chairman, I move that clause 4 of the Bill be amended as follows by repealing section 7(1) and substituting the following:

**“(1) Any person who takes from Cayman waters or receives or has in his possession any lobsters taken from Cayman waters during the months of March to November inclusive is guilty of an offence.”**

And by renumbering section 7(2), (3) and (4) as section 7(5), (6) and (7) respectively; and inserting the following as 7(2), (3) and (4):

**“(2) Any person who takes from Cayman waters or receives or has in his possession any—**

- (a) chiton**
- (b) periwinkles; or**
- (c) bleeding teeth,**

**taken from Cayman waters is guilty of an offence.**

**“(3) Any person who takes from Cayman waters in any one day more than 3 lobsters is guilty of an offence.**

**“(4) Any person who permits or causes to be caught from or loaded onto anyone vessel in anyone day—**

- (a) more than 3 lobsters for each person on board such vessel; or**
- (b) six such lobsters**

**whichever is the lesser number is guilty of an offence.”**

Madam Chairperson I would further move that in this clause we strike out the balance of the words stopping at ‘Cayman waters’ and what we are doing here is banning them completely.

And by repealing section 7(3) (now renumbered as section 7(6)) and substituting the following -

**“(6) With effect from 1 January 2003 to 31 December 2003 (and every alternate year thereafter) any person who, by any means, takes from a designated grouper spawning area or receives or has in his possession any Nassau grouper which has been taken from such an area is guilty of an offence [Madam Chairperson we insert the words there] and in the years during which a person is permitted to take Nassau groupers from a designated spawning area, a person who, in anyone day, causes or permits to be loaded onto any vessel in Cayman waters more than 12 groupers is guilty of an offence.”**

Madam Chairperson, what I am suggesting is that the Clerk and the Draftsman get together afterwards and put that in typewritten form (as it is in handwritten form right now). Madam Chairperson, if you could continue please.

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak or debate thereon? If not, I put the question that the amend-

ments stand part of the clause. All those in favour please say Aye. All those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The amendments stand part of the clause.

**AMENDMENTS TO CLAUSE 4 PASSED.**

**The Chairman:** I will now put the question that the clause as amended stands part of the Bill. All those in favour please say Aye. All those against, No.

**AYES.**

**The Chairman:** Clause 4 as amended stands part of the Bill.

**CLAUSE 4 AS AMENDED PASSED.**

**The Clerk:**

|          |                                                                                  |
|----------|----------------------------------------------------------------------------------|
| Clause 5 | Repeal of section 8 limit on lobster catch.                                      |
| Clause 6 | Repeal of section 9 and substitution. Restriction on taking and receiving conch. |

**The Chairman:** The question is that clauses 5 and 6 do stand part of the Bill. If there is no debate I put the question that clauses 5 to 6 stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 5 and 6 stand part of the Bill.

**CLAUSES 5 AND 6 PASSED.**

**The Clerk:** Clause 7. Restriction on taking and receiving Nassau groupers.

**The Chairman:** Honourable Leader, I believe there is an amendment intended for clause 7.

**Hon. W. McKeever Bush:** Thank you, Madam Chairperson.

I move that clause 7 of the Bill be repealed and the following substituted which is an **“Insertion of new sections—restriction on taking and receiving whelks and Nassau groupers.”**

**“7. The principal Law is amended by inserting the following new sections after section 9— ‘Restriction on taking and receiving whelks’**

**“9A. (1) Any person who in any one day –**

- (a) takes more than two and one-half gallons , whelks in the shell from Cayman waters; or**
- (b) has in his possession more than two and one half pounds of whelks which are processed and which were taken from Cayman waters, is guilty of an offence.**

**“(2) Any person who, in anyone day, causes or permits to be loaded onto any vessel in Cayman water more than two and one-half gallons of whelks in the shell which were from Cayman waters is guilty of an offence.**

**“(3) Any person who, in any one day, purchases or receives more than two and one-half gallons of whelks in shell from Cayman waters or more than two and one pounds of processed whelks is guilty of an offence.”**

**“Restrictions on taking and receiving Nassau groupers.”**

**“9B. Any person who, by the use of a fish-pot takes from Cayman waters any Nassau grouper which is less than one foot in length during the months of April to October inclusive is guilty of an offence.”**

**The Chairman:** The amendment is duly moved. Is there any debate thereon?

The Elected Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Chairperson. During my debate I suggested that we do not make it a particular period. It should be an offence all the time to take a one-foot length grouper any less than 12 inches and I am wondering if we can address that right now.

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeever Bush:** Now, Madam Chairperson, what this would actually do is to stop any person taking by any means Nassau grouper which is less than one foot in length. I just want to tell them that some of the things that they complained about just earlier is what we are doing now. I am with you but I just want you to know that what you are asking for now you argued against it just now in your debate. Well, I think you are, but anyway, Madam Chairperson, I am happy to agree with them. Any person who by any means takes from Cayman waters any Nassau grouper which is less than one foot in length if guilty of an offence.

**The Chairman:** The amendment has been moved.

The Member for East End.

**Mr. V. Arden McLean:** Thank you. I just want to say that I supported that proposed amendment in my debate and it was not like I was against that. I proposed that in my debate because I said that we are trying to preserve the groupers and this is one way of doing it. I was the one who proposed it so the Minister may very well have not understood what I said.

**Hon. W. McKeeva Bush:** No, Madam Chairperson, I understand quite well what the Member said. What I am saying is that what they are doing now is putting on a further restriction. Just now they were arguing about unduly restricting people. However, I am with them. If they can take the pressure I can.

**The Chairman:** I will put the question that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The amendment stands part of the clause.

#### **AMENDMENTS TO CLAUSE 7 PASSED.**

**The Chairman:** I will now put the question that the clause as amended stands part of the Bill. All those in favour please say Aye.

**AYES.**

**The Chairman:** Those against, No. The Ayes have it. Clause 7 as amended stands part of the Bill.

#### **CLAUSE 7 AS AMENDED PASSED.**

**The Clerk:** Clause 8. Insertion of new section Designated Spawning Areas.

**The Chairman:** The question is that clause 8 stands part of the Bill. Is there any debate? If not, those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clause 8 does stand part of the Bill.

#### **CLAUSE 8 PASSED.**

**The Clerk:** Clause 9. Amendment of section 14 Use of spearguns prohibited.

**The Chairman:** Honourable Leader do you have an amendment for that?

**Hon. W. McKeeva Bush:** Thank you, Madam Chairperson. I move that clause 9 of the Bill be deleted and the following substituted –

**“9. The principal Law is amended in section 14 by inserting after the word ‘waters’ the words ‘or has in his possession any marine life taken from Cayman waters with the aid of a speargun.’”**

**The Chairman:** The amendment has been moved. Is there any debate? If not, I will put the question that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The amendment stands part of the clause.

#### **AMENDMENT TO CLAUSE 9 PASSED.**

**The Chairman:** I will put the question that clause 9 as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

**AYES .**

**The Chairman:** Clause 9 as amended stands part of the Bill.

#### **CLAUSE 9 AS AMENDED PASSED.**

**The Clerk:**

|           |                                                                    |
|-----------|--------------------------------------------------------------------|
| Clause 10 | Insertion of new section restriction on use of fish-pots.          |
| Clause 11 | Amendment of section 16 restriction on taking certain marine life. |
| Clause 12 | Insertion of new section prohibition on feeding sharks.            |

**The Chairman:** The question is that clauses 10 to 12 stand part of the Bill. If there is no debate I put the question that the clauses 10 to 12 stand part of the Bill. Those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clauses 10 to 12 stand part of the Bill.

#### **CLAUSES 10 THROUGH 11 PASSED.**

**The Clerk:** Clause 13. Transitional provisions use of spear guns.

**The Chairman:** Honourable Leader, I believe there is an amendment to clause 13.

**Hon. W. McKeeva Bush:** Yes, Madam Chairperson, that clause 13 of the Bill be deleted.

**The Chairman:** The amendment has been duly moved. Is there any debate?

**Hon. W. McKeeva Bush:** Madam Chairperson, I would just like to say this is now entitling spear guns to be used but of course to be licensed. The Law was taking away the use of any kind of speargun. What this is doing (as Members wanted) is allowing spear-guns to be licensed but under the Law where they are still prohibited from being bought but only as parts, as I understand that is in the directives to the Marine (Conservation) Law. In the directives that exist, spearguns and parts are now prohibited from being imported.

**The Chairman:** The Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Chairperson. Am I to understand that the regulations will be changed to allow parts to be brought in for spear guns?

**The Chairman:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** I did not hear that question.

**The Chairman:** Will there be changes in the regulations to allow parts to be brought in for spear guns?

**Hon. W. McKeeva Bush:** Of course not.

**Mr. Alden M. McLaughlin, Jr.:** Madam Chairperson, perhaps we could have some explanation because we understood the Minister—

**Hon. W. McKeeva Bush:** Madam Chairperson, what I am saying is that they are prohibited.

**The Chairman:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** I understood the Minister as saying that the proposal now will give effect to the continuation of the licensing of spear guns, which would be that parts would be allowed to be imported. If that is not the case then I misunderstood him but that is certainly what we heard on this side.

**The Chairman:** The Honourable Leader.

**Hon. W. McKeeva Bush:** Madam Chairperson, I certainly did not say that, so I do not know how he could hear it.

**The Chairman:** I put the question that clause 13 be deleted. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. Clause 13 is now hereby deleted.

**CLAUSE 13 DELETED.**

**The Clerk:** A Bill to amend The Marine Conservation Law (1995 Revision) to protect lobsters, whelks, Nassau grouper and other marine creatures, to restrict the use of fish-pots and spearguns and for incidental and connected purposes.

**The Chairman:** The Second Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** The Elected Member for East End sought, and I believe obtained, leave to propose an amendment to clause 2 of the Bill as amended.

**The Chairman:** Honourable Member, when we were actually dealing with clause 2, I think I am correct in saying that I asked if there was any debate and there was no indication so I took it that he did not intend to rectify or do anything more to the clause. So, that is why we moved on to the question for the title.

**Mr. Alden M. McLaughlin, Jr.:** However, I distinctly heard you say that the Minister had proposed an amendment which would have to go first and that he should prepare his proposed amendment in writing or orally and that has been done. He just has not had an opportunity to bring it.

**The Chairman:** Honourable Member I do not wish to give the impression that I will not give an opportunity, because if you recall I brought it to his attention that that was an option he had. However, it is my ruling that at the time when that should be done the opportunity was not taken and I will ask Madam Clerk if she could read the title again. I will put the question that the Title to stand part of the Bill.

**The Clerk:** A Bill for a Law to amend The Marine Conservation Law (1995 Revision) to protect lobsters, whelks, conch and Nassau groupers and other marine creatures, to restrict the use of fish-pots and spearguns and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. The Title does stand part of the Bill.

**TITLE PASSED.**

**The Chairman:** The question is that the Bill be reported to the House. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it. That concludes proceedings in committee stage.

**AGREED: BILL TO BE REPORTED TO THE HOUSE.**

**HOUSE RESUMED AT 7.04 PM**

**The Speaker:** Please be seated. Proceedings are resumed.

### **REPORT ON BILL**

#### **THE MARINE CONSERVATION (AMENDMENT) BILL, 2001**

**The Speaker:** The Honourable Leader of Government Business.

**Hon. W. McKeeva Bush:** Madam Speaker, I have to report that The Marine Conservation (Amendment) Bill, 2001 was considered in Committee and amended.

**The Speaker:** The Bill has been duly reported to this Honourable House and is now set down for the Third Reading.

Honourable Leader could you move the suspension of Standing Order 47.

#### **SUSPENSION OF STANDING ORDER 47**

**Hon. W. McKeeva Bush:** Madam Speaker, I move the suspension of Standing Order 47 in order to have the Third Reading.

**The Speaker:** The question is that Standing Order 47 be suspended. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order had been duly suspended.

**AGREED: STANDING ORDER 47 SUSPENDED.**

### **THIRD READING**

#### **THE MARINE CONSERVATION (AMENDMENT) BILL, 2001**

**The Speaker:** The Honourable Minister for Environment.

**Hon. W. McKeeva Bush:** Madam Speaker, I move the Third Reading of The Marine Conservation (Amendment) Bill, 2001, and I have great pleasure in doing so.

**The Speaker:** The question is that a Bill shortly entitled The Marine Conservation (Amendment) Bill, 2001 be given a third reading and passed. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Marine Conservation (Amendment) Bill, 2001 has been duly read a third time and is passed.

**AGREED: THE MARINE CONSERVATION (AMENDMENT) BILL, 2001, GIVEN A THIRD READING AND PASSED.**

**The Speaker:** Honourable Leader of Government Business, I believe it is your intention to move a motion to allow Reports of Committees to be laid on Table.

#### **SUSPENSION OF STANDING ORDER 74(4)**

**Hon. W. McKeeva Bush:** Madam Speaker, before I move the Motion for the adjournment, I would like to move for the suspension of Standing Order 74(4) so that interim reports may be tabled without the committee meeting to consider the interim reports as these reports were not of anything controversial. The Business Committee agreed to move in this direction.

**The Speaker:** The question is that Standing Order 74(4) be suspended. Those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. Standing Order 74(4) is hereby suspended.

**AGREED: STANDING ORDER 74(4) SUSPENDED TO ALLOW REPORTS OF COMMITTEES TO BE LAID ON TABLE OF THE HOUSE WITHOUT BEING CONSIDERED IN COMMITTEE.**



## ADJOURNMENT

**Hon. W. McKeever Bush:** Madam Speaker, those reports will be on the Order Paper for Monday and I move the adjournment of this Honourable House until 10 am Monday. I would like again to thank everyone involved with this Bill.

Thank you Madam Speaker, the Clerk, staff and the Membership of the House for staying and getting through with this piece of legislation.

**The Speaker:** The question is that the House do now adjourn until 10 am Monday, 14 January 2002. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it. The Honourable House stands adjourned until 10 am Monday, 14 January 2002.

**AT 7.08 PM THE HOUSE STOOD ADJOURNED  
UNTIL 10 AM MONDAY, 14 JANUARY 2002.**

**OFFICIAL HANSARD REPORT**  
**MONDAY**  
**14 JANUARY 2002**  
**10.57 am**  
*Fifteenth Sitting*

**The Speaker:** Good Morning. I will invite the Fourth Elected Member from the district of West Bay to say prayers.

**PRAYERS**

**Mr. Cline A. Glidden Jr.:** Let us pray.

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

Bless our Sovereign Lady Queen Elizabeth II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, and all the Royal family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office.

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

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

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

**The Speaker:** Please be seated. Proceedings are resumed.

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

**APOLOGIES**

**The Speaker:** I have received apologies for the Honourable Leader of Government Business, the Honour-

able Second Official Member and the Second Elected Member from the district of West Bay.

**PRESENTATION OF  
PAPERS AND REPORTS**

**REPORT OF THE STANDING FINANCE COMMITTEE HELD ON 15 AUGUST, 2001**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to lay on the Table of this Honourable House, the Report of the Standing Finance Committee, Held on 15 August, 2001.

**The Speaker:** So ordered.

**REPORT OF THE STANDING FINANCE COMMITTEE HELD ON 24 OCTOBER, 2001**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to lay on the Table of this Honourable House, the Report of the Standing Finance Committee held on 24 October, 2001.

**The Speaker:** So ordered.

**REPORT OF THE STANDING FINANCE COMMITTEE HELD ON 27 DECEMBER, 2001**

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to lay on the Table of this Honourable House, the Report of the Standing Finance Committee held on 27 December, 2001.

**The Speaker:** So ordered.

**REPORT OF THE STANDING BUSINESS COMMITTEE - SECOND MEETING OF THE 2001 SESSION**

**The Speaker:** The Honourable Deputy Leader.

**Hon. Linford A. Pierson:** Madam Speaker, I beg to lay on the Table of this Honourable House, the Report of the Standing Business Committee for the Second Meeting of the 2001 Session.

**The Speaker:** So ordered. Would the Honourable Deputy Leader wish to speak thereto? Thank you.

#### **REPORT OF THE STANDING BUSINESS COMMITTEE - THIRD MEETING OF THE 2001 SESSION**

**The Speaker:** The Honourable Deputy Leader.

**Hon. Linford A. Pierson:** Madam Speaker, I beg to lay on the Table of this Honourable House, the Report of the Standing Business Committee for the Third Meeting of the 2001 Session.

**The Speaker:** So ordered.

#### **REPORT OF THE STANDING BUSINESS COMMITTEE - FIFTH (BUDGET) MEETING OF THE 2001 SESSION OF THE LEGISLATIVE ASSEMBLY**

**The Speaker:** The Honourable Deputy Leader.

**Hon. Linford A. Pierson:** Madam Speaker, I beg to lay on the Table of this Honourable House, the Report of the Standing Business Committee for the Fifth, which was the Budget, Meeting of the 2001 Session of this House.

**The Speaker:** So ordered.

#### **CAYMAN ISLANDS CEMETERY REPORT - JUNE 2001**

**The Speaker:** The Honourable Minister for Planning, Communications, Works and Information Technology.

**Hon. Linford A. Pierson:** Madam Speaker, I beg to lay on the Table of this Honourable House, the Cayman Islands Cemetery Report as of June 2001

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto on this Cemetery Report?

**Hon. Linford A. Pierson:** Thank you, Madam Speaker. The Ministry of Planning, Communication, Works and Information Technology has tabled a 2001 Cayman Islands Cemetery Report. This Report, Madam Speaker, was prepared by the National Cemeteries Committee. The Committee Chaired by the Chief Environmental Health Officer is comprised of representatives from the Department of Environmental Health, Public Works and the Planning Department in consultation with the Lands and Survey Department.

The Report is designed to estimate the remaining public cemetery capacity in the Cayman Islands and to plan for future cemetery capacity for the next twenty years. The Report identifies alternatives for future cemetery capacity, citing considerations for new cemeteries and proposed regulations for the operation and maintenance of cemeteries.

Estimates based on the current rate of vault sales indicate that all existing public burial capacity will be exhausted by 2015 (that is, two thousand and fifteen). The estimate, based on the total number of deaths per year, indicate that the public burial capacity could be exhausted as early as 2010. Burial rates vary from district to district and in general at the same ratio as the population in each district. In some of the district cemeteries, remaining capacity is less than 4 years. Estimates indicate that the Bodden Town Cemetery will reach capacity by the end of this year 2002; the Prospect Cemetery in 2003; and the West Bay cemetery (that is the main cemetery in West Bay) in 2006. The East End district currently relies on the Gun Bay Cemetery as the old privately owned East End cemetery has reached capacity and is closed. For twenty years of capacity in Grand Cayman, the recommended overall additional space requirement is nine acres.

The Committee's recommendation is that, in addition to the current existing public cemetery space available, the following areas to be provided in Grand Cayman. Four acres for George Town, two acres for West Bay the main cemetery, two acres for Bodden Town and one acre for East End. The capacity for North Side extends well beyond the designed period. In anticipation of the need for additional land the Ministry has obtained valuation for properties in East End, Bodden Town, West Bay and Prospect.

In tabling this Report, Madam Speaker, I think it only proper to remind Members that there is also growing interest from the private sector in the provision of additional cemetery capacity. These initiatives should likewise be encouraged as a compliment to the Government facilities.

Madam Speaker, I take this opportunity to thank the members of the National Cemeteries Committee for a detailed and comprehensive Report. The statistics contained in the report will guide the Cayman Islands toward a solution to the diminishing cemetery capacity in this country and will provide a plan for the future of this essential infrastructure. Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Minister. Madam Clerk.

#### **REPORT ON THE COMMITTEE OF INQUIRY INTO THE CAUSES OF SOCIAL BREAKDOWN AND VIOLENCE AMONG YOUTH IN THE CAYMAN ISLANDS**

**The Speaker:** The Honourable Minister for Community Services, Youth and Women Affairs

**Hon. Frank S. McField:** Madam Speaker, I would like to Table the Committee of Inquiry into causes of social breakdown and youth violence among Caymanian youth in the Cayman Islands.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Frank S. McField:** Yes, Madam Speaker.

**The Speaker:** Please proceed accordingly.

**Hon. Frank S. McField:** Madam Speaker, and Honourable Members of the Legislative Assembly, it gives me great pleasure to lay on the Table of this Honourable House, the Report by the Committee of Inquiry into the causes of social breakdown and violence among youth in the Cayman Islands.

Members will be aware that in May 2001 a Government Motion calling for the establishment of a National Youth Commission and Committee of Inquiry into the causes of social breakdown and violence among youth in the Cayman Islands was passed in this Honourable House. The Committee was charged with investigating incidences of youth violence, determining the causes and identifying possible solutions.

The Committee gathered information through oral and written reports and carried out original qualitative interviews with young offenders at HM Northward Prison, young persons at the Cayman Islands Marine Institute and other identified delinquent youth within the Cayman community and a controlled group of young people, who had never offended. The Committee hypothesised that there was an intensification of group violence paralleled by an increase in individual youth violence as young people respond to violence in like manner in self defence. The qualitative assessment of the data confirms this hypothesis.

Summary of Main Findings: Results of the research revealed the following risk factors as contributing to the violence and social breakdown.

### **I. Risk factor within the family.**

The Committee considered the following risk factors associated with juvenile delinquency.

- ◆ Poor parent child relationships.
- ◆ Family structure
- ◆ Negative influences within the home.

### **II. The weakening of social systems.**

Since the Cayman Islands have grown economically the population has increased dramatically while spiritual and social values have become more diverse. Critically important institutions within the society (that is, churches, schools, social services, law enforcement agencies and the juvenile justice system) have begun to weaken.

### **III. Lack of success in educational settings.**

The Committee considered that it is unlikely that a young person becomes unsuccessful because of one

failed academic attempt. They explore the correlation between lack of success in educational settings and

- a) Significant number of missed opportunities
- b) Lack of structure and discipline
- c) Poor school skills
- d) Drug use
- e) Learning disabilities.

### **IV. Easy availability of alcohol and marijuana.**

The Committee investigated the attitudes towards drug use, within the community family and peer group and the frequency and ease with which young people have access to drugs.

### **V. Negative impact of the media.**

The Committee examined the influence of international teen culture on Caymanian youth.

### **VI. Membership of negative peer group.**

Local evidence suggests, that gang membership and affiliation include; young persons across the spectrum of social economic and racial backgrounds. The Committee examined how negative peer associations influence the behaviour of young people.

Recommendations: The Committee recommended that the Government use the National Youth Commission to advocate for, cultivate and recommend early intervention and prevention strategies. These solutions should be multi-faceted and involve the co-operation and collaboration of all the agencies and their affiliates that deal with human development.

To achieve this, the National Youth Commission must help to create opportunities for healthy lifestyles among our young. It is imperative to address the issues impacting all children and youth at risk.

The Committee has made three broad recommendations to strengthen the family.

#### **1. Early Family Intervention.**

The Committee recommends that the Public Health Department work in conjunction with the Department of Social Services to identify at the earliest possible stage, social, economic and moral factors within the family that may result in the inability of the parents to transmit positive social attitudes to children.

The Committee further recommends that home intervention teams should be created by the Department of Social Services and be available to go into homes of at risk families to educate parents and develop with them effective parenting strategies. The Department of Youth and Sports could encourage local associations to allow children accompanied by their parents or parent, free access to social, sporting and other recreational events, thereby encouraging

families to spend quality time together in recreational and leisure activities.

## **2. Improve Corporate Support of the Family.**

The Committee also recognises the important role which employers must play in strengthening the family and fostering the bond between parents and their children. Among other considerations, corporations should be encouraged to provide day care facilities for working mothers; introduce paternity leave and extend maternity leave with benefits to allow parents to spend with their young children.

Consideration should also be given to improving job conditions by allowing flexible arrangement such as job sharing or working from home or by providing retraining for qualified staff. Additionally, parenting programmes should be in hands by garnering the support of the corporate sector to allow these programmes to be incorporated in the work place thereby, insuring that the messages will be received by the broadest possible cross sections of persons in the community.

As largest employer in the Cayman Islands, the Government should take the lead in this initiative.

## **3. Enhancing Parenting Education and Child-care Establishments**

The Committee further recommends that existing legislation be ratified to introduce mandatory parenting classes for those families who are identified as experiencing social, economic and moral deficiencies which prevents them from effective parenting. Legislation should be enhanced to ensure that all child care establishments are properly monitored and staffed with quality child care providers.

The Committee made the following recommendations to enhance social systems include:

### **I. Review of Immigration Policies.**

The institutions within the social systems are often times staffed with expatriate personnel, for example, pastors, teachers, social workers, police officers and magistrates. If expatriates are held in low esteem, this can breed resentment. The Committee acknowledges that the perceived resentment by Caymanians also erode the security and confidence of expatriates, thereby further reducing the effectiveness of these institutions.

The Committee therefore, recommends that in its deliberations the Immigration Department recognises the pro-social impact that the integration of expatriate human services personnel would have on the Caymanian society. Further, the Committee recommends that the previously mentioned institutions, (churches, schools, social services, law enforcement agencies and juvenile justice system) address the public's perception that expatriate personnel are lacking a cultural

understanding of our Caymanian youth to enable these persons to perform their job effectively.

This process could begin by conducting internal reviews to assess whether or not these perceptions exists within their own institutions and effectively address them.

As members of the community, expatriates must be given reasons to see themselves as stakeholders and therefore be responsible for the preservation of pro-social norms, values and beliefs. The sharing and caring involvement of community members with its family, determines the eventual effectiveness of that community as a social control agency with regards to the behaviour of children and adolescents.

### **II. Examine the Outreach Methods of the Church.**

Secularisation has eroded the traditional dominance of the church. For example, sports, entertainment, work and other activities are common on Sundays. Members of the Committee agree that it is not the message that young people are rejecting but the method by which the message is being delivered. The committee therefore, recommends that churches re-examine the methods by which spiritual guidance and religion are being imparted to our youth.

Perhaps they could extend religious teachings beyond the physical constraints of the church buildings in an effort to reduce the gap or the distance between the youth and the church, they could become more active in the communities in which they exist. Churches should also train their leaders in issues that affect our youth. The church must maintain its role as spiritual mentors of the youth and devise ways and means of reaching the young people in our society and use them to impact the rising generation.

As a community and family institution the church should continue to provide counselling services and other programmes geared toward our youth and open its door to provide or assist with facilities to rehabilitate, rescue, house and make provisions for youth at risk.

### **III. Improve Collaboration Between the Educational System and other Social Systems**

It is necessary for the Department of Education and the Department of Social Services to co-operate and collaborate in an attempt to simultaneously address the behavioural and learning problems a child may be experiencing. This collaboration could further be enhanced by the Home School Association where parents actively become involved in their children's academic lives and reaffirm relationships with the teachers.

### **IV. Restructure the Services and Roles of the Department of Social Services.**

Presently social workers are perceived within the community as welfare officers. Therefore it is imperative that the social workers role in issues of social development be adequately recognised within the community. The committee therefore, recommends that the Department of Social Services consider restructuring the services offered and the manner in which social workers are allocated responsibilities in order to maximise their effectiveness.

## **V. Develop a Restorative Justice Approach to Juvenile Crime.**

The Committee acknowledges the significant difficulty of changing the current mindset to juvenile offences in the Cayman Islands, from a punitive to a restorative justice approach.

A restorative justice approach to crime is a new way of thinking about crime and the criminal justice system. Restorative measures repair harm and rebuild relationships rather than simply seeking punishment, expulsion, shame or revenge. Restorative results are measured by how much repair is achieved rather than by how much punishment is inflicted. Restitution to those harmed is a rule and not the exception with this approach. Besides helping to restore order and repair harm in the community, restorative measures provide a means for facilitating change in individuals. Restorative measures give communities more ownership over how to handle problem. Communities can reinforce expectations without abandoning the person who violates them by clarifying that certain behaviours are not acceptable, the person who engages in them is still valued and can be a part of the solution.

This approach seeks to determine what harm has resulted from a crime and what needs to be done to repair the harm as well as who should be responsible for repairing the harm.

A restorative justice approach is contrary to our retributive justice approach which is the dominant approach to criminal.

### **The Rules**

A crucial element to the approach would be teachers who are equipped with the necessary . . . Madam Speaker, could I just have one second here?

**The Speaker:** Certainly.

[Pause]

**Hon. Frank S. McField:** Madam Speaker, the restorative justice approach has been an approach that the Committee finds would be worthwhile for the Government to seriously consider. The Government should also try to improve the alternative education options, since it was found that children should be assessed and the appropriate resources identified to meet their

needs, thereby allowing them to function without undue stress and frustration.

The Committee recommends the examination of the effectiveness of the current facilities for alternative education and vocational training with a view to ensure that the quality of education provided is comparative to that which exists in mainstream education. Further, the Committee recommends that the Education Department evaluate how and when vocational training can be most effectively offered and play an important role in promoting its values to the student and the wider community.

The Committee made the following recommendations to address the easy availability of marijuana and alcohol.

### **1. Establish and Enhance Programmes to Minimise Risk Factors**

It was observed that attempts to increase the protective qualities of the environment and to decrease the opportunities for anti social behaviour can have beneficial effects in preventing substance abuse. Therefore, the Committee recommends that the Public Health Department, in collaboration with early childhood intervention programmes established or enhance early childhood and family support programmes that will aid in reducing the number of risk factors in the parent child environment.

### **2. Develop a Multi-Agency Approach to Prevention and Intervention**

Madam Speaker, the Committee recommends the development of a multi agency approach to prevention and intervention. Further, the Committee recommends that the National Drug Council co-ordinate a multi agency initiative to implement prevention and intervention programmes at all levels. It is crucial that programmes be designed to specifically address the existing cultural norms surrounding alcohol and marijuana use. There must be a greater community awareness of the social impropriety of these drugs. The Committee recognises that this initiative will require a Legislative review to support the efforts of substance abuse providers in the establishment of a drug court and the procurement of a secure treatment facility for young offenders.

### **3. Empower Parents to Set Limits for Media Access**

The Committee made the following recommendations for the negative impact of the media. Empower parents to set limits for media access.

Given the evidence that violent materials in television films and music have harmful effects on young people, we must now devote ourselves to shielding our children from such harmful depictions. The Committee recommends empowering parents to be able to

make good choices when it comes to the use of the media rather than censorship and through public policy promote what we as a society expect of ourselves. While government can set forth through public policy what we as a society expect of ourselves, parents ultimately would bear the responsibility for shaping their children to meet their expectations. Parents should supply their children with alternatives to television, movies and music, regularly providing children with art supplies, books, athletic activities or outdoor excursions, will reduce the number of hours devoted solely to watching television. Some helpful tools for parents are included in the 1996 American Association Guide for parents interested in limiting media's influence on their children.

According to Carla Kalin (1997), children can be taught media literacy skills in order to help them become critical viewers and therefore less influenced by media violence.

The Committee recommends that parents and other care givers would become engaged in learning and teaching media literacy. This would allow children to explore drama and other media presentations and appreciate the differences between fiction and reality.

The Committee made the following recommendations to address negative peer groups.

### **1. Encourage the Development and Participation in Local Youth and Outreach Programmes**

Young people should be actively encouraged to become involved in positive peer groups. These groups or clubs can be self initiated or provided by local youth groups or sports club. Such groups could exist at the grass roots level so that they are more accessible to at-risk youth. Equally, organisations should be encouraged to establish sub-group committees, not only within respectable districts, but also within those communities that have been identified as at risk or lacking in positive resources for young people.

The committee recommends that the Ministry of Education, Human Resources and Culture and the Ministry of Community Services, Women Affairs, Youth and Sports, consider the possibilities of introducing a community service component to the graduation requirement that could be met by students participating in any of the above and other activities.

### **2. Utilize the National Youth Policy**

The Committee recommends that the Government utilises the National Youth Policy. The Department of Youth and Sports youth database will be an excellent resource for young people to find out what services currently exists and they can receive guidance as to how they could develop a group or programme on issues that are not currently being addressed.

The Cayman Islands youth assembly and Youth Passport would provide many opportunities for young

people to get involved and to receive credit for contributions that they make to the society. The Committee recommends that Government in partnership with youth service providers, fully utilise the National Youth Policy.

In conclusion, Madam Speaker, the Committee recommends that after comprehensive study of youth violence in the Cayman Islands, the committee wishes to endorse the goals of the National Youth Policy, particularly goals (g), (h), and (l) dealing with creating the conditions for young people to embrace healthy lifestyles free of substance misuse, sexual promiscuity and acts of violence.

Since the Committee whole heartedly endorses Dr. Ivan Henry's analysis of restorative justice, it is felt that it is essential to shift from a punitive to a restorative approach in order to create conditions for young persons to embrace healthy lifestyles.

The reliance on a punitive approach to maintain social order in a society ignores the social factors that contribute to offending behaviours. The Committee recognises that one manifestation of social breakdown is the increased incidences of youth violence. Furthermore, the Committee acknowledges the need to engage in building and enhancing family, schools, public organisations and the political directorate which will ensure that the community supports the needs of youth.

In a complex modern society, it is impossible to draw up a comprehensive list of prescriptions. The Committee thought it necessary to compile feasible and affordable recommendations that would offer a framework for addressing the problems and act as a catalysts for positive change.

I know that the people of this country will support the recommendations made in this Report, it is imperative for the future sustainability of our country and people. I would like to thank all my colleagues in Executive Council and the Legislative Assembly for their continued support and advice. I would like also to take this opportunity to thank the members of the Committee of Inquiry into the causes of social breakdown and violence among youth in the Cayman Islands for carrying out this research. I would also like to thank all those agencies and other areas of Government who may have assisted in this process.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Minister.

### **FIRST INTRIM REPORT OF THE SELECT COMMITTEE OF THE WHOLE HOUSE ON MINIMUM WAGE**

**The Speaker:** The Honourable Minister for Education, Human Resources and Culture.

**Hon. Roy Bodden:** Madam Speaker, I beg to lay on the Table of this Honourable House, the first Interim

Report of the Select Committee of the whole House on Minimum Wage.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Roy Bodden:** Madam Speaker, only to say that I envisaged the National Minimum Wage Law as an integral part of the new employment Law and I recognise from the work of previous Ministers that there seems to be some reticence, if not obstinacy, on the part of many elements in the society, to establish any national minimum wage legislation. However, I want to underscore that it is not only necessary for us to have such an instrument in the Cayman Islands internationally, we are also under scrutiny since recently the Ministry received an inquiry from the Human Rights Policy Section of the Foreign and Commonwealth Office on behalf of the international convention on social and economic rights inquiry as to the progress we have made and our intentions towards establishing a national minimum wage. Thank you.

**The Speaker:** Thank you, Honourable Minister.

#### **FIRST INTRIM REPORT OF THE SELECT COMMITTEE OF THE WHOLE HOUSE TO REVIEW CAYMANIAN OWNED BUSINESSES AND FAIR COMPETITION ACT**

**The Speaker:** The Honourable Acting Leader.

**Hon. Linford A. Pierson:** Madam Speaker, on behalf of the Minister for Tourism and Leader of Government Business who is the Chairman of this Committee, I beg to lay on the Table of this Honourable House, the First Interim Report of the Select Committee of the whole House to review Caymanian Owned Businesses and Fair Competition Act.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak?

#### **FIRST INTERIM REPORT OF THE SELECT COMMITTEE OF ELECTED MEMBERS TO REVIEW THE HEALTH INSURANCE LAW**

**The Speaker:** The Honourable Minister for Planning.

**Hon. Linford A. Pierson:** Madam Speaker, I beg to lay on the Table of this Honourable House, the First Interim Report of the Select Committee of Elected Members to review the Health Insurance Law.

**The Speaker:** So ordered. Would the Honourable Minister wish to speak thereto?

**Hon. Linford A. Pierson:** Thank you, Madam Speaker, just to make some brief comments.

Madam Speaker, your Select Committee of this Honourable House to review the Health Insurance Law was established on 22 June 2001, with the passing of Private Member's Motion 9/01. That Motion read,

**“BE IT RESOLVED THAT this Honourable Legislative Assembly appoints a Select Committee of all Elected Members to review the Health Insurance Law and matters pertinent to its operation in the Cayman Islands;**

**“AND BE IT FURTHER RESOLVED that the Committee take input from the public health care and insurance providers and medical practitioners and report to this Honourable House no later than the last Meeting of the 2001 Session.”**

That Motion was moved by Mr. Gilbert A. McLean (who is the Second Elected Member for Bodden Town, now the Minister for Health) and seconded by Mr. Lyndon L. Martin, MLA (the Second Elected Member for Cayman Brac and Little Cayman).

Madam Speaker, in accordance with the provisions of the Motion your committee comprised all Elected Members of this Honourable House and I was elected the Chairman of this committee, with Mrs. Moyle being appointed the Deputy Chairman of the committee on 29 August 2001. There were two meetings of the committee held during the year. Nonetheless, Madam Speaker, I wish to point out that the Ministry had done a considerable amount of work in drafting suitable instructions to be sent to the Legal Department in relation to the Health Insurance Law. Hopefully, the White Paper will therefore become available soon and also for public scrutiny.

Madam Speaker, I am sure that the new Minister will be bringing that white paper to the Assembly as soon as it is ready. Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Minister.

#### **FIRST INTERIM REPORT OF THE STANDING ORDERS COMMITTEE**

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, I beg to lay on the Table of this Honourable House, the First Interim Report of the Standing Orders Committee to review the Legislative Assembly Standing Orders 1997 (Revision).

**The Speaker:** So ordered. Would the Honourable First Official wish to speak thereto?

**Hon. James M. Ryan:** Thank you, Madam Speaker, just some brief comments.



Madam Speaker, the committee was established on the 16 March 2001 by Private Members Motion 8/01 and the Motion read,

**“BE IT RESOLVED THAT, not withstanding Standing Order 87, the Standing Orders Committee convene to review and consider what changes to the Legislative Assembly Standing Orders are necessary and desirable;**

**“AND BE IT FURTHER RESOLVED THAT the Government considers engaging the service of a resource person versed in Parliamentary practice and procedure in Standing Orders to assist and advise the committee.”**

The Motion, Madam Speaker, was moved by Mr. Gilbert McLean and seconded by Dr. Frank S. McField, both of whom, at the time of the passing of the Motion, were Backbench Members being respectively, the Second Elected Member for Bodden Town and the Third Elected Member for George Town. Madam Speaker, the Committee wishes to report that it has been unable to convene meetings and therefore has not yet concluded the matter of review. I thank you.

**The Speaker:** Thank you, Honourable First Official Member.

We have passed the hour of 11am. Can the Acting Leader move the relevant Standing Order being Standing Order 23(7) and (8).

#### **SUSPENSION OF STANDING ORDERS 23(7) AND (8)**

**Hon. Linford A. Pierson:** Madam Speaker, I move that Standing Orders 23(7) and (8) be suspended to enable Question Time to continue.

**The Speaker:** The question is that Standing Orders 23(7) and (8) be suspended to allow Question Time begin and indeed continue beyond the hour of 11 am. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 23(7) AND (8)  
SUSPENDED.**

#### **QUESTIONS TO HONOURABLE MINISTERS AND OFFICIAL MEMBERS**

**The Speaker:** The Second Elected Member or the district of George Town.

#### **QUESTION NO. 128**

*(Deferred)*

**No. 128: Mr. Alden M. McLaughlin, Jr.** asked the Honourable minister responsible for the Ministry of Tourism, Environment and Transport, what is the current employment status of the Director of the Port Authority?

**The Speaker:** The Honourable Acting Leader.

**Hon. Linford A. Pierson:** Thank you, Madam Speaker.

Madam Speaker, as you mentioned earlier, the Honourable Minister for Tourism is unavoidably absent today. So, Madam Speaker, I would remind the Honourable Member that this question as will any other unfinished business fall away at the end of this Meeting if we complete today. However, he may re-submit it at the February Meeting, which will be the first Meeting of the new Session. Thank you, Madam Speaker.

**The Speaker:** Thank you.

#### **QUESTION NO. 143**

**The Speaker:** The Elected Member for the District of East End.

**No. 143: Mr. V. Arden McLean** asked the Minister responsible for Community Services, how many homes for persons in need, have been built over the past nine years by the Social Services or the Public Works Department and in which districts were they built?

**The Speaker:** The Honourable Minister for Community Services, Youth and Women Affairs.

**Dr. the Hon. Frank S. McField:** Madam Speaker, the answer. There were 26 homes built by the Department of Social Services between 1992 and 2001. Madam Speaker, by district, the breakdown is as follows:

|             |    |
|-------------|----|
| Bodden Town | 8  |
| East End    | 1  |
| George Town | 5  |
| North Side  | 0  |
| West Bay    | 12 |
| Cayman Brac | 0  |

Cost by district:

|             |              |
|-------------|--------------|
| Bodden Town | \$296,466.00 |
| East End    | \$17,642.00  |
| George Town | \$137,838.00 |
| North Side  | \$0          |
| West Bay    | \$288,022.00 |
| Cayman Brac | \$0          |

|      | BT | EE | GT | NS | WB | CB |
|------|----|----|----|----|----|----|
| 1992 | 0  | 0  | 2  | 0  | 2  | 0  |
| 1993 | 0  | 0  | 0  | 0  | 1  | 0  |
| 1994 | 0  | 0  | 0  | 0  | 1  | 0  |
| 1995 | 0  | 0  | 1  | 0  | 2  | 0  |
| 1996 | 2  | 0  | 1  | 0  | 2  | 0  |
| 1997 | 0  | 1  | 0  | 0  | 1  | 0  |
| 1998 | 2  | 0  | 0  | 0  | 2  | 0  |
| 1999 | 1  | 0  | 0  | 0  | 0  | 0  |
| 2000 | 1  | 0  | 1  | 0  | 1  | 0  |
| 2001 | 2  | 0  | 0  | 0  | 0  | 0  |
|      | 8  | 1  | 5  | 0  | 12 | 0  |

**The Speaker:** Are there any Supplementaries?  
The Elected Member for East End.

### SUPPLEMENTARIES

**Mr. V. Arden McLean:** Thank you, Madam Speaker,  
Could the Minister tell us if more than one application was made for the district of East End over that period?

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, I have no idea.

**The Speaker:** Are there any further Supplementaries?  
The Second Elected Member from the district of Cayman Brac and Little Cayman.

**Mr. Lyndon L. Martin:** Thank you, Madam Speaker. Could the Minister indicate what criteria are used to prioritise the building of homes by the Social Services Department?

**The Speaker:** Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, it would appear (since I am new to this question) that the criteria that the Social Services Department has traditionally used is one of need and so the person would have to be assessed to be in need. According to the relevant persons responsible, it also meant that it was not only important that the person was in need but that they also had land, as the Social Services Department would not purchase land and then build a home.

So, if you had a piece of land and you were really in need they would assist in terms of building some type of accommodation. Also, if the person had started something and was unable to finish and was in need, then that person would have a better chance of getting support than someone who had no land, no structure or anything with which they could work.

**The Speaker:** The First Elected Member from the district of George Town.

**Mr. D. Kurt Tibbetts:** Madam Speaker, I would like to ask if all of these 26 homes were built on land owned by the individuals. I think the Member has alluded to that in his previous answer to a supplementary but perhaps he could state in a definitive fashion whether these 26 homes (or any one of them) were built on land purchased by the Government?

**The Speaker:** The Honourable Minister for Community Services.

**Dr. the Hon. Frank S. McField:** Madam Speaker, to the best of my knowledge, I am not aware of any land being purchased to build homes for individuals that were in need.

**The Speaker:** Are there any further Supplementaries?  
If not we will move on to the next item.  
The Second Elected Member from George Town.

### QUESTION NO. 150 (Deferred)

**No. 150: Mr. Alden M. McLaughlin, Jr.:** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration, what is the status of the Euro Bank prosecution.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Thank you, Madam Speaker.  
The Honourable Second Official Member is unavoidably absent today. As you announced earlier, under the circumstances, could the question be withdrawn or allow it to fall away and be brought back at the First Meeting of the 2002 Session. The same thing would apply to Question 151 although it has not been called yet.

**The Speaker:** Thank you, Honourable First Official Member. What I would propose is that Question 151 follow the same procedure where it was read into the record. Both would fall away and the Member would have the discretion to, with notice, submit it for the next Meeting.

The Second Elected Member for George Town.

### QUESTION NO. 151 (Deferred)

**No. 151: Mr. Alden M. McLaughlin, Jr.** asked the Honourable Second Official Member responsible for the Portfolio of Legal Administration, what are the terms of the agreement to retain the services of Andrew Mitchell, QC, in connection with the prosecution of the Euro Bank matter, and specifically:

- when was he retained;
- what is his brief;
- on what basis is he being paid, that is, hourly rate, brief fee or otherwise;

- (d) how much has he been paid to date; and
- (e) from what source of funds is he being paid.

**The Speaker:** The Honourable First Official Member.

**Hon. James M. Ryan:** Madam Speaker, I would also ask that because the Honourable Second Official Member is unavoidably absent, that this question fall away and the Second Elected Member for George Town has the option of bringing it back at the First Meeting of the 2002 Session.

**The Speaker:** Thank you.

## STATEMENTS BY MEMBERS OF THE GOVERNMENT

**The Speaker:** I have received no statements for this Sitting.

Honourable Acting Leader would you move the suspension of Standing Orders 45 and 46(1) and (2)?

### SUSPENSION OF STANDING ORDERS 45 46(1) AND (2)

**Hon. Linford A. Pierson:** Madam Speaker, I beg to move the Suspension of Standing Orders 45 and 46 (1) and (2).

**The Speaker:** The question is that Standing Orders 45 and 46(1) and (2) be suspended. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDERS 45 AND 46(1) AND (2) SUSPENDED.**

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READING

##### THE COMPANIES (AMENDMENT) (SEGREGATED PORTFOLIO COMPANIES) BILL, 2001

**The Speaker:** The Bill is deemed to have been read a First Time and is now set down for the Second Reading.

The Honourable Acting Leader.

##### SUSPENSION OF STANDING ORDER 46(4)

**Hon. Linford A. Pierson:** Madam Speaker, I beg to suspend Standing Order 46 (4) to allow for the Second Reading of the Bill.

**The Speaker:** The Question is that Standing Order 46 (4) be suspended. All those in favour please say Aye. Those Against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 46(4) SUSPENDED.**

## SECOND READING

### THE COMPANIES (AMENDMENT) (SEGREGATED PORTFOLIO COMPANIES) BILL, 2001

**The Speaker:** The Bill has been duly moved. Does the Honourable Third Official Member, wish to speak thereto?

**Hon. George A. McCarthy:** Yes, Madam Speaker.

I beg to move the Second Reading of a Bill entitled, The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001.

The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001 seeks to expand the eligibility for the Segregated Portfolio Company (referred to as an SPC) to all exempt Companies, whereas previously it was only accessible to Class B Insurance Companies. Certain other jurisdictions do not have this access restriction and have geared their SPC regimes more broadly. Therefore, the expansion proposed is important in assisting Cayman to maintain competitiveness. It is expected that Class B Insurance Companies, Mutual Funds and Special Purpose Vehicles will be the main potential users of the SPC Form.

Clause 2(a) of the Bill provides that only exempted companies formed after the date of the commencement of the Law will be eligible to register as SPCs. This avoids legal and commercial complexities attendant on converting existing companies to SPCs, which would require, on the commercial side, wholesale changes to a company's constitution, null documents and any contracts and shareholders' approval; and, on the legal side, detailed provisions governing the conversion of general assets to segregated assets and associated issues. Because of the practical commercial matters, the industry indicated that the incidence of demand for SPC form among existing companies would be very low. This has been borne out by the experience in the captive insurance sector. Consequently, the prospective ambit of amendment is expected to have minimal if any effect on the utility of the SPC form.

Clause 2(1)(a) enables the Monetary Authority to have control over which of its licensees are to be allowed to be SPCs. The Monetary Authority policy in this regard will be co-ordinated with the companies registry, so that there is an expedited process. The Registry and Monetary Authority already cooperate in

respect of Class B Insurance Companies which are only registered as SPCs on permission from Monetary Authority. A similar system will apply to Mutual Funds and other licensee categories.

Clause 2(c) changes the fee from \$1,000 per segregated portfolio to \$300 with a maximum of \$15,000. This is, again, for competitiveness and market share considerations as the current fee structure—particularly the absence of a cap—put the Cayman Islands SPC program at a significant disadvantage in comparison with other jurisdictions. It should be noted that as well as per portfolio fee, an SPC attracts an additional fee of \$2,000 and an application fee of \$500 on top of the normal annual fees for an exempt company. These additional fees will remain in place.

Finally, Madam Speaker, there is a committee stage amendment to the Bill to deal with the consequential amendment arising from the expansion of the SPC form. Because previously only captive insurance companies could be SPC's, it was appropriate for section 244(1)(e) of the Law to give the Monetary Authority a blanket power to apply for receivership orders. The committee stage amendment clarifies this power so that it applies only to SPCs regulated by the Monetary Authority.

Madam Speaker, the Bill is timely and I therefore commend it to this Honourable House for passage. Thank you, Madam Speaker.

**The Speaker:** Thank you. Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If not would the Honourable Third Official Member wish to exercise his right of reply?

**Hon. George A. McCarthy:** To say thanks to Honourable Members for their support, Madam Speaker.

**The Speaker:** The question is that a Bill shortly entitled The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001 be given a second reading, all those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: THE COMPANIES (AMENDMENT) (SEGREGATED PORTFOLIO COMPANIES) BILL, 2001 GIVEN A SECOND READING.**

**The Speaker:** Is it the wish of the House to take a break or should we proceed and conclude business? The House will now go into Committee.

**HOUSE IN COMMITTEE AT 12.06 PM**

## COMMITTEE ON BILL

### THE COMPANIES (AMENDMENT) (SEGREGATED PORTFOLIO COMPANIES) BILL, 2001

**The Chairman:** Please be seated. The House is now in Committee.

With the leave of the House, may I assume that as usual, we would authorise the Honourable Second Official Member to correct minor printing errors and such like, in these Bills?

**The Clerk:** The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001.

Clause 1 Short title.

Clause 2 Amendment of section 233 of the Companies Law 2001 (Second Revision)—Applications for registration.

**The Chairman:** The question is that Clauses 1 and 2 do stand part of the Bill. If there is no debate, I put the question that Clauses 1 and 2, do stand part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**CLAUSES 1 AND 2 PASSED.**

**The Chairman:** Honourable Third Official Member, can you move the new Clause 3 under Standing Order 52 (8)?

**Hon. George A. McCarthy:** Thank you, madam Chairman.

Madam Chairman, in accordance with Standing Order 52 (8), I give notice to move the following amendment to The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001. That the following Clause be inserted as Clause 3—

**The Chairman:** Honourable Member perhaps if you would just start reading from the top because it is a new section, so just read it as the Motion please.

**Hon. George A. McCarthy:** Thank you, Madam Chairman. In accordance with the provisions of Standing Order 52(1) and (2), I give notice to move the following amendment to The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001, that the following Clause be inserted as Clause 3.

**The Chairman:** Thank you.

**Hon. George A. McCarthy:** Continue Madam Chairman?

*[The Chairman was speaking but the microphone was off or too low to hear]*

**The Clerk:** New Clause 3: Amendment of section 244. Application for receivership orders.

**The Chairman:** The Clause is taken as having been read the First Time. The question is that the new Clause 3 be read the First Time. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**NEW CLAUSE 3 READ A FIRST TIME.**

**The Chairman:** The question now is that the Clause be read a Second Time. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Honourable Third Official Member, you may proceed to move the amendment at this stage.

**Hon. George A. McCarthy:** Madam Chairman, that the following Clause be inserted as Clause 3: The principal Law is amended in section 244 (1) (e) by inserting after the word 'authority', the words "whereas the Segregated Portfolio Company is regulated by the Authority."

**The Chairman:** It has been duly moved, does the Member wish to speak any further there to?

**Hon. George A. McCarthy:** In the remarks I made earlier, Madam Chairman, I mentioned the reason why this amendment is being proposed.

**The Chairman:** I shall put the question that the new Clause be added to the Bill as Clause 3. All those in favour, if there is no debate, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**NEW CLAUSE 3 PASSED.**

**The Clerk:** A Bill for a Law to Amend the Companies Law 2001 (Second Revision) in Order to Change the Criteria for Registration as a Segregated Portfolio Company and for Incidental and Connected Purposes.

**The Chairman:** The question is that the Title stands part of the Bill. All those in favour please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**TITLE PASSED.**

**The Chairman:** The question is that the Bill be reported to the House. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Chairman:** The Ayes have it.

**AGREED: THAT THE BILL BE REPORTED TO THE HOUSE.**

**The Chairman:** That concludes proceedings in Committee.

**HOUSE RESUMED—12.13 PM**

**The Speaker:** Please be seated. Proceedings in the House are resumed.

The Honourable Third Official Member.

## **REPORT ON BILL**

### **THE COMPANIES (AMENDMENT) (SEGREGATED PORTFOLIO COMPANIES) BILL, 2001**

**Hon. George A. McCarthy:** Madam Speaker, I am to report that a Bill entitled The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001 was considered by a committee of the whole House and passed with one amendment.

**The Speaker:** The Bill has been duly reported to the Honourable House and is set down for the Third Reading.

The Acting Leader of Government Business.

### **SUSPENSION OF STANDING ORDER 47**

**Hon. Linford A. Pierson:** Madam Speaker, I beg to move the suspension of Standing Order 47 to allow for the Third Reading.

**The Speaker:** The question is that Standing Order 47 be suspended. All those in favour, please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: STANDING ORDER 47 SUSPENDED.**

### THIRD READING

#### THE COMPANIES (AMENDMENT) (SEGREGATED PORTFOLIO COMPANIES) BILL, 2001

**The Speaker:** The Honourable Third Official Member.

**Hon. George A. McCarthy:** Madam Speaker, I beg to move that a Bill, shortly entitled The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001, be given a third reading and passed.

**The Speaker:** The question is that a Bill, shortly entitled The Companies (Amendment) (Segregated Portfolio Companies) Bill, 2001 be given a third reading and passed. All those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

#### AGREED: THE COMPANIES (AMENDMENT) (SEGREGATED PORTFOLIO COMPANIES) BILL, 2001. GIVEN A THIRD READING AND PASSED.

**The Speaker:** The Honourable Minister responsible for Planning.

### GOVERNMENT BUSINESS

#### MOTIONS

##### GOVERNMENT MOTION NO. 16/01

#### AMENDMENT TO THE DEVELOPMENT PLAN 1997

**Hon. Linford A. Pierson:** Madam Speaker, I beg to move Government Motion No.16/01 Amendment to the Development Plan 1997.

**The Speaker:** The Motion has been duly moved and is now open for debate. Does the Honourable Minister wish to speak thereon?

**Hon. Linford A. Pierson:** Madam Speaker, the Motion states as follows:

#### “WHEREAS:

“1. In May 2000 the Central Planning Authority received an application for the rezoning of Registration Section, Bodden Town, Block 44B, Parcel 42, from Public Open Space back to the previous zoning of Medium Density Residential.

“2. At a meeting at of Central Planning Authority dated the 27 September 2000, the Authority resolved to proceed with the amendment to the Plan to wit —

To change the zoning of the Block 44 B Parcel 42 from Public Open Space back to the previous zoning of Medium Density Residential.

“3. In accordance with section 14(2) of the Development and Planning Law, public notices of authority’s intention to amend the plan were published in the Caymanian Compass on the 14, 16, 21 and 23 June 2000 and, further, in accordance with section 14(3)(a) the proposed amendments were on public display at the Planning Department from the 14 June through the 24 August 2000 [Madam Speaker, no objections were received within the statutory period of two months]

“NOW, THEREFORE, BE IT RESOLVED that in accordance with section 13 of the Development and Planning Law (1999 Revision), the Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997 a summary and map is attached thereto. The Legislative Assembly hereby makes the following alterations, additions and amendments to the Development Plan 1997 in accordance with the said summary and maps, which shall come into force seven days after the passing of this resolution. That registration section Bodden Town, Block 44B Parcel 42, be rezoned from public open space, to medium density residential.”

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Minister.

Does any other Member wish to speak? Does any other Member wish to speak? Last call, does any other Member wish to speak? If not, does the Honourable Minister wish to exercise his right of reply?

**Hon. Linford A. Pierson:** Madam Speaker, only to thank all Honourable Members for their tacit support of this Motion.

**The Speaker:** The question is BE IT RESOLVED, that in accordance of section 13 of the Development and Planning Law (1999 Revision) The Central Planning Authority hereby recommends and submits to the Legislative Assembly the following proposal for alteration to the Development Plan 1997, a summary and map is attached hereto, and the Legislative Assembly hereby makes the following alterations, additions and amendments to the Development Plan 1997 in accordance with the said summary and maps which shall come into force seven days after the passing of this Resolution; that Registration Section, Bodden Town, Block 44B, Parcel 42, be rezoned from Public Open Space to Medium Density Residential.

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

**AYES.**

**The Speaker:** The Ayes have it.

**AGREED: GOVERNMENT MOTION NO. 16/01 PASSED.**

**The Speaker:** Acting Leader, could we have the Motion for the Adjournment.

## **ADJOURNMENT**

**Hon. Linford A. Pierson:** On the Adjournment I wish to say thanks to you, Madam Speaker, for the stellar performance and manner in which you have conducted the affairs of this Honourable House during your tenure as the Speaker of the House. The 2001 Session has been a rather eventful year—to put it mildly—but, hopefully, all of the happenings prove beneficial to the Government and the people of these Islands.

Madam Speaker, I wish to take this opportunity to thank all our hard working civil servants for their invaluable service to these Islands and to also say that despite the darts that are constantly thrown at the Civil Service, that their contribution is appreciated and that we look forward to a leaner and more efficient Civil Service in the years to come.

Also, Madam Speaker, may I take this opportunity to say a big thank you to the Clerk and other staff members of the Legislative Assembly for their invaluable services provided to Members of this Honourable House and by extension the people of the Cayman Islands. Thank you, Madam Speaker.

Madam Speaker, I beg to move the adjournment of this Honourable House sine die.

**The Speaker:** The question is that this House do now adjourn sine die. Will all those in favour please say Aye. Those against, No.

**AYES.**

**The Speaker:** The Ayes have it.

**AT 12.22 PM THE HOUSE STOOD ADJOURNED SINE DIE.**